



FIRSTRAND FirstRand Bank Limited

(Incorporated in the Republic of South Africa with limited liability under Registration Number 1929/001225/06)

ZAR20,000,000,000 Domestic Medium Term Note Programme

On 24 February 2004, FirstRand Bank Limited (the "Issuer" or "FirstRand"), established a ZAR5,000,000,000 Domestic Medium Term Note Programme (the "Programme") which was amended and restated on 31 July 2007 and which is further amended and restated by this Programme Memorandum dated 22 April 2008 (the "Programme Memorandum"). This Programme Memorandum supersedes any previous placing document, programme memorandum or supplement to the programme memorandum. Any notes ("Notes"), issued under the Programme on or after the date of this Programme Memorandum are issued subject to the provisions described herein. This does not affect any Notes issued before the date of this Programme Memorandum.

Notes to be issued under the Programme from time to time may comprise (i) Senior Notes (the "Senior Notes"), (ii) Notes which are subordinated as described herein with a maturity date and with terms capable of qualifying the proceeds of such Notes as Dated Secondary Capital (as defined in "Terms and Conditions of the Senior, Tier 2 and Tier 3 Notes") (the "Dated Tier 2 Notes") or Tertiary Capital (as defined in "Terms and Conditions of the Senior, Tier 2 and Tier 3 Notes") (the "Tier 3 Notes" and, together with the Dated Tier 2 Notes, the "Dated Subordinated Notes"), (iii) Notes which are subordinated as described herein with no maturity date and with terms capable of qualifying the proceeds of such Notes as Undated Secondary Capital (the "Undated Tier 2 Notes" and, together with the Dated Tier 2 Notes, the "Tier 2 Notes") and (iv) Notes which are subordinated as described herein with no maturity date, ranking junior to the Tier 2 Notes and the Tier 3 Notes and with terms capable of qualifying the proceeds of such Notes as Primary Share Capital (as defined in "Terms and Conditions of the Tier 1 Notes") (the "Tier 1 Notes" and, together with the Tier 2 Notes and the Tier 3 Notes, the "Subordinated Notes").

The Tier 1 Notes are subject to the terms and conditions relating to the Tier 1 Notes (the "Tier 1 Conditions") and Senior Notes, Undated Tier 2 Notes, Dated Tier 2 Notes and Tier 3 Notes are subject to the terms and conditions relating to the Senior Notes, Undated Tier 2 Notes, Dated Tier 2 Notes and Tier 3 Notes (the "Ordinary Conditions", together with the Tier 1 Conditions, the "Terms and Conditions") contained in this Programme Memorandum. Any other terms and conditions not contained in the Tier 1 Conditions or Ordinary Conditions, as the case may be, that are applicable to any Notes, replacing or modifying the Tier 1 Conditions or Ordinary Conditions, as the case may be, will be set forth in a pricing supplement relating to those Notes (the "Applicable Pricing Supplement"). Except 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 ZAR20,000,000,000.

Application will be made for this Programme to be listed on the Bond Exchange of South Africa Limited ("BESA") 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 BESA 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, 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 below) of Notes will be set forth in the Applicable Pricing Supplement which will be delivered to BESA and the CSD (as defined under section entitled "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 BESA from the date specified in the Applicable Pricing Supplement. The Issuer may determine that particular Notes will not be listed on BESA or any other exchange and in that case, no Applicable Pricing Supplement will be delivered to BESA.

The Notes may be issued on a continuing basis and be placed by one or more of the Dealers specified under section entitled "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 (each a "Dealer" and together, the "Dealers"). 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 of the Notes herein, 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.

Arranger and Dealer
FirstRand Bank Limited,
acting through its Rand Merchant Bank Division

This amended and restated Programme Memorandum is dated 22 April 2008.

IMPORTANT NOTICE

Capitalised terms used in this section shall bear the same meanings as used in the Terms and Conditions except to the extent that they are separately defined in this section or clearly inappropriate from the context.

The Issuer accepts responsibility for the information contained in this Programme Memorandum. To the best of the knowledge and belief of the Issuer (who has taken all reasonable care to ensure that such is the case) 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 issuing 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 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 section entitled "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 Arranger, the Dealers or any of their respective affiliates, other professional advisers and BESA named herein 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 Arranger, the Dealers, other professional advisers or BESA as to the accuracy or completeness of the information contained in this Programme Memorandum or any other information provided by the Issuer. The Arranger, the Dealers, other professional advisers or BESA 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, the Arranger, the Dealers, other professional advisers or BESA.

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 or any of the Dealers that any recipient of this Programme Memorandum should purchase any Notes.

Each person contemplating the 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 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 of any time subsequent to the date indicated in the document containing the same. The Dealers expressly do not undertake to review the financial condition or affairs of the Issuer during the life of the Programme. Investors should review, inter alia, the most recent financial statements, if any, of the Issuer when deciding whether or not to purchase any Notes.

This Programme Memorandum does not constitute an offer to sell or the solicitation of an offer to 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 issue, sale or offer of Notes may be restricted by law in certain jurisdictions. No one of the Issuer, the Dealers, other professional advisers and BESA 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 Dealers, other professional advisers or BESA 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 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 on the same terms.

The distribution of this Programme Memorandum and the offer 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, issue or sale of Notes in the United States, the United Kingdom, the European Economic Area and the Republic of South Africa.

The 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, sold or delivered within the United States or to U.S. persons except in accordance with Regulation S under the Securities Act.

Where any term is defined within the context of a 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 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 definition.

All references in this document to “Rands”, “ZAR” “South African Rand”, “R” and “cent” refer to the currency of the Republic of South Africa.

The price/yield and amount of Instruments to be issued under this Programme will be determined by the Issuer, the Arranger and relevant Dealer at the time of issue in accordance with the prevailing market conditions.

In connection with the issue and distribution of any Tranche of Notes, the Issuer may, subject to the terms and conditions for stabilisation contained in the Applicable Pricing Supplement, over-allot or effect transactions which stabilise or maintain the market price of the Notes of the Series (as defined below) of which such Tranche forms part at a level which might not otherwise prevail. Stabilisation, if commenced, may be discontinued at any time. Stabilisation shall be carried out in accordance with all applicable laws and regulations.

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DOCUMENTS INCORPORATED BY REFERENCE

Words used in this section entitled “Documents Incorporated by Reference” shall bear the same meanings as used in the Terms and Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.

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

- (a) all supplements to this Programme Memorandum circulated by the Issuer from time to time in accordance with the undertakings given by the Issuer in the Programme Agreement (as defined in the section entitled “*Subscription and Sale*” below); and
- (b) in respect of any Issue of Notes, the published annual report incorporating audited annual financial statements, and notes thereto, of the Issuer for the three financial years prior to such Issue; and
- (c) each Pricing Supplement relating to any Notes;

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).

The Issuer will, in connection with the listing of the Notes on BESA, or its successor, or on such other exchange or further exchange or exchanges as may be selected by the Issuer, so long as any Note remains outstanding and listed on such exchange, in the event of a material adverse change in the condition (financial or otherwise) of the Issuer which is not reflected in this Programme Memorandum, prepare a further supplement to the Programme Memorandum or publish a new Programme Memorandum. If the terms of the Programme are modified or amended in a manner that would make this Programme Memorandum, as supplemented, inaccurate or misleading, a new Programme Memorandum will be prepared.

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 Issuer at its registered office as set out herein. The audited annual financial statements and unaudited interim financial statements are also available on the Issuer’s website, www.firstrand.co.za.

GENERAL DESCRIPTION OF THE PROGRAMME

Words used in this section entitled “General Description of the Programme” shall bear the same meanings as used in the Terms and Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.

Under the Programme, the Issuer may from time to time issue Notes denominated in the currency specified in the Applicable Pricing Supplement. The applicable terms of any Notes will be set out in the Tier 1 Conditions in relation to Tier 1 Notes and the Ordinary Conditions in relation to any Senior, Undated Tier 2, Dated Tier 2 and Tier 3 Notes incorporated by reference into the Tier 1, Senior, Undated Tier 2, Dated Tier 2 or Tier 3 Notes, as the case may be, as modified and supplemented by the Applicable Pricing Supplement relating to the Tier 1, Senior, Undated Tier 2, Dated Tier 2 or Tier 3 Notes, as the case may be, and any supplementary Programme Memorandum.

This Programme Memorandum and any supplement will only be valid for listing Notes on BESA, or its successor, and/or any other exchange in an aggregate Nominal Amount which, when added to the aggregate Nominal Amount then outstanding of all Notes previously or simultaneously issued under the Programme, does not exceed ZAR20,000,000,000. For the purpose of calculating the aggregate amount of Notes issued under the Programme from time to time the amount of any Zero Coupon Notes (as defined in the Terms and Conditions) and other Notes issued at a discount or premium shall be calculated by reference to the net subscription proceeds received by the Issuer for the relevant issue.

A summary of the Programme and the Terms and Conditions appears below.

This Programme Memorandum will only apply to Notes issued under the Programme.

RISK FACTORS

The Issuer believes that the factors outlined below may affect its ability to fulfil its obligations under the Notes. All of these factors are contingencies which may or may not occur and the Issuer is not in a position to express a view on the likelihood of any such contingency occurring. In addition, factors which are material for the purpose of assessing the market risks associated with the Notes are also described below. The value of the Notes could decline due to any of these risks, and investors may lose some or all of their investment.

The Issuer believes that the factors described below represent the principal risks inherent in investing in the Notes, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with any Notes may occur for other reasons which may not be considered significant risks by the Issuer based on information currently available to it, or which it may not currently be able to anticipate. Accordingly, the Issuer does not represent that the statements below regarding the risks of holding any Notes are exhaustive.

Prospective investors should also read the detailed information set out elsewhere in this Programme Memorandum to reach their own views prior to making any investment decision.

References below to the "Conditions", in relation to Senior Notes, Tier 2 Notes and Tier 3 Notes, shall mean the "Terms and Conditions of the Senior, Tier 2 and Tier 3 Notes" set out below and, in relation to Tier 1 Notes shall mean the "Terms and Conditions of the Tier 1 Notes" set out below and references to a numbered "Condition" shall be to the relevant Condition under the relevant Terms and Conditions set out below. Capitalised terms used herein and not otherwise defined shall bear the meanings ascribed to them in the Conditions.

Factors that may affect the Issuer's ability to fulfil its obligations under Notes issued under the Programme

Risks relating to the Issuer

Risk Management

The Issuer, in common with other banks in South Africa and elsewhere, is exposed to commercial and market risks in its ordinary course of business, the most significant of which are credit risk, market risk, liquidity risk, interest rate risk and operational risk. Credit risk is the risk of loss due to non-performance of a counterparty in respect of any financial or performance obligation due to deterioration in the financial status of the counterparty. Market risk is the risk of loss on trading instruments and portfolios due to changes in market prices and rates. Liquidity risk is the inability to discharge funding or trading obligations which fall due at market related prices. Interest rate risk is defined as the sensitivity of the balance sheet and income statement to unexpected, adverse movements of interest rates. Operational risk is the risk of loss resulting from inadequate or failed internal processes, people and systems or from external events.

Whilst the Issuer believes that it has implemented appropriate policies, systems and processes to control and mitigate these risks, investors should note that any failure to control these risks adequately could have an adverse effect on the financial condition and reputation of the Issuer.

Concentration Risk

The Issuer's business is significantly focused on the South African markets and therefore faces a geographic concentration risk. Any adverse changes affecting the South African economy are likely to have an adverse impact on the Issuer's loan portfolio and, as a result, on its financial condition and results of its operations.

Liquidity Risk

The Issuer, in common with other banks in South Africa, is very reliant on wholesale funding rather than retail deposits, due to the low savings rate within South Africa. Although the Bank believes that its level of access to domestic and international inter-bank and capital markets and its liquidity risk management policy allow and will continue to allow the Issuer to meet its short-term and long-term liquidity needs, any maturity mismatches may have a material adverse effect on its financial condition and results of operations. Furthermore, there can be no assurance that the Issuer will be successful in obtaining additional sources of funds on acceptable terms or at all.

Competitive Landscape

The Issuer is subject to significant competition from other major banks operating in South Africa, including competitors that may have greater financial and other resources, and, in certain markets, from international banks. Many of these banks operating in the Issuer's markets compete for substantially the same customers as the Issuer. Competition may increase in some or all of the Issuer's principal markets and may have an adverse effect on its financial condition and results of operations.

The Issuer is subject to capital requirements that could limit its operations

The Issuer is subject to capital adequacy guidelines adopted by the SARB, which provide for a minimum target ratio of capital to risk-adjusted assets. Any failure by the Issuer to maintain its ratios may result in sanctions against the Issuer which may in turn impact on its ability to fulfil its obligations under the Notes. In addition, the Basel Committee has issued proposals for reform of the 1988 Basel Capital Accord and has proposed a framework, which places enhanced emphasis on market discipline and sensitivity to risk. The new Basel Capital Accord proposals have been substantially implemented in the South African bank regulatory framework since 1 January 2008. The Issuer has implemented numerous initiatives in preparation for the framework transition since 1999, and has internally assessed and provided for the anticipated budgetary impacts of the Basel II implementation and is of the view that it will have an immaterial impact. Prospective investors in the Notes should consult their own advisers as to the consequences for them of the application of the new Basel Capital Accord proposals.

In particular, certain provisions of the Banks Act have been amended with effect from 1 January 2008, as set out in the Banks Amendment Act, 2007, as read with the "*Regulations Relating to Banks*" promulgated under Section 90 of the Banks Act (the "**Regulations Relating to Banks**"), in order, among other things, to provide for the issue by a bank of:

- "*hybrid-debt instruments*", substantially on the terms and conditions set out in Regulation 38(13) of the Regulations Relating to Banks, and for the proceeds of the issue of such "*hybrid-debt instruments*" to qualify as Primary Share Capital;
- "*hybrid-debt instruments*", substantially on the terms and conditions set out in Regulation 38(14)(a) of the Regulations Relating to Banks, and for the proceeds of the issue of such "*hybrid-debt instruments*" to qualify as Undated Secondary Capital;
- term debt instruments, substantially on the terms and conditions set out in Regulation 38(14)(b) of the Regulations Relating to Banks, and for the proceeds of the issue of such term debt instruments to qualify as Dated Secondary Capital; and
- debt instruments, substantially on the terms and conditions set out in Regulation 38(16) of the Regulations Relating to Banks, and for the proceeds of the issue of such debt instruments to qualify as Tertiary Capital.

It is intended that issues of, respectively, Tier 1 Notes, Undated Tier 2 Notes, Dated Tier 2 Notes and Tier 3 Notes will comply with the applicable provisions of the Regulations Relating to Banks, as set out above, and that the respective proceeds of such issues will qualify as, respectively, Primary Share Capital, Undated Secondary Capital, Dated Secondary Capital and Tertiary Capital.

Risks Relating to the Notes

The Notes may not be a suitable investment for all investors

Each potential investor in any Notes must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- have sufficient knowledge and experience to make a meaningful evaluation of the Notes, the merits and risks of investing in the Notes and the information contained or incorporated by reference in this Programme Memorandum or any applicable supplement;
- have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Notes and the impact such an investment will have on its overall investment portfolio;
- have sufficient financial resources and liquidity to bear all of the risks of an investment in the Notes, including Notes with principal or interest payable in one or more currencies, or where the currency for principal or interest payments is different from the potential investor's currency;

- understand thoroughly the terms of the Notes and be familiar with the behaviour of any relevant indices and financial markets; and
- be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

Some Notes are complex financial instruments. Sophisticated institutional investors generally do not purchase complex financial instruments as stand-alone investments. They purchase complex financial instruments as a way to reduce risk or enhance yield with an understood, measured and appropriate addition of risk to their overall portfolios. A potential investor should not invest in Notes which are complex financial instruments unless it has the expertise (either alone or with a financial adviser) to evaluate how the Notes will perform under changing conditions, the resulting effects on the value of the Notes and the impact this investment will have on the potential investor's overall investment portfolio.

There is no active trading market for the Notes

Notes issued under the Programme will be new securities which may not be widely distributed and for which there is currently no active trading market (unless in the case of any particular Tranche, such Tranche is to be consolidated with and form a single series with a Tranche of Notes which is already issued). If the Notes are traded after their initial issuance, they may trade at a discount to their initial offering price, depending upon prevailing interest rates, the market for similar securities, general economic conditions and the financial condition of the Issuer. There is no assurance as to the development or liquidity of any trading market for any particular Tranche of Notes.

The Notes may be redeemed prior to maturity

Unless in the case of any particular Tranche of Notes, the Applicable Pricing Supplement specifies otherwise, in the event that the Issuer would be obliged to increase the amounts payable in respect of any Notes due to any withholding or deduction for or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of South Africa or any political subdivision thereof or any authority therein or thereof having power to tax, the Issuer may redeem all outstanding Notes in accordance with the Conditions.

In addition, if in the case of any particular Tranche of Notes the Applicable Pricing Supplement specifies that the Notes are redeemable at the Issuer's option in certain other circumstances, the Issuer may choose to redeem the Notes at times when prevailing interest rates may be relatively low. In such circumstances an investor may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the relevant Notes. Any redemption of Subordinated Notes prior to their Maturity Date (if any) requires the prior written approval of the Registrar of Banks.

Because the Global Certificates are held by or on behalf of the CSD, investors will have to rely on their procedures for transfer, payment and communication with the Issuer

Notes issued under the Programme may be represented by one or more Global Certificates. Such Global Certificates will be deposited with the CSD and registered in the name of, and for the account of, the CSD's Nominee. The CSD will maintain records of the beneficial interests in the Global Certificates. While the Notes are represented by one or more Global Certificates, investors will be able to trade their beneficial interests only through the CSD.

While the Notes are represented by one or more Global Certificates the Issuer will discharge its payment obligations under the Notes by making payments to or to the order of the CSD for distribution to their account holders. A holder of a beneficial interest in a Global Certificate must rely on the procedures of the CSD to receive payments under the relevant Notes. The Issuer has no responsibility or liability for the records relating to, or payments made in respect of, beneficial interests in the Global Certificates.

Holders of beneficial interests in the Global Certificates will not have a direct right to vote in respect of the relevant Notes. Instead, such holders will be permitted to act only to the extent that they are enabled by the CSD to appoint appropriate proxies.

Risks relating to the Subordinated Notes

Notes may be subordinated to most of the Issuer's liabilities

The payment obligations of the Issuer under Subordinated Notes will rank behind Senior Notes and in particular the payment obligations of the Issuer under (a) Tier 1 Notes will rank behind Senior Notes, Tier 3 Notes and Tier 2 Notes, (b) Undated Tier 2 Notes will rank behind Senior Notes, Dated Tier 2 Notes and Tier 3 Notes, (c) Dated Tier 2 Notes will rank behind Senior Notes and Tier 3 Notes, and (d) Tier 3 Notes will rank behind Senior Notes. See Condition 5 in respect of Tier 1 Notes and Conditions 6.1.2, 6.2.2, and 6.3.2 in respect of the Tier 2 and Tier 3 Notes for a full description of subordination and the payment obligations of the Issuer under Subordinated Notes.

With regard to any Subordinated Notes, in the event of the dissolution of the Issuer or if the Issuer is placed into liquidation, administration or wound-up, the Issuer will be required to pay or discharge the claims of Depositors, Senior Creditors (each as defined, in relation to Tier 1 Notes, in Condition 1 of the Tier 1 Conditions and, in relation to Tier 2 Notes and Tier 3 Notes, in Condition 1 of the Ordinary Conditions) and (other than in the case of Tier 3 Notes) the holders of Subordinated Debt (as defined, in relation to Tier 1 Notes, in Condition 1 of the Tier 1 Conditions and, in relation to Tier 2 Notes and Tier 3 Notes, in Condition 1 of the Ordinary Conditions) in full before it can make any payments in respect of such Subordinated Notes. If this occurs, the Issuer may not have enough assets remaining after these payments to pay amounts due under such Subordinated Notes.

No limitation on issuing securities

There is no restriction on the amount of securities or indebtedness which the Issuer may issue or incur which rank senior to or *pari passu* with the relevant Subordinated Notes. The issue of any such securities or indebtedness may reduce the amount recoverable by Holders of Subordinated Notes on either a winding-up, liquidation or administration of the Issuer.

Winding-up, liquidation and administration

If the Issuer is wound-up or put into liquidation or administration, voluntarily or involuntarily, holders of Subordinated Notes will not be entitled to any payments of the Subordinated Notes until the claims of Depositors, Senior Creditors and (other than in the case of Tier 3 Notes) holders of Subordinated Debt (each as defined, in relation to Tier 1 Notes, in Condition 1 of the Tier 1 Conditions and, in relation to the Tier 2 Notes and the Tier 3 Notes, in Condition 1 of the Ordinary Conditions) which are admissible in any such winding-up, liquidation or administration have been paid or discharged in full. If the Issuer does not have sufficient assets at the time of winding-up, liquidation or administration to satisfy those claims, holders of Subordinated Notes will not receive any payment on the Subordinated Notes. There is no limitation on the ability to issue debt securities in the future that would rank equal or senior in winding-up, liquidation or administration to the Subordinated Notes.

Capital Regulations

In order for the proceeds of the issuance of Subordinated Notes to qualify as Primary Share Capital, Undated Secondary Capital, Dated Secondary Capital or Tertiary Capital, as the case may be, the Notes must comply with the applicable Capital Regulations and such Additional Conditions (if any) as are prescribed by the Registrar of Banks in respect of any Tranche of Subordinated Notes.

Credit rating

Tranches of Notes issued under the Programme may be rated or unrated. A security rating is not a recommendation to buy, sell or hold securities and may be subject to suspension, reduction or withdrawal at any time by the assigning rating agency. Any adverse change in an applicable credit rating could adversely affect the trading price for the Notes issued under the Programme.

Risks related to the structure of the particular issue of Notes

A wide range of Notes may be issued under the Programme. A number of these Notes may have features which contain particular risks for potential investors. Set out below is a description of certain such features:

Notes subject to optional redemption by the Issuer

An optional redemption feature is likely to limit the market value of the Notes. During any period when the Issuer may elect to redeem the Notes, the market value of those Notes generally will not rise substantially above the price at which they can be redeemed. This also may be true prior to any

redemption period. The Issuer may be expected to redeem Notes when its cost of borrowing is lower than the interest rate on the Notes. At those times, an investor generally would not be able to re-invest the redemption proceeds at an effective interest rate as high as the interest rate on the Notes being redeemed and may only be able to do so at a significantly lower rate. Potential investors should consider re-investment risk in light of other investments available at that time.

Index-Linked and Dual Currency Notes

The Issuer may issue Notes the terms of which provide for interest or principal payable in respect of such Note to be determined by reference to an index or formula, to changes in the prices of securities or commodities, to movements in currency exchange rates or other factors (each, a “**Relevant Factor**”) or with principal or interest payable in one or more currencies which may be different from the currency in which the Notes are denominated. Potential investors should be aware that:

- the market price of such Notes may be volatile;
- no interest may be payable on such Notes;
- payments of principal or interest on such Notes may occur at a different time or in a different currency than expected;
- the amount of principal payable at redemption may be less than the nominal amount of such Notes or even zero;
- a Relevant Factor may be subject to significant fluctuations that may not correlate with changes in interest rates, currencies or other indices;
- if a Relevant Factor is applied to Notes in conjunction with a multiplier greater than one or contains some other leverage factor, the effect of changes in the Relevant Factor on principal or interest payable likely will be magnified; and
- the timing of changes in a Relevant Factor may affect the actual yield to investors, even if the average level is consistent with their expectations. In general, the earlier the change in the Relevant Factor, the greater the effect on yield.

Partly-paid Notes

The Issuer may issue Notes where the issue price is payable in more than one instalment. Failure to pay any subsequent instalment could result in an investor losing all of its investment.

Notes issued at a substantial discount or premium

The market values of securities issued at a substantial discount or premium from their principal amount tend to fluctuate more in relation to general changes in interest rates than do prices for conventional interest-bearing securities. Generally, the longer the remaining term of the securities, the greater the price volatility as compared to conventional interest-bearing securities with comparable maturities.

Modification and waivers and substitution

The Conditions contain provisions for calling meetings of Noteholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Noteholders including Noteholders who did not attend and vote at the relevant meeting and Noteholders who voted in a manner contrary to the majority.

Change of law

The Notes are governed by, and will be construed in accordance with, South African law in effect as at the date of this Programme Memorandum. No assurance can be given as to the impact of any possible judicial decision or change to South African law or administrative practice in either such jurisdiction after the date of this Programme Memorandum.

Risks relating to the Tier 1 Notes and Undated Tier 2 Notes

Election not to pay interest on the Tier 1 Notes

The Issuer may elect not to pay any Interest Amount on the Tier 1 Notes, as more particularly described in Condition 6.1 of the Tier 1 Conditions. The Issuer shall also be obliged not to pay interest in the limited circumstances described in Condition 6.2 and Condition 5.3 of the Tier 1 Conditions.

If, on any Interest Payment Date, the Interest Amount in respect of any Tier 1 Notes has not been paid in full (following an election not to pay interest on such Tier 1 Notes in accordance with Condition 6.1 of the Tier 1 Conditions) then from that Interest Payment Date, until the date on which the Issuer next pays in full the Interest Amount due and payable on any succeeding Interest Payment Date on all outstanding Tier 1 Notes, the Issuer shall not and it shall procure that no member of the FirstRand Group shall (a) declare or pay a distribution or dividend or pay any interest on Junior Securities or Parity Securities (other than Mandatory Preference Shares or a final dividend declared by the Ultimate Parent Company before that Interest Payment Date, or intra-group dividends between wholly-owned FirstRand Group Subsidiaries and to FirstRand Group holding companies, which can be paid at any time) or (b) redeem, purchase, reduce or otherwise acquire any Junior Securities or Parity Securities or any securities of any of its Subsidiary undertakings benefiting from a guarantee from any member of the FirstRand Group ranking, as to the right of repayment of principal, or in the case of any such guarantee, as to the payment of sums under such guarantee, *pari passu* with or junior to the Tier 1 Notes.

Interest satisfied through the issue of Ordinary Shares

The Issuer can elect not to pay an Interest Amount on the Tier 1 Notes, as more particularly described in Condition 6.1 of the Tier 1 Conditions. If the Issuer has elected to pay interest on an Interest Payment Date, the Issuer can further elect to satisfy the payment of such Interest Amount in full or in part through the issue of Ordinary Shares in the Issuer in accordance with the mechanism more particularly described in Condition 8 of the Tier 1 Conditions. If the Issuer is unable to raise the necessary amount to satisfy the payment of the relevant Interest Amount in full on the relevant Interest Payment Date through the operation of the ISIS Mechanism due to (but not limited to) the occurrence of a Market Disruption Event, the Issuer can further elect not to pay the Shortfall Interest Amount, unless the Issuer is obliged to pay the Shortfall Interest Amount in accordance with Condition 6.2. A Noteholder will have no claim in respect of the non-payment of a Shortfall Interest Amount unless it is a Shortfall Interest Amount which the Issuer is obliged to pay in accordance with Condition 6.2 and accordingly such non-payment shall not constitute a default of the Issuer.

Election to defer payment of interest on Undated Tier 2 Notes

The Issuer may elect to defer payment of any interest on the Undated Tier 2 Notes, as more particularly described in Condition 8.1 of the Ordinary Conditions. Arrears of Interest may be satisfied at any time at the election of the Issuer in whole or in part and on 14 days notice to the Undated Tier 2 Noteholders, provided that all Arrears of Interest outstanding shall become due in full on a later date as more fully described in Condition 8.1 of the Ordinary Conditions. If, on any Interest Payment Date, the Interest Amount in respect of any Undated Tier 2 Notes has not been paid in full (following an election to defer payment of interest on such Undated Tier 2 Notes) then, from that Interest Payment Date until the date on which the full amount of the Arrears of Interest has been received by the Undated Tier 2 Noteholders and no other Arrears of Interest remains unpaid, the Issuer shall not and it shall procure that no member of the FirstRand Group shall (a) declare or pay a distribution or dividend or pay any interest on Junior Securities or Parity Securities (other than Mandatory Preference Shares or a final dividend declared by the Ultimate Parent Company before that Interest Payment Date, or intra-group dividends between wholly-owned FirstRand Group Subsidiaries and to FirstRand Group holding companies, which can be paid at any time) or (b) redeem, purchase, reduce or otherwise acquire any Junior Securities or Parity Securities or any securities of any of its Subsidiary undertakings benefiting from a guarantee from any member of the FirstRand Group ranking, as to the right of repayment of principal, or in the case of any such guarantee, as to the payment of sums under such guarantee, *pari passu* with or junior to the Undated Tier 2 Notes.

Any deferral of interest payments in respect of Undated Tier 2 Notes may have an adverse effect on the market price of such Undated Tier 2 Notes. In addition, as a result of the interest deferral provision of such Undated Tier 2 Notes, the market price of such Undated Tier 2 Notes may be more volatile than the market prices of other debt securities on which original issue discount or interest accrues that are not subject to such deferrals and may be more sensitive generally to adverse changes in the Issuer's financial condition.

Solvency Condition

Payments in respect of the principal of and interest on the Tier 1 Notes are, in addition to the right of the Issuer to elect not to pay interest in accordance with Condition 6.1 of the Tier 1 Conditions, conditional upon the Issuer being solvent at the time of payment by the Issuer. Payments in respect of the principal of and interest on the Undated Tier 2 Notes are, in addition to the right of the Issuer to

defer payment of any interest in accordance with Condition 8.1 of the Ordinary Conditions, conditional upon the Issuer being solvent at the time of payment by the Issuer. No principal of or interest on the Tier 1 Notes or the Undated Tier 2 Notes, as the case may be, shall be due and payable in respect of the Tier 1 Notes or the Undated Tier 2 Notes, as the case may be, except to the extent that the Issuer could make such payment and still be solvent immediately thereafter.

The restrictions set out under “*Election not to pay interest on the Tier 1 Notes*” above (in the case of Tier 1 Notes) and the restrictions set out under “*Election to defer payment of interest on Undated Tier 2 Notes*” above (in the case of Undated Tier 2 Notes) also apply if any interest in respect of Tier 1 Notes or Undated Tier 2 Notes, as the case may be, is not paid in full due to the Issuer failing to satisfy the Solvency Condition.

Perpetual Securities and Redemption Risk

The Issuer is under no obligation to redeem, substitute or vary the Tier 1 Notes or to redeem the Undated Tier 2 Notes at any time other than in a winding-up or liquidation of the Issuer in which event the claims of the Tier 1 Noteholders against the Issuer will be subject to Condition 5.2 of the Tier 1 Conditions against the Issuer and the claims of the Undated Tier 2 Noteholders will be subject to Condition 6.3.3 of the Ordinary Conditions. Holders of Tier 1 Notes have no right to call for the redemption, substitution or variation of such Tier 1 Notes and holders of Undated Tier 2 Notes have no right to call for the redemption of such Undated Tier 2 Notes. The Tier 1 Notes and the Undated Tier 2 Notes can (with the prior written approval of the Registrar of Banks and in accordance with conditions approved by the Registrar of Banks) be redeemed in whole, but not in part, at the Early Redemption Amount (Tax) or Early Redemption Amount (Regulatory), as the case may be, plus accrued interest on the occurrence of a Tax Event or a Regulatory Event, as the case may be, as more particularly described in Condition 10.2 and Condition 10.3 of the Tier 1 Conditions and the Condition 11.2 and Condition 11.3 Ordinary Conditions. The Tier 1 Notes may, instead of being redeemed, be substituted or varied at the option of the Issuer (with approval of the Registrar of Banks) on the occurrence of a Tax Event or a Regulatory Event, as more particularly described in Condition 10.6 of the Tier 1 Conditions.

Risks relating to the Tier 3 Notes

Deferral of payments on the Tier 3 Notes

Pursuant to the Capital Regulations applicable to Tier 3 Notes, if the Issuer’s qualifying capital falls below or is likely to fall below the minimum amount prescribed by the Capital Regulations, the Registrar of Banks may require that interest and/or principal payments in respect of such Tier 3 Notes be deferred for such period of time and subject to such conditions (if any) as the Registrar of Banks may determine, as more fully described in Condition 8.4 of the Ordinary Conditions.

Any deferral of interest or principal payments in respect of Tier 3 Notes may have an adverse effect on the market price of such Tier 3 Notes. In addition, as a result of the interest and principal deferral provisions of such Tier 3 Notes, the market price of such Tier 3 Notes may be more volatile than the market prices of other debt securities on which original issue discount or interest accrues that are not subject to such deferrals and may be more sensitive generally to adverse changes in the Issuer’s financial condition.

SUMMARY OF THE PROGRAMME

The following summary does not purport to be complete and is taken from, and is qualified in its entirety 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. Words and expressions defined in the Terms and Conditions below shall have the same meanings in this summary.

Issuer	FirstRand Bank Limited (“ Issuer ”) (Registration Number 1929/001225/06).
Arranger and Dealer	FirstRand Bank Limited, acting through its Rand Merchant Bank Division.
Emigrant Blocked Rand	Emigrant Blocked Rand may be used to purchase Notes.
Calculation Agent	In relation to any Tranche of Notes, FirstRand Bank Limited, acting through its Rand Merchant Bank Division, or such other person specified in the Applicable Pricing Supplement as the Calculation Agent.
CSD	Strate Limited (Registration Number 1998/022242/06), registered as a central securities depository in terms of the Securities Services Act, or such additional, alternative or successor central securities depository as may be agreed between the Issuer and the relevant Dealers.
Clearing and Settlement	The Notes will be cleared and settled in accordance with the rules of BESA, or its successor. The Bonds have been accepted for clearance through the CSD, which forms part of the BESA clearing system that is managed by Strate Limited and may be accepted for clearance through any additional clearing system as may be agreed between BESA and the Issuer. As at the date of this Programme Memorandum, the BESA Settlement Agents are ABSA Bank Limited, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited and the South African Reserve Bank. Euroclear Bank S.A./N.V. as operator of the Euroclear System (“ Euroclear ”) and Clearstream Banking, société anonyme (Clearstream Luxembourg) (“ Clearstream ”) may hold Notes through their BESA Settlement Agent.
Currency	South African Rand (“ ZAR ”) or, subject to all applicable laws and, in the case of Notes listed on BESA, the rules of BESA, in such other currency as specified in the Applicable Pricing Supplement.
Denomination	Notes will be issued in such denominations as may be indicated in the Applicable Pricing Supplement.
Distribution	Notes may be distributed by way of private placement or any other means permitted under South African law, and in each case on a syndicated or non-syndicated basis as may be determined by the Issuer and the relevant Dealer(s) and reflected in the Applicable Pricing Supplement.
Form of Notes	Subject to, in the case of Subordinated Notes and Tier 1 Notes, the applicable Capital Regulations, Notes will be issued in the form of Registered Notes, Order Notes or Bearer Notes as described in the section entitled “ <i>Form of Notes</i> ”. In the case of Registered Notes which are listed on BESA, each Tranche of Notes will initially be evidenced by a Global Certificate, which shall be deposited before its Settlement Date with the CSD and registered in the name of the CSD’s Nominee. Beneficial Interests in a Global Certificate will not be exchangeable for Individual Certificates except in the circumstances described in this Programme Memorandum.
Governing Law	The Notes will be governed by and construed in accordance with the laws of the Republic of South Africa in force from time to time.
Interest Period(s)/ Interest Payment Date(s)	Such period(s) or date(s) as specified in the Applicable Pricing Supplement.
Issue and Transfer	No stamp duty, marketable securities tax, uncertificated securities tax or any

Taxes	similar tax is payable in respect of the issue or transfer of the Notes.
Issue Price	Notes may be issued on a fully-paid or a partly-paid basis and at their Nominal Amount or at a discount or premium to their Nominal Amount as specified in the Applicable Pricing Supplement.
Listing and Trading	Application will be made for this Programme to be listed on BESA (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). Notes issued under the Programme may be listed on BESA (or on a successor exchange to BESA or such other or further exchange or exchanges as may be selected by the Issuer in relation to such issue). Unlisted Notes may also be issued under the Programme. Notes which were not originally issued under this Programme may (provided they are amended to be documented in terms of the Programme) be listed under the Programme. The Applicable Pricing Supplement in respect of a Tranche will specify whether or not such Notes will be listed and, if so, on which exchange.
Maturities of Notes	<p>Notes may be issued with any maturity date or Notes may be issued with no maturity date, subject, in relation to Subordinated Notes, to such minimum maturities as may be required from time to time by the applicable Capital Regulations, that are acceptable to BESA (or a successor exchange to BESA or such further exchange or exchanges as may be selected by the Issuer in relation to such issue), that are specified in the Applicable Pricing Supplement and, in relation to specific currencies, to compliance with all applicable legal and/or regulatory and/or central bank requirements.</p> <p>Subject to the applicable Capital Regulations: (i) Tier 1 Notes will be issued without a maturity date; (ii) Undated Tier 2 Notes will be issued without a maturity date; (iii) Dated Tier 2 Notes will have a minimum maturity of five years and one day; and (iv) Tier 3 Notes will have a minimum maturity of two years and one day.</p>
Notes	<p>Subject, in the case of Subordinated Notes and Tier 1 Notes, to the applicable Capital Regulations, Notes may comprise:</p> <p>Fixed Rate Notes which will bear interest at a fixed rate, as indicated in the Applicable Pricing Supplement.</p> <p>Floating Rate Notes which will bear interest determined with reference to the rate specified in the Applicable Pricing Supplement.</p> <p>Zero Coupon Notes which may be issued at their Nominal Amount or at a discount to it and will not bear interest (except in the case of late payment as specified).</p> <p>Indexed Notes in relation to which payments, in respect of interest on Indexed Interest Notes or in respect of principal on Indexed Redemption Amount Notes, will be calculated by reference to such index and/or formula as may be indicated in the Applicable Pricing Supplement.</p> <p>Mixed Rate Notes which will bear interest over respective periods at the rates applicable for any combination of Fixed Rate Notes, Floating Rate Notes, Zero Coupon Notes or Indexed Notes, each as specified in the Applicable Pricing Supplement.</p> <p>Instalment Notes in respect of which the Applicable Pricing Supplement will set out the dates on which, and the amounts in which, such Notes may be redeemed.</p>

Partly Paid Notes	in respect of which the Issue Price will be payable in two or more instalments as set out in the Applicable Pricing Supplement.
Exchangeable Notes	which may be redeemed by the Issuer in cash or by the delivery of securities as specified in the Applicable Pricing Supplement.
Senior Notes	bearing the characteristics described under “ <i>Status of Senior Notes</i> ” below.
Subordinated Notes	bearing the characteristics described under “ <i>Status and Characteristics relating to Subordinated Notes</i> ” in the Ordinary Conditions below.
Tier 1 Notes	bearing the characteristics described under “ <i>Status</i> ” in the Tier 1 Conditions below.
Other Notes	Terms applicable to any other type of Notes that are approved by BESA, or its successor, will be set out in the Applicable Pricing Supplement.
Noteholder(s)	The holders of the Registered Notes (as recorded in the Register) and/or Bearers of Bearer Notes and/or the Payees of the Order Notes.
Rating	As at the date of this Programme Memorandum, this Programme has not been rated by any rating agency. The Issuer may, however, at any time obtain a rating by a rating agency of this Programme or any issue of Notes issued pursuant to this Programme.
Redemption	<p>For so long as the Capital Regulations so require, Subordinated Notes may be redeemed prior to the Maturity Date only at the option of the Issuer and no Subordinated Notes may be redeemed without the prior written approval of the Registrar of Banks or otherwise than in accordance with the conditions (if any) approved by the Registrar of Banks in writing.</p> <p>There is no fixed redemption date for Undated Tier 2 Notes or Tier 1 Notes and the Issuer may only redeem them in accordance with the terms indicated in the relevant Applicable Pricing Supplement.</p> <p>The Pricing Supplement relating to each Tranche of Notes will indicate either that the Notes cannot be redeemed prior to their stated maturity (other than for taxation reasons or following an Event of Default) or that such Notes will be redeemable at the option of the Issuer (in relation to Subordinated Notes identified in the Applicable Pricing Supplement of which the proceeds rank as secondary capital or tertiary capital in accordance with the Banks Act) and/or, in the case of Senior Notes only, the Noteholders upon giving not less than 15 nor more than 30 days’ irrevocable notice (or such other notice period (if any) as is indicated in the Applicable Pricing Supplement) to the Noteholders or the Issuer, as the case may be, on a date or dates specified prior to such stated maturity and at a price or prices and on such terms as are indicated in the Applicable Pricing Supplement.</p> <p>The Applicable Pricing Supplement may provide that Notes may be repayable in two or more instalments of such amounts and on such dates as indicated in the Applicable Pricing Supplement.</p>
Selling Restrictions	There are restrictions on the sale of Notes and the distribution of offering materials in various jurisdictions. See section entitled “ <i>Subscription and Sale</i> ”, and such restrictions as may be imposed in the Applicable Pricing Supplement.
Size	Up to ZAR20,000,000,000 may be outstanding at any time. The Issuer may increase the amount of the Programme in accordance with the terms of the Programme Agreement.

Subordinated Notes	In order for the proceeds of the issue of a Tranche of Subordinated Notes to qualify as Primary Share Capital, Dated Secondary Capital, Undated Secondary Capital or Tertiary Capital, as the case may be, Subordinated Notes must comply with the applicable Capital Regulations (including such Additional Conditions (if any) as are prescribed by the Registrar of Banks in respect of that Tranche of Subordinated Notes). The Issuer will specify in the relevant Applicable Pricing Supplement whether any issue of Notes is an issue of Tier 1 Notes, the proceeds of which are intended to qualify as Primary Share Capital, Undated Tier 2 Notes, the proceeds of which are intended to qualify as Undated Secondary Capital, Dated Tier 2 Notes, the proceeds of which are intended to qualify as Dated Secondary Capital or Tier 3 Notes, the proceeds of which are intended to qualify as Tertiary Capital. The Additional Conditions (if any) prescribed by the Registrar of Banks in respect of Subordinated Notes will be specified in the Applicable Pricing Supplement, a Drawdown Prospectus or a supplement to this Programme Memorandum.
Status of Notes	Notes may be issued on a subordinated or unsubordinated basis, as specified in the relevant Applicable Pricing Supplement.
Status of Senior Notes	The Senior Notes will constitute direct, unconditional, unsubordinated and (subject to the provisions of Condition 7 of the Ordinary Conditions) unsecured obligations of the Issuer, all as described in Condition 5 of the Ordinary Conditions and the relevant Applicable Pricing Supplement.
Status of Tier 3 Notes	The Tier 3 Notes constitute direct, unsecured and, in accordance with Condition 6.1.3 of the Ordinary Conditions, subordinated obligations of the Issuer and rank <i>pari passu</i> without any preference among themselves and (save for those that have been accorded by law preferential rights) at least <i>pari passu</i> with all other claims of creditors of the Issuer which rank or are expressed to rank (and which are entitled to rank) <i>pari passu</i> with the Tier 3 Notes.
Status of Dated Tier 2 Notes	The Dated Tier 2 Notes constitute direct, unsecured and, in accordance with Condition 6.2.3 of the Ordinary Conditions, subordinated obligations of the Issuer and rank <i>pari passu</i> without any preference among themselves and (save for those that have been accorded by law preferential rights) at least <i>pari passu</i> with all other claims of creditors of the Issuer which rank or are expressed to rank (and which are entitled to rank) <i>pari passu</i> with the Dated Tier 2 Notes.
Status of Undated Tier 2 Notes	The Undated Tier 2 Notes constitute direct, unsecured and, in accordance with Condition 6.3.3 of the Ordinary Conditions, subordinated obligations of the Issuer and rank <i>pari passu</i> without any preference among themselves and (save for those that have been accorded by law preferential rights) at least <i>pari passu</i> with all other claims of creditors of the Issuer which rank or are expressed to rank (and which are entitled to rank) <i>pari passu</i> with the Undated Tier 2 Notes.
Status of Tier 1 Notes	Tier 1 Notes constitute direct, unsecured and, in accordance with Condition 5.2 of the Tier 1 Conditions, subordinated obligations of the Issuer and rank <i>pari passu</i> without any preference among themselves. Tier 1 Notes rank <i>pari passu</i> with all subordinated debt issued by the Issuer, the proceeds of which qualify as Primary Share Capital, and all Non-Redeemable Non-Cumulative Preference Shares issued by the Issuer the proceeds of which qualify as Primary Share Capital and are senior in respect of the rights and claims of the holders of Ordinary Shares.
Stabilisation	In connection with the issue and distribution of any Tranche of Notes, the Issuer may, subject to the terms and conditions for stabilisation contained in the Applicable Pricing Supplement, over-allot or effect transactions which stabilise or maintain the market price of the Notes of the Series (as defined

below) of which such Tranche forms part at a level which might not otherwise prevail. Stabilisation, if commenced, may be discontinued at any time. Stabilisation shall be carried out in accordance with all applicable laws and regulations.

- Transfer Secretary** In relation to any Tranche of Notes, FirstRand Bank Limited, acting through its Rand Merchant Bank Division, or such other person specified in the Applicable Pricing Supplement as the Transfer Secretary will act as transfer secretary and will maintain the Register.
- Use of Proceeds** The Issuer will use the issue proceeds of the Notes for its general corporate activities.
- Withholding Tax** All payments in respect of the Notes will be made without withholding or deduction for or on account of taxes levied in South Africa, subject to certain exceptions as provided in Condition 12 of the Ordinary Conditions or Condition 11 of the Tier 1 Conditions, whichever is applicable. In the event that withholding tax or such other deduction is required by law, then the Issuer will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes, as the case may be, in the absence of such withholding or deduction.

FORM OF THE NOTES

Words used in this section entitled “Form of the Notes” shall bear the same meanings as used in the Terms and Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.

Notes may be issued in registered, bearer or order form, as specified in the Applicable Pricing Supplement.

The Notes may be listed on the BESA and/or a successor exchange to BESA or such other or further exchange or exchanges as the Issuer may select in relation to an issue. Each Tranche of Notes listed on BESA will be issued in accordance with the Terms and Conditions set out below in this Programme Memorandum in the form of a Global Certificate, without interest coupons, which will be lodged and immobilised in the CSD, which forms part of the settlement system of BESA. This will entail that the Notes, represented by the Global Certificate, will be deposited with the CSD and registered in the name of, and for the account of, the CSD’s Nominee.

In the event that the Notes are issued in uncertificated form, no Certificates shall be issued in respect thereof.

All Notes not represented by a Global Certificate, including Bearer Notes and Order Notes (each defined below) shall be issued in definitive form as Individual Certificate. Notes represented by Individual Certificates may only be transferred in accordance with the provisions of Condition 15 of the Ordinary Conditions and Condition 14 of the Tier 1 Conditions.

Listed Registered Notes

Beneficial interests in Notes which are lodged in the form of the Global Certificate in the CSD may, in terms of existing law and practice, be transferred through the CSD by way of book entry in the securities accounts of the participants in the CSD, who are also approved by BESA to act as Settlement Agents and therefore perform electronic settlement of both funds and scrip on behalf of market participants. A certificate or other document issued by a Participant as to the principal amount of such Beneficial Interest in Notes standing to the account of any person shall be *prima facie* proof of such Beneficial Interest. A Global Certificate may be replaced by the issue of uncertificated securities in terms of Section 37 of the Securities Services Act.

Beneficial Interests in Notes may be exchanged, without charge by the Issuer, for Individual Certificates in accordance with the provisions of Condition 13 of the Ordinary Conditions and Condition 12 of the Tier 1 Conditions. The Notes represented by the Global Certificate and Individual Certificates will be registered in the names of the Noteholders in the Register of Noteholders maintained by the Issuer. The Issuer shall regard the Register as the conclusive record of title to the Notes. The CSD shall be recognised by the Issuer as the owner of the Notes represented by the Global Certificate and the registered holders of Individual Certificates shall be recognised by the Issuer as the owners of the Notes represented by such Individual Certificates.

Bearer and Order Notes

Bearer Notes issued in bearer form and Order Notes issued in order form and which are interest bearing shall, if indicated in the Applicable Pricing Supplement, have interest Coupons for further Coupons attached on issue. Notes repayable in instalments shall have Receipts for the payment of the instalments of principal (other than the final instalment) attached on issue.

Title to Bearer Notes and/or Receipts and Coupons attached on issue to the Certificate evidencing such Bearer Notes will pass by delivery of such Certificate, Receipt, Coupon or Talon (as the case may be). Title to Order Notes and/or any Receipts and Coupons attached on issue to the Certificate evidencing such Order Note, will pass by way of endorsement and delivery of such Certificate, Receipt, Coupon or Talon (as the case may be).

PRO FORMA PRICING SUPPLEMENT OF THE SENIOR, TIER 2 AND TIER 3 NOTES

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

**FIRSTRAND****FirstRand Bank Limited**

(Incorporated in the Republic of South Africa with limited liability under Registration Number 1929/001225/06)

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

Under its ZAR20,000,000,000 Domestic Medium Term Note Programme

This document constitutes the 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 of the Senior, Tier 2 and Tier 3 Notes set forth in the amended and restated Programme Memorandum dated 22 April 2008. The Notes described in this Pricing Supplement are subject to the Terms and Conditions of the Senior, Tier 2 and Tier 3 Notes in the Programme Memorandum and this Pricing Supplement must be read in conjunction with such Programme Memorandum. To the extent that there is any conflict or inconsistency between the contents of this Pricing Supplement and the Programme Memorandum, the provisions of this Pricing Supplement shall prevail.

DESCRIPTION OF THE NOTES

1. Issuer	FirstRand Bank Limited
2. Status of Notes	[Senior Notes] [Subordinated Notes Undated Tier 2/Dated Tier 2/Tier 3 Notes]
3. Additional Conditions	[Applicable/Not Applicable] <i>(if applicable give details)</i>
4. [Date [Board] approval for issuance of Notes obtained]	[[●]] <i>(N.B. Only relevant where Board (or similar) authorisation is required for the particular tranche of Notes)</i>
5. [Date of approval(s) of Registrar of Banks for issuance of Notes obtained]	[Required for each issuance]
6. [Date of approval(s) of Exchange Control Department of the South African Reserve Bank for issuance of Notes obtained]	[Required for each issuance]
7. Series No.	[...]
8. Tranche No.	[...]
9. Aggregate Nominal Amount	[...]
10. Interest/Payment Basis	[Fixed Rate/Floating Rate/Zero Coupon/Indexed/Partly Paid/Instalment/other] Notes
11. Automatic/Optional Conversion from one Interest/ Payment Basis to another	[insert details including date for conversion]
12. Form of Notes	[Registered/Bearer/Order] Notes

13.	Issue Date	[...]
14.	Business Centre	[...]
15.	Additional Business Centre	[...]
16.	Nominal Amount per Note	[...]
17.	Specified Denomination	[...]
18.	Issue Price	[...]
19.	Interest Commencement Date	[...]
20.	Maturity Date	<i>[Subject to the applicable Capital Regulations, (i) Dated Tier 2 Notes must have a minimum Maturity Period of five years and one day, and (ii) Tier 3 Notes must have a minimum Maturity Period of two years and one day.]</i>
21.	Specified Currency	[...]
22.	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]
23.	Final Redemption Amount	[...]
24.	Interest Payment Dates	[...]
25.	Last Date to Register	[...]
26.	Books Closed Period(s)	The Register will be closed from [...] to [...] and from [...] to [...] (all dates inclusive) in each year until the Maturity Date
27.	Cumulative Rate	[...]
28.	Yield	29%
29.	Arrears of Interest shall themselves bear interest: Yes/No	[Yes/No] [Specify Rate] [NB. Only relevant for undated Tier 2 Notes. Delete if not applicable]
FIXED RATE NOTES		<i>[Subject, in the case of Subordinated Notes, to the applicable Capital Regulations]</i>
30.	(a) Fixed Rate of Interest	[...] per cent per annum
	(b) Fixed Interest Payment Date(s)	[...]
	(c) Initial Broken Amount	[...]
	(d) Final Broken Amount	[...]
	(e) Any other terms relating to the particular method of calculating interest	[...]
FLOATING RATE NOTES		<i>[Subject, in the case of Subordinated Notes, to the applicable Capital Regulations]</i>
31.	(a) Floating Interest Payment Date(s)	[...]
	(b) Interest Period(s)	[...]
	(c) Definition of Business Day (if different from that set out in Condition 9.2)	[...]
	(d) Minimum Rate of Interest	[...] per cent per annum

- (e) Maximum Rate of Interest [...] per cent per annum
- (f) Other terms relating to the method of calculating interest (e.g.: day count fraction, rounding up provision) [...]
32. Manner in which the Rate of Interest is to be determined [ISDA Determination/Screen Rate Determination/other – insert details]
33. Margin [(...) basis points to be added to/subtracted from the relevant (ISDA Rate/Reference Rate)]
34. If ISDA Determination
- (a) Floating Rate [...]
- (b) Floating Rate Option [...]
- (c) Designated Maturity [...]
- (d) Reset Date(s) [...]
- (e) ISDA Definitions to apply [...]
35. If Screen Determination
- (a) Reference Rate (including relevant period by reference to which the Rate of Interest is to be calculated) [...]
- (b) Interest Rate Determination Date(s) [...]
- (c) Relevant Screen page and Reference Code [...]
36. If Rate of Interest to be calculated otherwise than by ISDA Determination or Screen Determination, insert basis for determining Rate of Interest/Margin/Fallback provisions [...]
37. Calculation Agent, responsible for calculating amount of principal and interest [...]

ZERO COUPON NOTES

[Subject, in the case of Subordinated Notes, to the applicable Capital Regulations]

38. (a) Implied Yield [...]
- (b) Reference Price [...]
- (c) Any other formula or basis for determining amount(s) payable [...]

PARTLY PAID NOTES

[Subject, in the case of Subordinated Notes, to the applicable Capital Regulations]

39. (a) Amount of each payment comprising the Issue Price [...]
- (b) Date upon which each payment is to be made by Noteholder [...]
- (c) Consequences (if any) of failure to make any such payment by Noteholder [...]
- (d) Interest Rate to accrue on the first and subsequent instalments after the due date for payment of such [...] per cent

instalments

INSTALMENT NOTES

[Subject, in the case of Subordinated Notes, to the applicable Capital Regulations]

- 40. Instalment Dates [...]
- 41. Instalment Amounts (expressed as a percentage of the aggregate Nominal Amount of the Notes) [...]

MIXED RATE NOTES

[Subject, in the case of Subordinated Notes, to the applicable Capital Regulations]

- 42. Period(s) during which the interest rate for the Mixed Rate Notes will be (as applicable) that for:
 - (a) Fixed Rate Notes [...]
 - (b) Floating Rate Notes [...]
 - (c) Indexed Notes [...]
 - (d) Other Notes [...]
- 43. The interest rate and other pertinent details are set out under the headings relating to the applicable forms of Notes

INDEXED NOTES

[Subject, in the case of Subordinated Notes, to the applicable Capital Regulations]

- 44. (a) Type of Indexed Notes [Indexed Interest/Indexed Redemption Amount] Notes
- (b) Index/Formula by reference to which Interest Rate/ Interest Amount (delete as applicable) is to be determined [...]
- (c) Manner in which the Interest Rate/Interest Amount (delete as applicable) is to be determined [...]
- (d) Interest Period(s) [...]
- (e) Interest Payment Date(s) [...]
- (f) Calculation Agent (if not the Issuer) [...]
- (g) Provisions where calculation by reference to Index and/or Formula is impossible or impracticable [...]

EXCHANGEABLE NOTES

[Subject, in the case of Subordinated Notes, to the applicable Capital Regulations]

- 45. (a) Mandatory Exchange applicable? [Yes/No]
- (b) Noteholders' Exchange Right applicable? [Yes/No]
- (c) Exchange Securities [...]
- (d) Manner of determining Exchange Price [...]
- (e) Exchange Period [...]
- (f) Other [...]

OTHER NOTES

46. Relevant description and any additional Terms and Conditions relating to such Notes [...]

PROVISIONS REGARDING REDEMPTION/MATURITY

47. Prior consent of Registrar of Banks required for any redemption prior to Maturity Date [Yes/No]
48. 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 [...]
 - (c) Minimum Period of Notice (if different from Condition 11.4) [...]
 - (d) If redeemable in part: [...]
 - Minimum Redemption Amount(s) [...]
 - Higher Redemption Amount(s) [...]
 - (e) Other terms applicable on Redemption
49. Redemption at the Option of the Senior Noteholders: if yes: [Yes/No]
- (a) Optional Redemption Date(s) [...]
 - (b) Optional Redemption Amount(s) [...]
 - (c) Minimum Period of Notice (if different from Condition 11.6) [...]
 - (d) If redeemable in part: [...]
 - Minimum Redemption Amount(s) [...]
 - Higher Redemption Amount(s) [...]
 - (e) Other terms applicable on Redemption [...]
 - (f) Attach *pro forma* put notice(s)
50. Early Redemption Amount(s) payable on redemption for taxation reasons or on Event of Default (if required) [*Include details of Make Whole Redemption Price*]
- (a) Amount payable; or [...]
 - (b) Method of calculation of amount payable [...]
51. Early Redemption Amount(s) payable on redemption for regulatory reasons [*Include details of Make Whole Redemption Price*]
- (a) Amount payable; or [...]
 - (b) Method of calculation of amount payable [...]

GENERAL

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| 52. Exchange | [...] |
| 53. Calculation Agent | [...] |
| 54. Paying Agent | [...] |
| 55. Specified office of the Paying Agent | [...] |
| 56. Transfer Secretary | [...] |
| 57. Provisions relating to stabilisation | [...] |
| 58. Additional selling restrictions | [...] |
| 59. ISIN | [...] |
| 60. Stock Code | [...] |
| 61. The notice period required for exchanging interests in Global Certificates for Individual Certificates | [...] |
| 62. Method of distribution | [...] |
| 63. If syndicated, names of Managers | [...] |
| 64. Credit Rating assigned to Notes (if any) | [...] |
| 65. Receipts attached? If yes, number of Receipts attached | [Yes/No] |
| 66. Coupons attached? If yes, number of Coupons attached | [Yes/No] |
| 67. Stripping of Receipts and/or Coupons prohibited as provided in Condition 15.4 | [Yes/No] |
| 68. Governing law (if the laws of South Africa are not applicable) | [...] |
| 69. Other Banking Jurisdiction | [...] |
| 70. Surrendering of Notes | [...] days after the date on which the Certificate in respect of the Note to be redeemed has been surrendered to the Issuer |
| 71. Pricing Methodology | [Standard BESA pricing methodology/other – insert details] |
| 72. Other provisions | [...] |

Responsibility

The Issuer accepts responsibility for the information contained in this Applicable Pricing Supplement. Application **[is hereby]/[will not be]** made to list this issue of Notes **[on [date]]**.

SIGNED at _____ this _____ day of _____ 20____.

For and on behalf of
FIRSTRAND BANK LIMITED

Name:
Capacity:
Who warrants his authority hereto

Name:
Capacity:
Who warrants his authority hereto

PRO FORMA PRICING SUPPLEMENT OF THE TIER 1 NOTES

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

**FIRSTRAND****FirstRand Bank Limited**

(Incorporated in the Republic of South Africa with limited liability under Registration Number 1929/001225/06)

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

Under its ZAR20,000,000,000 Domestic Medium Term Note Programme

This document constitutes the 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 of the Tier 1 Notes set forth in the amended and restated Programme Memorandum dated 22 April 2008. The Notes described in this Pricing Supplement are subject to the Terms and Conditions of the Tier 1 Notes in the Programme Memorandum and this Pricing Supplement must be read in conjunction with such Programme Memorandum. To the extent that there is any conflict or inconsistency between the contents of this Pricing Supplement and the Programme Memorandum, the provisions of this Pricing Supplement shall prevail.

DESCRIPTION OF THE NOTES

1. Issuer	FirstRand Bank Limited
2. Status of Notes	Subordinated Notes: Tier 1 Notes
3. Additional Conditions	[Applicable/Not Applicable] <i>(if applicable give details)</i>
4. [Date [Board] approval for issuance of Notes obtained	[[●]] <i>(N.B. Only relevant where Board (or similar) authorisation is required for the particular tranche of Notes)</i>
5. [Date of approval(s) of Registrar of Banks for issuance of Notes obtained]	<i>[Required for each issuance]</i>
6. [Date of approval(s) of Exchange Control Department of the South African Reserve Bank for issuance of Notes obtained]	<i>[Required for each issuance]</i>
7. Series No.	[...]
8. Tranche No.	[...]
9. Aggregate Nominal Amount	[...]
10. Interest/Payment Basis	[Fixed Rate/Floating Rate/Indexed/other] Notes
11. Automatic/Optional Conversion from one Interest/ Payment Basis to another	[insert details including date for conversion]
12. Form of Notes	Registered Notes
13. Issue Date	[...]
14. Business Centre	[...]
15. Additional Business Centre	[...]

16.	Nominal Amount per Note	[...]
17.	Specified Denomination	[...]
18.	Issue Price	[...]
19.	Interest Commencement Date	[...]
20.	Specified Currency	[...]
21.	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]
22.	Interest Payment Dates	[...]
23.	Last Date to Register	[...]
24.	Books Closed Period(s)	The Register will be closed from [...] to [...] and from [...] to [...] (all dates inclusive) in each year until the Maturity Date
25.	Default Rate	[...]
26.	Yield	[...]
27.	Arrears of Interest shall themselves bear interest: Yes/No	[Yes/No] [Specify Rate] [NB. Only relevant for undated Tier 2 Notes. Delete if not applicable]
	FIXED RATE NOTES	<i>[Subject to the Capital Regulations]</i>
28.	(a) Fixed Rate of Interest	[...] per cent per annum
	(b) Fixed Interest Payment Date(s)	[...]
	(c) Initial Broken Amount	[...]
	(d) Final Broken Amount	[...]
	(e) Any other terms relating to the particular method of calculating interest	[...]
	FLOATING RATE NOTES	<i>[Subject to the Capital Regulations]</i>
29.	(a) Floating Interest Payment Date(s)	[...]
	(b) Interest Period(s)	[...]
	(c) Definition of Business Day (if different from that set out in Condition 1)	[...]
	(d) Minimum Rate of Interest	[...] per cent per annum
	(e) Maximum Rate of Interest	[...] per cent per annum
	(f) Other terms relating to the method of calculating interest (e.g.: day count fraction, rounding up provision)	[...]
30.	Manner in which the Rate of Interest is to be determined	[ISDA Determination/Screen Rate Determination/other – insert details]
31.	Margin	[...] basis points to be added to/subtracted from the relevant (ISDA Rate/Reference Rate)]
32.	If ISDA Determination	
	(a) Floating Rate	[...]
	(b) Floating Rate Option	[...]

(c) Designated Maturity	[...]
(d) Reset Date(s)	[...]
(e) ISDA Definitions to apply	[...]
33. If Screen Determination	
(a) Reference Rate (including relevant period by reference to which the Rate of Interest is to be calculated)	[...]
(b) Interest Rate Determination Date(s)	[...]
(c) Relevant Screen page and Reference Code	[...]
34. If Rate of Interest to be calculated otherwise than by ISDA Determination or Screen Determination, insert basis for determining Rate of Interest/Margin/Fallback provisions	[...]
35. Calculation Agent, responsible for calculating amount of principal and interest	[...]
ZERO COUPON NOTES	N/A
PARTLY PAID NOTES	N/A
INSTALMENT NOTES	N/A
MIXED RATE NOTES	N/A
INDEXED NOTES	N/A
EXCHANGEABLE NOTES	N/A
OTHER NOTES	
36. Relevant description and any additional Terms and Conditions relating to such Notes	[...]
PROVISIONS REGARDING REDEMPTION	
37. 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	[...]
(c) Minimum Period of Notice (if different from Condition 10.4)	[...]
(d) If redeemable in part:	[...]
Minimum Redemption Amount(s)	[...]
Higher Redemption Amount(s)	[...]
(e) Other terms applicable on Redemption	
38. Early Redemption Amount(s) payable on redemption for tax reasons or on Event of Default (if required)	<i>[Include details of Make Whole Redemption Price]</i>
(a) Amount payable; or	[...]

- | | |
|---|---|
| (b) Method of calculation of amount payable | [...] |
| 39. Early Redemption Amount(s) payable on redemption for regulatory reasons | <i>[Include details of Make Whole Redemption Price]</i> |
| (a) Amount payable; or | [...] |
| (b) Method of calculation of amount payable | [...] |

GENERAL

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| 40. Exchange | [...] |
| 41. Calculation Agent | [...] |
| 42. Paying Agent | [...] |
| 43. Specified office of the Paying Agent | [...] |
| 44. Transfer Secretary | [...] |
| 45. Provisions relating to stabilisation | [...] |
| 46. Additional selling restrictions | [...] |
| 47. ISIN | [...] |
| 48. Stock Code | [...] |
| 49. The notice period required for exchanging interests in Global Certificates for Individual Certificates | [...] |
| 50. Method of distribution | [...] |
| 51. If syndicated, names of Managers | [...] |
| 52. Credit Rating assigned to Notes (if any) | [...] |
| 53. Receipts attached? If yes, number of Receipts attached | [Yes/No] |
| 54. Coupons attached? If yes, number of Coupons attached | [Yes/No] |
| 55. Governing law (if the laws of South Africa are not applicable) | [...] |
| 56. Other Banking Jurisdiction | [...] |
| 57. Surrendering of Notes | [...] days after the date on which the Certificate in respect of the Notes to be redeemed has been surrendered to the Issuer |
| 58. Pricing Methodology | [Standard BESA pricing methodology/other – insert details] |
| 59. Other provisions | [...] |

Responsibility

The Issuer accepts responsibility for the information contained in this Applicable Pricing Supplement. Application **[is hereby]/[will not be]** made to list this issue of Tier 1 Notes **[on [date]]**.

SIGNED at _____ this _____ day of _____ 20____.

For and on behalf of
FIRSTRAND BANK LIMITED

Name:
Capacity:
Who warrants his authority hereto

Name:
Capacity:
Who warrants his authority hereto

TERMS AND CONDITIONS OF THE SENIOR, TIER 2 AND TIER 3 NOTES

The following are the Terms and Conditions of the Senior, Tier 2 and Tier 3 Notes (the “Conditions”) to be issued by the Issuer which will be incorporated by reference into each Senior, Tier 2 and Tier 3 Note. The Applicable Pricing Supplement in relation to any Tranche of Notes may specify other terms and conditions which shall to the extent so specified or to the extent inconsistent with the following Conditions, replace or modify the following Conditions for the purpose of such Tranche of Notes. The Applicable Pricing Supplement will be attached to each Senior, Tier 2 and Tier 3 Notes.

Before the Issuer issues any Tranche of Notes, the Issuer shall complete, sign and deliver to BESA and the CSD a pricing supplement based on the pro forma Pricing Supplement included in the Programme Memorandum (a “Pricing Supplement”) setting out details of such Notes.

If there is any conflict or inconsistency between provisions set out in the Pricing Supplement and the provisions set out in these Terms and Conditions of the Notes, then the provisions in the Pricing Supplement will prevail.

Words and expressions used in the Applicable Pricing Supplement shall have the same meanings where used in these Conditions unless the context otherwise requires or unless otherwise stated.

All subsequent references in these Conditions to “Notes” are to the Notes which are the subject of the Applicable Pricing Supplement (as defined below).

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:

- 1.1 “**Agency Agreement**” means the agency agreement to be entered into between the Issuer, the Transfer Secretary, the Calculation Agent and the Paying Agent, if the Issuer is not acting in any of the aforementioned capacities;
- 1.2 “**Additional Conditions**” means, in relation to any issue of Notes, the proceeds of which are intended by the Issuer to qualify as Secondary Capital or Tertiary Capital, as the case may be, such conditions, in addition to the conditions specified in the applicable Capital Regulations, as may be prescribed by the Registrar of Banks for the proceeds of the issue of such Notes to qualify as Secondary Capital or Tertiary Capital, as the case may be, pursuant to the approval granted by the Registrar of Banks for the issue of such Notes, as specified in the Applicable Pricing Supplement;
- 1.3 “**Applicable Pricing Supplement**” means the Pricing Supplement relating to each Tranche of Notes;
- 1.4 “**Applicable Procedures**” means the rules and operating procedures for the time being of the CSD and BESA, as the case may be;
- 1.5 “**Assets**” means the total amount of the non-consolidated gross assets of the Issuer as shown in the latest published audited non-consolidated balance sheet of the Issuer, but adjusted for contingencies and subsequent events in such manner as the directors of the Issuer, the auditors of the Issuer or a liquidator or administrator of the Issuer (if applicable) may determine;
- 1.6 “**Arrears of Interest**” has the meaning given to it in Condition 8.1;
- 1.7 “**Banks Act**” means the Banks Act, 1990;
- 1.8 “**Bearer**” means the bearer of a Certificate evidencing a Bearer Note or of a Receipt or Coupon attached to such Certificate on issue;
- 1.9 “**Bearer Note**” means a Note payable to the Bearer thereof, transferable by way of delivery in accordance with Condition 15.2 and the term “*Bearer Note*” shall include the rights to payment of any interest or principal represented by a Coupon or Receipt (if any) attached on issue to the Certificate evidencing such Bearer Note;
- 1.10 “**Beneficial Interest**” means the undivided share of a co-owner of the Notes represented by a Global Certificate as provided in Section 41 of the Securities Services Act;

- 1.11 “**BESA**” means the Bond Exchange of South Africa Limited (Registration Number 2007/034441/06), a licensed financial exchange in terms of the Securities Services Act or any exchange which operates as a successor exchange to BESA;
- 1.12 “**Books Closed Period**” means 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;
- 1.13 “**Business Day**” means a day (other than a Saturday or Sunday or public holiday within the meaning of the Public Holidays Act, 1994, as amended) which is a day on which commercial banks settle ZAR payments in Johannesburg or any Additional Business Centre specified in the Applicable Pricing Supplement, save that if the Specified Currency is not ZAR, “*Business Day*” shall mean a day (other than a Saturday or Sunday) which is a day on which commercial banks and foreign exchange markets settle payments in the principal financial centre of the Specified Currency and in each (if any) Additional Business Centre, save further that if the Applicable Pricing Supplement so provides, “*Business Day*” shall include a Saturday;
- 1.14 “**Calculation Agent**” means FirstRand Bank Limited, acting through its Rand Merchant Bank Division, unless the Issuer elects to appoint, in relation to a particular Tranche or Series of Notes, another entity as Calculation Agent in respect of that Tranche or Series of Notes;
- 1.15 “**Capital Regulations**” means, at any time, any legislation, regulations, requirements, guidelines and policies relating to capital adequacy then in effect in South Africa in relation to banks registered under the Banks Act and licensed to conduct the business of a bank in South Africa (including the Additional Conditions (if any)) (or if the Issuer becomes domiciled in a jurisdiction other than South Africa, any legislation, regulations, requirements, guidelines and policies relating to capital adequacy then in effect in such other jurisdiction in relation to banks registered in, and licensed to conduct the business of a bank in, such other jurisdiction);
- 1.16 “**Certificate**” means a Global Certificate or Individual Certificate;
- 1.17 “**Controlling Company**” means FirstRand Bank Holdings Limited and/or any other company which is a “*controlling company*” in relation to the Issuer as contemplated by the Banks Act;
- 1.18 “**Coupon**” means an interest coupon evidencing title to an interest payment in respect of an interest bearing Note which is a Bearer Note or an Order Note, attached to the Certificate evidencing such interest bearing Note and any reference to a Coupon shall, unless the context otherwise requires, be deemed to include a reference to a Talon;
- 1.19 “**CSD**” means Strate Limited (Registration Number 1998/022242/06), or its nominee, operating in terms of the Securities Services Act (or any successor legislation thereto), or any additional or alternate depository approved by the Issuer;
- 1.20 “**CSD’s Nominee**” means Central Securities Depository Nominees (Proprietary) Limited (Registration Number 1990/006665/07) a Wholly Owned Subsidiary of the CSD;
- 1.21 “**Dated Secondary Capital**” means the proceeds of the issue of debt instruments contemplated in Section 1(1) of the Banks Act that are term debt instruments which proceeds are intended, upon issue of such term debt instruments, to qualify as Secondary Capital in accordance with the Dated Tier 2 Capital Regulations;
- 1.22 “**Dated Subordinated Noteholder**” means the Holder of a Dated Subordinated Note;
- 1.23 “**Dated Subordinated Notes**” means, collectively, Tier 3 Notes and Dated Tier 2 Notes;
- 1.24 “**Dated Tier 2 Capital Regulations**” means Regulation 38(14)(b) of the Regulations Relating to Banks and/or such other provisions of the Capital Regulations with which Dated Tier 2 Notes must comply in order for the proceeds of the issue of such Notes to qualify as Secondary Capital;
- 1.25 “**Dated Tier 2 Noteholder**” means a Holder of a Dated Tier 2 Note;

- 1.26 “**Dated Tier 2 Notes**” means Notes specified as such in the relevant Applicable Pricing Supplement and complying with the Dated Tier 2 Capital Regulations;
- 1.27 “**Dealer**” means any Dealer, as may be appointed under the Programme from time to time, which appointment may be for a specific issue or on an ongoing basis, subject to the Issuer’s right to terminate the appointment of any Dealer;
- 1.28 “**Deferral Notice**” has the meaning given in Condition 8.4;
- 1.29 “**Deferred Payment**” has the meaning given in Condition 8.4;
- 1.30 “**Deferred Payment Date**” has the meaning given in Condition 8.4;
- 1.31 “**Deposit**” means a “deposit” as defined in the Banks Act;
- 1.32 “**Depositor**” means any Person having a claim against the Issuer in respect of a Deposit;
- 1.33 “**Early Redemption Amount**” means the amount, as set out in Condition 11.7, at which the Notes will be redeemed by the Issuer pursuant to the provisions of Condition 11.2 and/or Condition 17;
- 1.34 “**Early Redemption Amount (Regulatory)**” means, in respect of any Note, the Make Whole Redemption Price;
- 1.35 “**Early Redemption Amount (Tax)**” means, in respect of any Note, an amount calculated in accordance with Condition 11.7;
- 1.36 “**Eligible Capital**” means Notes that are treated on issue by the Registrar of Banks for inclusion in the Primary Share Capital, Undated Secondary Capital, Dated Secondary Capital or Tertiary Capital, as the case may be, of the Issuer or the Controlling Company on a solo and/or consolidated basis, in accordance with the Capital Regulations;
- 1.37 “**Endorsement**” means an “indorsement”, *mutatis mutandis*, within the meaning of the Bills of Exchange Act, 1964;
- 1.38 “**Endorsement in Blank**” means an Endorsement which specifies no named Payee;
- 1.39 “**Event of Default**” means an event of default by the Issuer as set out in Condition 17;
- 1.40 “**Exchangeable Notes**” means Notes which may be redeemed by the Issuer in the manner indicated in the Applicable Pricing Supplement by the delivery to the Noteholders of cash or of so many of the Exchange Securities as is determined in accordance with the Applicable Pricing Supplement;
- 1.41 “**Exchange Period**” means in respect of Exchangeable Notes to which the Noteholders’ Exchange Right applies (as indicated in the Applicable Pricing Supplement), the period indicated in the Applicable Pricing Supplement during which such right may be exercised;
- 1.42 “**Exchange Price**” means the amount determined in accordance with the manner described in the Applicable Supplement, according to which the number of Exchange Securities which may be delivered in redemption of an Exchangeable Note will be determined;
- 1.43 “**Exchange Securities**” means the securities indicated in the Applicable Pricing Supplement which may be delivered by the Issuer in redemption of Exchangeable Notes to the value of the Exchange Price;
- 1.44 “**Extraordinary Resolution**” means a resolution passed at a meeting (duly convened) of the Noteholders by a majority consisting of not less than 66 $\frac{2}{3}$ % (sixty six and two thirds per cent) of the persons voting thereat upon a show of hands or if a poll be duly demanded then by a majority consisting of not less than 66 $\frac{2}{3}$ % (sixty six and two thirds per cent) of the votes given on such poll;
- 1.45 “**Final Redemption Amount**” means the amount of principal specified in the Applicable Pricing Supplement payable in respect of each Note upon the Maturity Date;
- 1.46 “**Financial Indebtedness**” means any indebtedness of any Person for money borrowed or raised including (without limitation) any indebtedness for or in respect of:

- 1.46.1 amounts raised by acceptance under any acceptance credit facility;
- 1.46.2 amounts raised under any note purchase facility;
- 1.46.3 the amount of any liability in respect of leases or hire purchase contracts which would, in accordance with applicable law and generally accepted accounting principles, be treated as finance or capital leases;
- 1.46.4 the amount of any liability in respect of any purchase price for assets or services the payment of which is deferred for a period in excess of 90 days; and
- 1.46.5 amounts raised under any other transaction (including, without limitation, any forward sale or purchase agreement) having the commercial effect of a borrowing;
- 1.47 “**FirstRand Group**” means the Issuer, its holding company and any subsidiaries of its holding company;
- 1.48 “**Fixed Rate Notes**” means Notes which will bear interest at the fixed Interest Rate, as indicated in the Applicable Pricing Supplement;
- 1.49 “**Floating Rate Notes**” means Notes which will bear interest as indicated in the Applicable Pricing Supplement and more fully described in Condition 9.2;
- 1.50 “**Global Certificate**” means the single Certificate, without interest coupons, registered in the name of the CSD’s Nominee and representing those Notes issued in terms of the Terms and Conditions which are lodged and immobilised in the CSD other than those Notes represented by the Individual Certificates. A Global Certificate may be replaced by the issue of uncertificated securities in terms of Section 37 of the Securities Services Act;
- 1.51 “**Group**” means the Issuer and its consolidated Subsidiaries;
- 1.52 “**Group of Noteholders**” means the holders of a Series of Notes or, where appropriate, the holders of different Series of Notes;
- 1.53 “**Guarantee**” means, in relation to any Financial Indebtedness of any Person, any obligation of another Person to pay such Financial Indebtedness including (without limitation):
 - 1.53.1 any obligation to purchase such Financial Indebtedness;
 - 1.53.2 any obligation to lend money, to purchase or subscribe shares or other securities or to purchase assets or services in order to provide funds for the payment of such Financial Indebtedness;
 - 1.53.3 any indemnity against the consequences of a default in the payment of such Financial Indebtedness; and
 - 1.53.4 any other agreement to be responsible for such Financial Indebtedness;
- 1.54 “**Implied Yield**” means the yield accruing on the Issue Price of Zero Coupon Notes, as specified in the Applicable Pricing Supplement;
- 1.55 “**Independent Investment Bank**” means the independent investment bank or financial institution of international repute selected and appointed by the Issuer (at the Issuer’s expense) for the purposes of performing one or more of the functions expressed to be performed by it in the Applicable Pricing Supplement;
- 1.56 “**Indexed Interest Notes**” means Notes in respect of which the Interest Amount is calculated by reference to such index and/or formula as indicated in the Applicable Pricing Supplement;
- 1.57 “**Indexed Notes**” means an Indexed Interest Note and/or an Indexed Redemption Amount Note, as applicable;
- 1.58 “**Indexed Redemption Amount Notes**” means Notes in respect of which the Final Redemption Amount calculated by reference to an index and/or a formula as may be indicated in the Applicable Pricing Supplement;

- 1.59 **“Individual Certificate”** means:
- 1.59.1 in respect of Registered Notes: a Note in the definitive registered form of a single Certificate and, in respect of Registered Notes which are listed, being a Certificate exchanged for a Beneficial Interest in the Notes represented by the Global Certificate in accordance with Condition 13 and any further Certificate issued in consequence of a transfer thereof;
 - 1.59.2 in respect of Bearer Notes: a Note in the definitive bearer form of a single Certificate together with Coupons and/or Receipts, if applicable;
 - 1.59.3 in respect of Order Notes: a Note in the definitive order form of a single Certificate together with Coupons and/or Receipts, if applicable;
- 1.60 **“Instalment Amount”** means the amount expressed as a percentage of the Nominal Amount of an Instalment Note, being an instalment of principal (other than the final instalment) on an Instalment Note;
- 1.61 **“Instalment Notes”** means Notes issued at the same date but redeemed in Instalment Amounts by the Issuer on an amortised basis on different Instalment Dates (as indicated in the Applicable Pricing Supplement);
- 1.62 **“Interest Amount”** means the amount of interest payable in respect of each Principal Amount of Fixed Rate Notes, Floating Rate Notes and Indexed Notes, as determined in accordance with Condition 9.1, 9.2 and 9.4, respectively;
- 1.63 **“Interest Commencement Date”** means the first date from which interest on the Notes, other than Zero Coupon Notes, will accrue, as specified in the Applicable Pricing Supplement;
- 1.64 **“Interest Payment Date”** means 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, the last day of the Interest Period commencing on the preceding Interest Payment Date, or, in the case of the first Interest Payment Date, commencing on the Interest Commencement Date;
- 1.65 **“Interest Period”** means 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;
- 1.66 **“Interest Rate”** means the rate or rates of interest applicable to Notes other than Zero Coupon Notes as indicated in the Applicable Pricing Supplement;
- 1.67 **“ISDA”** means the International Swaps and Derivatives Association, Incorporated;
- 1.68 **“ISDA Definitions”** means the ISDA Definitions as published by ISDA (as amended, supplemented, revised or republished from time to time) as specified in the Applicable Pricing Supplement;
- 1.69 **“Issuer”** means FirstRand Bank Limited (Registration Number 1929/001225/06);
- 1.70 **“Junior Securities”** means the Ordinary Shares or any other share capital of the Issuer or any other member of the FirstRand Group or any other securities of the Issuer or any other member of the FirstRand Group the proceeds of which qualify as Primary Share Capital ranking or expressed to rank junior to the Undated Tier 2 Notes either issued directly by the Issuer or, where issued by a member of the FirstRand Group, where the terms of the securities benefit from a guarantee or support agreement entered into by the Issuer or any other member of the FirstRand Group which ranks or is expressed to rank junior to the Undated Tier 2 Notes;
- 1.71 **“Last Day to Register”** means, 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 Transfer Secretary 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;
- 1.72 **“Liabilities”** means the total amount of the non-consolidated gross liabilities of the Issuer as shown in the latest published audited non-consolidated balance sheet of the

Issuer, but adjusted for contingencies and subsequent events in such manner as the directors of the Issuer, the auditors of the Issuer or a liquidator or administrator of the Issuer (if applicable) may determine;

- 1.73 “**Make Whole Redemption Price**” has the meaning given thereto in the Applicable Pricing Supplement;
- 1.74 “**Mandatory Exchange**” means, if indicated in the Applicable Pricing Supplement, the obligation of the Issuer to redeem Exchangeable Notes on the Maturity Date by delivery of Exchange Securities to the relevant Noteholders of Exchangeable Notes;
- 1.75 “**Mandatory Preference Shares**” means any class of preference shares (i) the terms of which do not allow the relevant issuer’s board of directors to cancel, defer, pass or eliminate any distribution or dividend payment at its discretion and (ii) which are not treated on issue by the Registrar of Banks for inclusion in the Eligible Capital of the relevant issuer;
- 1.76 “**Maturity Date**” has the meaning given in the Applicable Pricing Supplement;
- 1.77 “**Maturity Period**” means the period from, and including, the Issue Date to, but excluding, the Maturity Date;
- 1.78 “**Mixed Rate Notes**” means Notes which will bear interest over respective periods at differing Interest Rates applicable to any combination of Fixed Rate Notes, Floating Rate Notes or Indexed Notes, each as indicated in the Applicable Pricing Supplement and as more fully described in Condition 9.3;
- 1.79 “**NACA**” means nominal annual compounded annually;
- 1.80 “**NACM**” means nominal annual compounded monthly;
- 1.81 “**NACQ**” means nominal annual compounded quarterly;
- 1.82 “**NACS**” means nominal annual compounded semi-annually;
- 1.83 “**Nominal Amount**” means, in relation to any Note, the total amount, excluding interest and any adjustments on account of any formula, owing by the Issuer under the Note;
- 1.84 “**Noteholders**” means the holders of the Registered Notes (as recorded in the Register) and/or the Bearers of the Bearer Notes and/or the Payees of the Order Notes;
- 1.85 “**Noteholders’ Exchange Right**” means, if indicated as applicable in the Applicable Pricing Supplement, the right of Noteholders of Exchangeable Notes to elect to receive delivery of the Exchange Securities in lieu of cash from the Issuer upon redemption of such Notes;
- 1.86 “**Notes**” means the notes issued or to be issued by the Issuer under the Programme and represented by a Certificate together with Receipts and/or Coupons (if any) or uncertificated Notes;
- 1.87 “**Optional Redemption Amount**” means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the Applicable Pricing Supplement;
- 1.88 “**Order Note**” means a Note payable to the Payee thereon, transferable by way of Endorsement and delivery in accordance with Condition 15.3 and the term “Order Note” shall include the rights to interest or principal represented by a Coupon or Receipt (if any) attached on issue to the Certificate evidencing such Order Note;
- 1.89 “**Outstanding**” means in relation to the Notes, all the Notes issued other than:
 - 1.89.1 those which have been redeemed in full;
 - 1.89.2 those in respect of which the date for redemption in accordance with the Terms and Conditions has occurred and the redemption moneys wherefor (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 Certificates;
 - 1.89.3 those which have been purchased and cancelled as provided in Condition 11;

- 1.89.4 those which have become prescribed under Condition 16;
- 1.89.5 Notes represented by those mutilated or defaced Certificates which have been surrendered in exchange for replacement Certificates pursuant to Condition 13;
- 1.89.6 (for the purpose only of determining how many Notes are Outstanding and without prejudice to their status for any other purpose) those Notes represented by Certificates alleged to have been lost, stolen or destroyed and in respect of which replacement Certificates have been issued pursuant to Condition 13,

provided that for each of the following purposes, namely:

- 1.89.7 the right to attend and vote at any meeting of the Noteholders; and
- 1.89.8 the determination of how many and which Notes are for the time being Outstanding for the purposes of Conditions 20 and 21,

all:

- 1.89.9 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 shall (unless and until ceasing to be so held);

- 1.89.10 Receipts and Coupons,

shall be deemed not to be Outstanding;

- 1.90 **“Parity Securities”** means any security issued by the Issuer or any other member of the FirstRand Group the proceeds of which qualify as Undated Secondary Capital from time to time outstanding or any other securities issued by the Issuer or any other member of the FirstRand Group ranking or expressed to rank equally as to payments with the Undated Tier 2 Notes and the proceeds of which qualify as Undated Secondary Capital or any securities issued by a member of the FirstRand Group that benefit from a guarantee or support agreement from the Issuer or any other member of the FirstRand Group which ranks or is expressed to rank equally as to payments with the Undated Tier 2 Notes;
- 1.91 **“Participants”** means depository institutions accepted by the CSD as participants in terms of the Securities Services Act;
- 1.92 **“Partly Paid Notes”** means Notes which are issued with the Issue Price partly paid and which Issue Price is paid up fully by the Noteholder in instalments (as indicated in the Applicable Pricing Supplement);
- 1.93 **“Payee”** means a person reflected (either as the subscriber or by way of Endorsement) as the payee on a Certificate evidencing an Order Note or a Receipt or Coupon attached thereto on issue and to whom such Certificate, Receipt or Coupon (as the case may be) has been delivered;
- 1.94 **“Paying Agent”** means FirstRand Bank Limited, acting through its Rand Merchant Bank Division, 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;
- 1.95 **“Payment Day”** means any day which is a Business Day and upon which a payment is due by the Issuer in respect of the Notes;
- 1.96 **“Permitted Security Interest”** means any Security Interest created or outstanding upon any property or assets (including current and/or future revenues, accounts receivables and other payments) of the Issuer or any Subsidiary arising out of any securitisation of such property or assets or other similar asset-backed finance transaction in relation to such property or assets where:
 - 1.96.1 the payment obligations secured by such Permitted Security Interest are to be discharged primarily from, and recourse under such Permitted Security Interest is limited to, the proceeds of such property or assets or a guarantee from an entity other than a Group entity; and

- 1.96.2 such Security Interest is created pursuant to any securitisation, asset-backed financing or like arrangement in accordance with normal market practice;
- 1.97 “**Person**” means any individual, company, corporation, firm, partnership, joint venture, association, organisation, state or agency of a state or other entity, whether or not having separate legal personality;
- 1.98 “**Primary Share Capital**” means “*primary share capital*” as defined in the Banks Act;
- 1.99 “**Principal Subsidiary**” means a Subsidiary of the Group whose (a) total profits, before tax and extraordinary items represent in excess of 10 per cent of the consolidated total profits, before tax and extraordinary items of the Issuer and its Subsidiaries, or (b) total value of net assets represent in excess of 10 per cent of the total value of all consolidated net assets owned by the Issuer and its Subsidiaries in each case calculated by reference to the latest audited financial statements of each Subsidiary and the latest audited consolidated financial statements of the Issuer and its Subsidiaries but if a Subsidiary has been acquired or sold since the date as at which the latest audited consolidated financial statements of the Issuer and its Subsidiaries were prepared, the financial statements shall be adjusted in order to take into account the acquisition or sale of that Subsidiary (that adjustment being certified by the Issuer and its Subsidiaries’ auditors as representing an accurate reflection of the revised consolidated profits before interest and tax or turnover of the Issuer and its Subsidiaries). A report by the auditors of the Issuer that a Subsidiary is or is not a Principal Subsidiary shall, in the absence of manifest error, be conclusive and binding on the Noteholders;
- 1.100 “**Programme**” means the Domestic Medium Term Note Programme under which the Issuer may from time to time issue Notes;
- 1.101 “**Receipt**” means a receipt evidencing title to payment of an Instalment Amount payable on an Instalment Note which is a Bearer Note or Order Note, attached upon issue to the Certificate evidencing such Instalment Note;
- 1.102 “**Redemption Amount**” means, as appropriate, the Final Redemption Amount, the Early Redemption Amount (Tax), the Early Redemption Amount (Regulatory), the Optional Redemption Amount, the Early Redemption Amount or such other amount in the nature of a redemption amount as may be specified in, or determined in accordance with the provisions of, the relevant Applicable Pricing Supplement;
- 1.103 “**Reference Price**” means the reference price as set out in the Applicable Pricing Supplement;
- 1.104 “**Register**” means the register maintained by the Issuer in terms of Condition 14;
- 1.105 “**Registered Note**” means a Note issued in registered form and transferable in accordance with Condition 15.1;
- 1.106 “**Registrar of Banks**” means the Registrar of Banks in accordance with the Banks Act;
- 1.107 “**Regulations Relating to Banks**” means the Regulations Relating to Banks published under Government Notice R3 in Government Gazette 30629 of 1 January 2008, issued under Section 90 of the Banks Act;
- 1.108 “**Regulatory Change**” means a change in, or amendment to, the Capital Regulations or any change in the application of or official or generally published guidance or interpretation of the Capital Regulations, which change or amendment becomes, or would become, effective on or after the Issue Date;
- 1.109 “**Regulatory Event**” means an event which is deemed to have occurred if, as a result of a Regulatory Change, with respect to the Notes of any Series which comprise a certain class of Eligible Capital on the Issue Date of the first Tranche of Notes would no longer be eligible to qualify (save where such non-qualification is only as a result of any applicable limitation on the amount of such capital) for inclusion in that class of Eligible Capital of the Issuer or the Controlling Company on a solo and/or consolidated basis;
- 1.110 “**Relevant Date**” means in respect of any payment relating to the Notes, the date on which such payment first becomes due, except that, in relation to monies payable to the CSD in accordance with these Terms and Conditions, it means the first date on which (i)

the full amount of such monies have been received by the CSD, (ii) such monies are available for payment to the holders of Beneficial Interests and (iii) notice to that effect has been duly given to such holders in accordance with the Applicable Procedures;

- 1.111 “**Relevant Interest Payment Date**” has the meaning given to in Condition 8.2;
- 1.112 “**Relevant Indebtedness**” means any present or future Financial Indebtedness which is in the form of any bond, note, debenture, debenture stock, loan stock, certificate or other similar security which is, or is capable of being, listed, quoted or traded on any stock exchange or in any securities market (including, without limitation, any over-the-counter market) and having an original maturity of more than 364 days from its date of issue;
- 1.113 “**Representative**” means a person duly authorised to act on behalf of a Noteholder, the Transfer Secretary and the Paying Agent who may be regarded by the Issuer (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;
- 1.114 “**Secondary Capital**” means “*secondary capital*” as defined in the Banks Act;
- 1.115 “**Securities Services Act**” means the Securities Services Act, 2004, as amended;
- 1.116 “**Security Interest**” means any mortgage, charge, pledge, lien or other security interest including, without limitation, anything analogous to any of the foregoing under the laws of any jurisdiction;
- 1.117 “**Senior Notes**” means Notes issued with the status set out in Condition 5;
- 1.118 “**Senior Creditors**” means:
- 1.118.1 creditors of the Issuer who are unsubordinated creditors; and
- 1.118.2 creditors of the Issuer whose claims are, or are expressed to be, subordinated to the claims of other creditors, whether subordinated or unsubordinated, of the Issuer other than those whose claims rank, or are expressed to rank, *pari passu* with, or junior to (1) the claims of the Undated Tier 2 Noteholders (in the case of Undated Tier 2 Notes) or (2) the claims of the Dated Tier 2 Noteholders (in the case of Dated Tier 2 Notes) or (3) the claims of the Tier 3 Noteholders (in the case of Tier 3 Notes), as the case may be;
- 1.119 “**Series**” means a Tranche of Notes together with any further Tranche or Tranches of Notes which are:
- 1.119.1 expressed to be consolidated and form a single series;
- 1.119.2 identical in all respects (including as to listing) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices;
- 1.120 “**Settlement Agent**” means a Participant, approved by BESA in terms of the rules of BESA to perform electronic settlement of both funds and scrip on behalf of market participants;
- 1.121 “**Solvency Claims**” has the meaning given to it in Condition 6.3.5;
- 1.122 “**Solvency Condition**” has the meaning given to it in Condition 6.3.4;
- 1.123 “**Solvent Reconstruction**” means the event where an order is made or an effective resolution is passed for the winding-up or administration of the Issuer, other than under or in connection with a scheme of amalgamation or reconstruction not involving a bankruptcy or insolvency where the obligations of the Issuer in relation to the Outstanding Notes are assumed by the successor entity to which all, or substantially all, of the property, assets and undertaking of the Issuer are transferred or where an arrangement with similar effect not involving bankruptcy or insolvency is implemented;
- 1.124 “**Subordinated Debt**” means any subordinated term debt issued by the Issuer (including, without limitation, Tier 3 Notes and Dated Tier 2 Notes), the proceeds of which subordinated term debt qualify as Tertiary Capital or Dated Secondary Capital of the Issuer;

- 1.125 “**Subordinated Notes**” means Notes issued with the status and characteristics set out in Condition 6;
- 1.126 “**Subsidiary**” means, in relation to any Person (the “**first Person**”) at any particular time, any other Person (the “**second Person**”) whose affairs and policies the first Person controls or has the power to control, whether by ownership of share capital, contract, the power to appoint or remove members of the governing body of the second Person or otherwise;
- 1.127 “**Tax Event**” means an event where, as a result of a Tax Law Change (i) the Issuer has paid or will or would on the next Interest Payment Date be required to pay additional amounts as provided or referred to in Condition 12; or (ii) in respect of the Issuer’s obligation to make any payment of interest on the next following Interest Payment Date or any subsequent Interest Payment Date, the Issuer would not be entitled to claim a deduction in respect of computing its taxation liabilities in South Africa, or such entitlement is materially reduced, and in each case the Issuer cannot avoid the foregoing in connection with the Notes by taking measures reasonably available to it (such reasonable measures to exclude any requirement to instigate litigation in respect of any decision or determination of the South African Revenue Service that any such interest does not constitute a tax deductible expense);
- 1.128 “**Tax Law Change**” means a change in or proposed change in, or amendment or proposed amendment to, the laws or regulations of South Africa, 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 (including a holding by a court of competent jurisdiction), whether or not having retrospective effect, which change or amendment is announced on or after the Issue Date;
- 1.129 “**Terms and Conditions**” means the terms and conditions incorporated in this section headed “*Terms and Conditions of the Senior, Tier 2 and Tier 3 Notes*” and in accordance with which the Notes will be issued;
- 1.130 “**Tertiary Capital**” means “*tertiary capital*” as defined in the Banks Act;
- 1.131 “**Tier 1 Capital Regulations**” means Regulation 38(13) of the Regulations Relating to Banks and/or such other provisions of the Capital Regulations with which Tier 1 Notes must comply in order for the proceeds of the issue of such Notes to qualify as Primary Share Capital;
- 1.132 “**Tier 1 Notes**” means Notes complying with the Tier 1 Capital Regulations;
- 1.133 “**Tier 2 Notes**” means collectively the Dated Tier 2 Notes and the Undated Tier 2 Notes;
- 1.134 “**Tier 3 Capital Regulations**” means Regulation 38(16) of the Regulations Relating to Banks and/or such other provisions of the Capital Regulations with which Tier 3 Notes must comply in order for the proceeds of the issue of such Notes to qualify as Tertiary Capital;
- 1.135 “**Tier 3 Noteholder**” means a Holder of a Tier 3 Note;
- 1.136 “**Tier 3 Notes**” means Notes specified as such in the relevant Applicable Pricing Supplement and complying with the Tier 3 Capital Regulations;
- 1.137 “**Tranche**” means, in relation to any particular Series, all Notes which are identical in all respects (including as to listing);
- 1.138 “**Transfer Secretary**” means FirstRand Bank Limited, acting through its Rand Merchant Bank Division, unless the Issuer elects to appoint another entity as Transfer Secretary in accordance with the Agency Agreement, in which event that other entity shall act as an Transfer Secretary in respect of the Notes;
- 1.139 “**Transfer Form**” means the written form for the transfer of a Registered Note, in the form approved by the Transfer Secretary, and signed by the transferor and transferee;
- 1.140 “**Undated Secondary Capital**” means the proceeds of the issue of hybrid-debt instruments that combine features of equity instruments and debt instruments contemplated in Section 1(1) of the Banks Act which proceeds are intended, upon issue

of such hybrid-debt instruments, to qualify as Secondary Capital in accordance with the Undated Tier 2 Capital Regulations;

- 1.141 “**Undated Tier 2 Capital Regulations**” means Regulation 38(14)(a) of the Regulations Relating to Banks and/or such other provisions of the Capital Regulations with which Undated Tier 2 Notes must comply in order for the proceeds of the issue of such Notes to qualify as Secondary Capital;
- 1.142 “**Undated Tier 2 Noteholder**” means a Holder of an Undated Tier 2 Note;
- 1.143 “**Undated Tier 2 Notes**” means Notes specified as such in the relevant Applicable Pricing Supplement and complying with the Undated Tier 2 Capital Regulations;
- 1.144 “**Wholly Owned Subsidiary**” means a wholly owned subsidiary as defined in Section 1(5) of the Companies Act;
- 1.145 “**ZAR**” means the lawful currency of the Republic of South Africa, being South African Rand, or any successor currency;
- 1.146 “**ZAR-JIBAR-SAFEX**” means 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 11:00, Johannesburg time on the relevant date; and
- 1.147 “**Zero Coupon Notes**” means Notes which will be offered and sold at a discount to their Nominal Amount or at par and will not bear interest other than in the case of late payment.

2. **ISSUE**

- 2.1 Subject to the prior consent of the Registrar of Banks (to the extent required), 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 knowledge 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 herein 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 registered office of the Issuer.

3. **FORM AND DENOMINATION**

3.1 **General**

- 3.1.1 Listed Notes issued in registered form will be issued in the form of a Global Certificate, which will be deposited with and registered in the name of, and for the account of the CSD’s Nominee. An owner of a Beneficial Interest in the Notes represented by the Global Certificate shall be entitled to exchange such Beneficial Interest for an Individual Certificate in accordance with Condition 13.
- 3.1.2 All payments in relation to the Notes will be made in the Specified Currency.
- 3.1.3 Each Note shall be a Senior Note or a Subordinated Note, as indicated in the Applicable Pricing Supplement. Any Note may be a Partly Paid Note, Instalment Note or an Exchangeable Note.
- 3.1.4 Each Note, whether a Senior Note or a Subordinated Note, may be a Fixed Rate Note, a Floating Rate Note, a Zero Coupon Note, an Indexed Interest Note, an Indexed Redemption Amount Note, a Mixed Rate Note or a

combination of any of the foregoing or such other types of Note as may be determined by the Issuer, as indicated in the Applicable Pricing Supplement.

- 3.1.5 Notes will be issued in such denominations as may be determined by the Issuer and as indicated in the Applicable Pricing Supplement. Listed and/or unlisted Notes may be issued under the Programme. Notes which were not originally issued under this Programme may (provided they are amended to be documented in terms of the Programme) be listed under the Programme.

3.2 **Registered Notes**

Each Tranche of Registered Notes listed on BESA will be issued in the form of a Global Certificate, which will be deposited with and registered in the name of, and for the account of, the CSD's Nominee. An owner of a Beneficial Interest in the Notes represented by the Global Certificate shall be entitled to exchange such Beneficial Interest for an Individual Certificate in accordance with Condition 13.

3.3 **Bearer Notes and Order Notes**

Bearer Notes or Order Notes will be evidenced by Individual Certificates. Bearer Notes or Order Notes, other than Zero Coupon Notes, will have Coupons attached to the Certificate on issue. Instalment Notes which are Bearer Notes or Order Notes will have Receipts attached to the Certificate on issue.

4. **TITLE**

4.1 **Registered Notes**

- 4.1.1 Subject to the provisions set out below, title to the Registered Notes will pass upon registration of transfer in the Register.
- 4.1.2 The Issuer may deem and treat the person reflected in the Register as the holder of any Note as the absolute owner of the Note (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 but, in the case of any Global Certificate, without prejudice to the provisions set out in the next succeeding paragraph.
- 4.1.3 For so long as any of the Notes are represented by a Global Certificate registered in the name of, and held by the CSD's Nominee, each holder of a Beneficial Interest (in which regard any certificate or other document issued by a Participant, as to the nominal amount of such Beneficial Interest in Notes standing to the account of any person shall be prima facie proof of such Beneficial Interest), shall be treated by the Issuer as the Noteholder of such nominal amount of such Notes (represented by such Beneficial Interest) for all purposes, other than with respect to the payment of principal or interest on the Notes. For the purposes of the payment of principal or interest on the Notes, the registered holder of the Notes reflected in the Register shall be treated by the Issuer as the holder of such Notes in accordance with and subject to these Conditions.
- 4.1.4 Should an Event of Default occur, then for the purposes of pursuing a remedy against the Issuer pursuant to Condition 17, the holder of a Beneficial Interest shall be deemed to be in the same position as a holder of an Individual Certificate whose name was entered in the Register.

4.2 **Bearer Notes**

Title to Bearer Notes (including rights to Instalment Amounts and/or interest thereon, as applicable) will pass by delivery of the Certificate evidencing such Note or of the Receipt and/or Coupon relating thereto, as the case may be, in accordance with Condition 15.2. The Issuer, the Transfer Secretary and the Paying Agent may deem and treat the Bearer of any such Certificate, Receipt or Coupon 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.

4.3 **Order Notes**

Title to Order Notes (including rights to Instalment Amounts and/or interest thereon, as applicable) will initially pass by Endorsement and delivery of the Certificate evidencing such Note or of the Receipt and/or Coupon relating thereto, as the case may be, in accordance with Condition 15.3. Any Certificate evidencing an Order Note or such Receipt or Coupon upon which the last Endorsement is an Endorsement in Blank shall be treated as a Bearer Note, for so long as not subject to further Endorsement. The Issuer and the Transfer Secretary may deem and treat the person who from the face of the Certificate, Receipt or Coupon relating to an Order Note appears to be the Payee thereto as the absolute owner thereof (whether or not overdue and notwithstanding any notice of ownership or notice of any previous loss or theft thereof) for all purposes and payment to such person or their Representative shall discharge the Issuer from all liability to the Payee in relation to such Certificate, Receipt or Coupon, as the case may be, even if such Endorsement has been forged or made without authority. Provided the Issuer pays any amount due upon presentation and surrender of a Certificate evidencing an Order Note, or any Receipt or Coupon attached thereto on issue, in good faith, it shall not be incumbent upon the Issuer or the Transfer Secretary to determine or prove that the Endorsement of the Payee making such Endorsement was made by or under the authority of the person whose Endorsement it purports to be.

5. **STATUS OF SENIOR NOTES**

Senior Notes constitute direct, unconditional, unsubordinated and (subject to the provisions of Condition 7) unsecured obligations of the Issuer which will at all times rank *pari passu* without preference or priority among themselves and at least *pari passu* with all other unsecured and unsubordinated obligations of the Issuer from time to time outstanding, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.

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

6.1 **Status of the Tier 3 Notes**

6.1.1 This Condition 6.1 applies only to Tier 3 Notes.

6.1.2 *Status of the Tier 3 Notes:* The Tier 3 Notes constitute direct, unsecured and, in accordance with Condition 6.1.3 below, subordinated obligations of the Issuer and rank *pari passu* without any preference among themselves and (save for those that have been accorded by law preferential rights) at least *pari passu* with all other claims of creditors of the Issuer which rank or are expressed to rank (and which are entitled to rank) *pari passu* with the Tier 3 Notes.

6.1.3 *Subordination:* The claims of Tier 3 Noteholders entitled to be paid amounts due in respect of the Tier 3 Notes are subordinated to the claims of Depositors and Senior Creditors and, accordingly, in the event of the dissolution of the Issuer or if the Issuer is placed into liquidation, administration or wound-up:

- (i) no Tier 3 Noteholder shall be entitled to prove or tender to prove a claim in respect of the Tier 3 Notes;
- (ii) no amount due under the Tier 3 Notes shall be eligible for set-off, counterclaim, abatement or other similar remedy which a Tier 3 Noteholder might otherwise have under the laws of any jurisdiction in respect of the Tier 3 Notes nor shall any amount due under the Tier 3 Notes be payable to any Tier 3 Noteholder; and
- (iii) subject to applicable law, a Tier 3 Noteholder may not exercise or claim any right of set-off in respect of any amount in respect of the principal of and/or interest on the Tier 3 Notes owed to it by the Issuer and each Tier 3 Noteholder shall, by virtue of its subscription, purchase or holding of any Tier 3 Notes, be deemed to have waived all such rights of set-off and, to the extent that any set-off takes place, whether by operation of law or otherwise, between:
 - (aa) any amount in respect of the principal and/or interest on the

Tier 3 Notes owed by the Issuer to a Tier 3 Noteholder; and (bb) any amount owed to the Issuer by such Tier 3 Noteholder, such Tier 3 Noteholder will immediately transfer such amount which is set-off to the Issuer or, in the event of its winding-up or administration (as the case may be), the liquidator, administrator or other relevant insolvency official of the Issuer, to be held on trust for the Depositors and Senior Creditors,

until the claims of Depositors and Senior Creditors which are admissible in any such dissolution, insolvency or winding-up have been paid or discharged in full.

6.2 Status of the Dated Tier 2 Notes

6.2.1 *Application:* This Condition 6.2 applies only to Dated Tier 2 Notes.

6.2.2 *Status of the Dated Tier 2 Notes:* The Dated Tier 2 Notes constitute direct, unsecured and, in accordance with Condition 6.2.3 below, subordinated obligations of the Issuer and rank *pari passu* without any preference among themselves and (save for those that have been accorded by law preferential rights) at least *pari passu* with all other claims of creditors of the Issuer which rank or are expressed to rank (and which are entitled to rank) *pari passu* with the Dated Tier 2 Notes.

6.2.3 *Subordination:* The claims of Dated Tier 2 Noteholders entitled to be paid amounts due in respect of the Dated Tier 2 Notes are subordinated to the claims of Depositors, Senior Creditors and the holders of Subordinated Debt and, accordingly, in the event of the dissolution of the Issuer or if the Issuer is placed into liquidation, administration or wound-up:

- (i) no Dated Tier 2 Noteholder shall be entitled to prove or tender to prove a claim in respect of the Dated Tier 2 Notes;
- (ii) no amount due under the Dated Tier 2 Notes shall be eligible for set-off, counterclaim, abatement or other similar remedy which a Dated Tier 2 Noteholder might otherwise have under the laws of any jurisdiction in respect of the Dated Tier 2 Notes nor shall any amount due under the Dated Tier 2 Notes be payable to any Dated Tier 2 Noteholder; and
- (iii) subject to applicable law, a Dated Tier 2 Noteholder may not exercise or claim any right of set-off in respect of any amount in respect of the principal of and/or interest on the Dated Tier 2 Notes owed to it by the Issuer and each Dated Tier 2 Noteholder shall, by virtue of its subscription, purchase or holding of any Dated Tier 2 Notes, be deemed to have waived all such rights of set-off and, to the extent that any set-off takes place, whether by operation of law or otherwise, between: (aa) any amount in respect of the principal and/or interest on the Dated Tier 2 Notes owed by the Issuer to a Dated Tier 2 Noteholder; and (bb) any amount owed to the Issuer by such Dated Tier 2 Noteholder, such Dated Tier 2 Noteholder will immediately transfer such amount which is set-off to the Issuer or, in the event of its winding-up or administration (as the case may be), the liquidator, administrator or other relevant insolvency official of the Issuer, to be held on trust for the Depositors, Senior Creditors and holders of Subordinated Debt,

until the claims of Depositors, Senior Creditors and the holders of Subordinated Debt which are admissible in any such dissolution, insolvency or winding-up have been paid or discharged in full.

6.3 Status of the Undated Tier 2 Notes

6.3.1 *Application:* This Condition 6.3 applies only to Undated Tier 2 Notes.

6.3.2 *Status of the Undated Tier 2 Notes:* The Undated Tier 2 Notes constitute direct, unsecured and, in accordance with Condition 6.3.3 below, subordinated

obligations of the Issuer and rank *pari passu* without any preference among themselves and (save for those that have been accorded by law preferential rights) at least *pari passu* with all other claims of creditors of the Issuer which rank or are expressed to rank (and which are entitled to rank) *pari passu* with the Undated Tier 2 Notes.

6.3.3 *Subordination:* The claims of Undated Tier 2 Noteholders entitled to be paid amounts due in respect of the Undated Tier 2 Notes are subordinated to the claims of Depositors, Senior Creditors and the holders of Subordinated Debt and, accordingly, in the event of the dissolution of the Issuer or if the Issuer is placed into liquidation, administration or wound-up:

- (i) no Undated Tier 2 Noteholder shall be entitled to prove or tender to prove a claim in respect of the Undated Tier 2 Notes;
- (ii) no amount due under the Undated Tier 2 Notes shall be eligible for set-off, counterclaim, abatement or other similar remedy which an Undated Tier 2 Noteholder might otherwise have under the laws of any jurisdiction in respect of the Undated Tier 2 Notes nor shall any amount due under the Undated Tier 2 Notes be payable to any Undated Tier 2 Noteholder; and
- (iii) subject to applicable law, an Undated Tier 2 Noteholder may not exercise or claim any right of set-off in respect of any amount in respect of the principal of and/or interest on the Undated Tier 2 Notes owed to it by the Issuer and each Undated Tier 2 Noteholder shall, by virtue of its subscription, purchase or holding of any Undated Tier 2 Notes, be deemed to have waived all such rights of set-off and, to the extent that any set-off takes place, whether by operation of law or otherwise, between: (aa) any amount in respect of the principal and/or interest on the Undated Tier 2 Notes owed by the Issuer to an Undated Tier 2 Noteholder; and (bb) any amount owed to the Issuer by such Undated Tier 2 Noteholder, such Undated Tier 2 Noteholder will immediately transfer such amount which is set-off to the Issuer or, in the event of its winding-up or administration (as the case may be), the liquidator, administrator or other relevant insolvency official of the Issuer, to be held on trust for the Depositors, Senior Creditors and holders of Subordinated Debt,

until the claims of Depositors, Senior Creditors and the holders of Subordinated Debt which are admissible in any such dissolution, insolvency or winding-up have been paid or discharged in full.

6.3.4 **Solvency Condition**

Payments in respect of the principal of and interest (including any Arrears of Interest and payment of any additional amounts pursuant to Condition 11 on the Undated Tier 2 Notes are, in addition to the right of the Issuer to defer interest in accordance with Condition 8.1, conditional upon the Issuer being solvent at the time of payment by the Issuer, and no principal or interest on the Undated Tier 2 Notes (including any Arrears of Interest) shall be due and payable in respect of the Undated Tier 2 Notes except to the extent that the Issuer could make such payment and still be solvent immediately thereafter. For the purposes of this Condition 6.3.4, the Issuer shall be solvent if (1) it is able to pay its debts owed to Depositors, Senior Creditors and the holders of Subordinated Debt as they fall due and (2) its Assets exceed its Liabilities to Depositors, Senior Creditors and the holders of Subordinated Debt (the “**Solvency Condition**”). A report as to the solvency of the Issuer made by two directors of the Issuer or, if the Issuer is in winding-up, its liquidator or, if in administration, its administrator shall, in the absence of manifest error, be treated and accepted by the Issuer and the Noteholders as correct and sufficient evidence of such solvency.

6.3.5 Solvency Claims

Amounts representing any payments of principal or interest in respect of which the Solvency Condition is not satisfied on the date upon which the same would otherwise be due and payable (“**Solvency Claims**”) will be payable by the Issuer (1) subject to Condition 6.3.3 in a winding-up or administration of the Issuer and (2) subject to satisfying the Solvency Condition, on any redemption pursuant to Condition 11.2, Condition 11.3 or Condition 11.4, provided that in the event that, prior to any winding-up or administration of the Issuer, the Issuer shall again be solvent and would be solvent immediately after the making of such payment of Solvency Claims, then the Issuer shall promptly notify the Noteholders in accordance with Condition 19, the Registrar and the Transfer Secretary of such fact and the Solvency Claims shall, subject to satisfying the Solvency Condition, be due and payable on the 16th Business Day after the Issuer shall have given such notice. A Solvency Claim shall not bear interest unless and only so long as the Issuer shall be solvent once again, in which case interest shall accrue on any such Solvency Claim from (and including) the date on which the Issuer is so solvent again to (but excluding) the date on which such Solvency Claim is paid. Any such interest shall accrue at a rate equal to the then applicable Rate of Interest determined in accordance with Condition 9.1, 9.2, 9.3, 9.4 or Condition 9.5, as the case may be. In the event that the Issuer shall be so solvent once again, the Issuer may not declare or pay a dividend (in accordance with Condition 8.2) from the date that the Issuer is so solvent again until the date on which the Solvency Claim and any relevant interest on the Solvency Claim is paid.

For the avoidance of doubt, if the Issuer would otherwise not be solvent for the purposes of the above, any sums which would otherwise be payable in respect of the Undated Tier 2 Notes will be available to be put towards the losses of the Issuer.

6.4 Capital Regulations and Additional Conditions

In order for the proceeds of the issuance of the Notes to qualify as Secondary Capital or Tertiary Capital, as the case may be, Subordinated Notes must comply with the applicable Capital Regulations (including the Additional Conditions (if any) prescribed by the Registrar of Banks in respect of a particular Tranche of Subordinated Notes). The Issuer will specify in the Applicable Pricing Supplement whether any issue of Notes is an issue of Dated Tier 2 Notes, the proceeds of which are intended to qualify as Dated Secondary Capital, or Undated Tier 2 Notes, the proceeds of which are intended to qualify as Undated Secondary Capital, or an issue of Tier 3 Notes, the proceeds of which are intended to qualify as Tertiary Capital. The Additional Conditions (if any) prescribed by the Registrar of Banks in respect of Subordinated Notes will be specified in the Applicable Pricing Supplement or a supplement to the Programme Memorandum.

7. NEGATIVE PLEDGE

- 7.1 This Condition 7 only applies to Senior Notes.
- 7.2 So long as any Senior Note remains outstanding, the Issuer shall not, and the Issuer shall procure that none of its Principal Subsidiaries shall, create or permit to subsist any Security Interest (other than a Permitted Security Interest) upon the whole or any part of its present or future undertaking, assets or revenues to secure any Relevant Indebtedness or Guarantee of Relevant Indebtedness without (a) at the same time or prior thereto securing the Senior Notes equally and rateably therewith or (b) providing such other security for the Senior Notes, as may be approved by an Extraordinary Resolution of Noteholders.

8. INTEREST AND PRINCIPAL PAYMENTS ON THE SUBORDINATED NOTES

- 8.1 *Optional deferral of interest on the Undated Tier 2 Notes:* This Condition 8.1 applies to Undated Tier 2 Notes only. Interest payments on the Undated Tier 2 Notes will be cumulative. The Issuer shall be obliged to pay interest on each Interest Payment Date unless (i) the Issuer elects to defer the relevant Interest Amount on such Interest Payment Date, (ii) the Issuer is in breach of either of the Capital Regulations or the Solvency

Condition on the Business Day prior to such Interest Payment Date or would be in breach of the Capital Regulations or the Solvency Condition if the relevant Interest Amount were paid on such Interest Payment Date or (iii) at any time the Registrar of Banks imposes a mandatory prohibition on the payment of interest. If the Issuer does not pay the relevant Interest Amount in respect of an Interest Period in accordance with this Condition 8.1 then any such failure to pay such Interest Amount shall not constitute a default by the Issuer or any other breach of obligations under the Undated Tier 2 Notes or for any other purpose and an Undated Tier 2 Noteholder will have no claim in respect of any such non-payment that such non-payment constitutes a default by the Issuer or any other breach of obligations or for any other purpose.

If the Issuer elects to defer the payment of interest on an Interest Payment Date, it shall give notice of such election to the Undated Tier 2 Noteholders in accordance with Condition 19 and to the Registrar and the Transfer Secretary not less than 30 days prior to the relevant Interest Payment Date (or such shorter notice period as may be required by the Capital Regulations or the Registrar of Banks). If the Issuer is not obliged pursuant to the provisions of this Condition 8.1 to pay any interest on any Interest Payment Date, it shall give notice of such fact to the Undated Tier 2 Noteholders in accordance with Condition 19 and to the Registrar of Banks and the Transfer Secretary.

Any interest in respect of the Undated Tier 2 Notes not paid on any Interest Payment Date, together with any other interest in respect thereof not paid on any other Interest Payment Date, shall, so long as the same remains unpaid, constitute “**Arrears of Interest**”. Arrears of Interest may, at the option of the Issuer but subject to the restrictions of this Condition 8.1 and subject to Condition 6.3.3, be paid in whole or in part at any time upon the expiration of not less than 14 days’ notice to such effect given to the Undated Tier 2 Noteholders in accordance with Condition 19, but all Arrears of Interest in respect of Undated Tier 2 Notes for the time being outstanding shall (subject to the restrictions of this Condition 8.1 and subject to Condition 6.3.3) become due in full on whichever is the earlier of (i) the date fixed for any repayment pursuant to Condition 11.2 or 11.3 or 11.4, or (ii) the commencement of a winding-up (other than pursuant to a Solvent Reconstruction) of the Issuer. If notice is given by the Issuer of its intention to pay the whole or any part of any Arrears of Interest in respect of the Undated Tier 2 Notes, the Issuer shall be obliged (subject to the restrictions of this Condition 8.1 and subject to Condition 6.3.3) to do so upon the expiration of such notice. Where Arrears of Interest are paid in part, each part payment shall be in respect of the full amount of the Arrears of Interest accrued due to the relevant Interest Payment Date or consecutive Interest Payment Dates furthest from the date of payment. Arrears of Interest shall bear interest as specified in the Applicable Pricing Supplement.

- 8.2 *Restrictions following non payment of interest on Undated Tier 2 Notes:* If, on any Interest Payment Date (the “**Relevant Interest Payment Date**”), the Interest Amount in respect of any Undated Tier 2 Notes shall not have been paid in full pursuant to Condition 8.1), then from such Relevant Interest Payment Date until the date on which the full amount of such Arrears of Interest has been received by the Undated Tier 2 Noteholders and is no longer outstanding and no other Arrears of Interest remains unpaid, the Issuer shall not and it shall procure that no member of the FirstRand Group shall (a) declare or pay a distribution or dividend or pay any interest on Junior Securities or Parity Securities (other than Mandatory Preference Shares or a final dividend declared by the Ultimate Parent Company before such Relevant Interest Payment Date, or intra-group dividends between wholly-owned FirstRand Group Subsidiaries and to FirstRand Group holding companies, which can be paid at any time), or (b) redeem, purchase, reduce or otherwise acquire any Junior Securities or Parity Securities or any securities of any of its Subsidiary undertakings benefiting from a guarantee from any member of the FirstRand Group ranking, as to the right of repayment of principal, or in the case of any such guarantee, as to the payment of sums under such guarantee, *pari passu* with or junior to the Undated Tier 2 Notes.
- 8.3 *Compulsory payment of interest:* On any Interest Payment Date on which: (i) a Regulatory Event has occurred and is continuing (provided that a certificate signed by two authorised officers of the Issuer or a written confirmation from the Registrar of Banks stating that a Regulatory Event has not occurred and is not continuing as at such

Interest Payment Date shall be sufficient evidence for the purposes of this Conditions 8.3 that a Regulatory Event has not occurred and is not continuing as at such Interest Payment Date and no Undated Tier 2 Noteholders shall be entitled to dispute the contents of such certificate or confirmation, as the case may be); (ii) the Issuer is in compliance with the Capital Regulations and the Solvency Condition; and (iii) the Registrar of Banks has not imposed a mandatory prohibition on the payment of interest, the Issuer shall not be permitted to exercise its right under Condition 8.1 to defer any Interest Amount on an Interest Payment Date and shall be obliged to pay in respect of each Note the Interest Amount payable on such Interest Payment Date.

- 8.4 *Deferral of Principal and Interest on Tier 3 Notes:* This Condition 8.4 applies to Tier 3 Notes only. If the Issuer's qualifying capital falls below or is likely to fall below the minimum amount prescribed by the Capital Regulations and as a consequence of this event the Registrar of Banks, pursuant to the Tier 3 Capital Regulations, requires the Issuer to defer the due date for payment of any principal (or any portion thereof) and/or any interest (or any portion thereof) payable in respect of such Tier 3 Notes (the "**Deferred Payment**"), the Issuer shall, by notice in writing (a "**Deferral Notice**") to the Tier 3 Noteholders in accordance with Condition 19 and to the Registrar and the Transfer Secretary, defer the due date for payment of the Deferred Payment, until such date (the "**Deferred Payment Date**"), and subject to such conditions, as are prescribed by the Registrar of Banks. On the giving of the Deferral Notice, the due date for payment of the Deferred Payment shall be deferred to the Deferred Payment Date, and the Issuer shall not be obliged to make payment of the Deferred Payment on the date upon which the Deferred Payment would otherwise have become due and payable, and such deferral of payment shall not constitute a default under the Tier 3 Notes or for any other purpose and a Tier 3 Noteholder will have no claim in respect of any such Deferred Payment (save as set out below in this Condition 8.4). The Issuer may not give a Deferral Notice except where the Registrar of Banks so requires in accordance with the Tier 3 Capital Regulations. Interest will continue to accrue on the outstanding amount of the Deferred Payment at the Rate of Interest applicable on the date upon which the Deferred Payment would otherwise have become due and payable, from and including such date to but excluding the Deferred Payment Date. All Deferred Payments (together with any interest accrued thereon) which remain unpaid shall become due and payable upon the earlier to occur of (i) the Deferred Payment Date, and (ii) the Issuer being placed into liquidation, administration or wound-up (other than pursuant to a Solvent Reconstruction). When more than one Deferred Payment remains unpaid, any payment in part thereof shall be made *pro rata* according to the proportion which each such Deferred Payment bears to the aggregate of all such Deferred Payments.

9. INTEREST PROVISIONS

9.1 Interest on Fixed Rate Notes

Subject to Condition 8.1 and unless otherwise specified in the Applicable Pricing Supplement, six monthly interest on Fixed Rate Notes is payable in arrear on the Fixed Interest Payment Dates.

Each Fixed Rate Note bears interest on its Nominal Amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Fixed Rate of Interest. Such interest shall fall due for payment in arrears on the Fixed Interest Payment Date(s) in each year and on the date of early redemption in accordance with Condition 11 or, in relation to the Senior Notes, Dated Tier 2 Notes and Tier 3 Notes, the Maturity Date, as the case may be, if either such date does not fall on a Fixed Interest Payment Date. The first payment of interest will be made on the Fixed Interest Payment Date next following the Interest Commencement Date.

Unless otherwise specified, the amount of interest payable per Note in respect of each Interest Period shall be calculated by multiplying the applicable Fixed Rate of Interest by the Nominal Amount of such Note amount (or, if it is a Partly Paid Note, the amount paid up) and the product thereof divided by 2, provided that:

9.1.1 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

9.1.2 if a Final Broken Amount is specified in the Applicable Pricing Supplement, then the final Interest Amount shall equal the Final Broken Amount.

Save as provided above, if interest is required to be calculated for a period other than a full Interest Period, such interest shall be calculated on the basis of the actual number of days elapsed, divided by 365 (and for the purposes of the foregoing, leap years shall be disregarded).

9.2 Interest on Floating Rate Notes

General

Floating Rate Notes will bear interest on such basis as indicated in the Applicable Pricing Supplement which shall either be (i) on such basis of a reference rate appearing on the agreed screen page of a commercial quotation service, or (ii) on such other basis as may be set out in the Applicable Pricing Supplement.

Interest Payment Dates

Subject to Condition 8.1, each Floating Rate Note bears interest on its Nominal Amount (or, if it is a Partly Paid Note, the amount paid up) 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) in each year specified in the Applicable Pricing Supplement and on the date of early redemption in accordance with Condition 11 or, in relation to the Senior Notes, Dated Tier 2 Notes and Tier 3 Notes, the Maturity Date, as the case may be, if either such date does not fall on a Floating Interest Payment Date.

Rate of Interest

The Rate of Interest payable from time to time in respect of the Floating Rate Notes will be determined in the manner specified in the Applicable Pricing Supplement.

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 amount of interest payable in respect of each Note (each an “**Interest Amount**”) for the relevant Interest Period, and the Calculation Agent shall notify the Issuer 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 Nominal Amount of the Note, 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 amount of interest for any Interest Period:

- (a) if “**1/1**” is specified, 1;
- (b) if “**Actual/365**”, “**Act/365**”, “**Actual/Actual**” or “**Act/Act**” is specified in the Applicable Pricing Supplement, the actual number of days in the Interest Period in respect of which payment is being made divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (i) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (ii) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365); or

- (c) if “**Actual/365 (Fixed)**”, “**Act/365 (Fixed)**”, “**A/365 (Fixed)**” or “**A/365F**” is specified in the Applicable Pricing Supplement, the actual number of days in the Interest Period in respect of which payment is being made divided by 365; or
- (d) if “**Actual/360**”, “**Act/360**” or “**A/360**” is specified in the Applicable Pricing Supplement, the actual number of days in the Interest Period in respect of which payment is being made divided by 360; or
- (e) if “**30/360**”, “**360/360**” or “**Bond Basis**” is specified in the Applicable Pricing Supplement, the number of days in the Interest Period in respect of which payment is being made divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (i) the last day of the Interest Period is the 31st day of a month but the first day of the Interest Period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month or (ii) that last day of the Interest Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); or
- (f) if “**30E/360**” or “**Eurobond Basis**” is specified in the Applicable Pricing Supplement, the number of days in the Interest Period in respect of which payment is being made divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months, without regard to the date of the first day or last day of the Interest Period unless, in the case of the final Interest Period, the Interest Payment Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month); or
- (g) such other calculation method as is specified in the Applicable Pricing Supplement.

Interest Determination, Screen Rate Determination including Fallback Provisions

Where Screen Rate 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 either:

- (a) if the Relevant Screen Page is available,
 - (i) the offered quotation (if only one quotation appears on the screen page); or
 - (ii) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage per annum) for the Reference Rate which appears on the Relevant Screen Page as at 11.00 a.m. (or as otherwise specified in the Applicable Pricing Supplement) (Johannesburg time) on the Interest Determination Date in question plus or minus (as indicated in the Applicable Pricing Supplement) the Margin (if any), all as determined by the Calculation Agent. If five or more such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Calculation Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations; or
- (b) if the Relevant Screen Page is not available or if, in the case of (i) above, no such offered quotation appears or, in the case of (ii) above, fewer than three such offered quotations appear, in each case as at the time specified in the preceding paragraph, the Calculation Agent shall request the principal Johannesburg office of each of the Reference Banks (as defined below) to provide the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate at approximately 11.00 a.m. (Johannesburg time) on the Interest Determination Date in question. If two or more of the Reference Banks provide the Calculation Agent with such offered quotations, the Rate of Interest

for such Interest Period shall be the arithmetic mean (rounded if necessary to the fifth decimal place with 0.000005 being rounded upwards) of such offered quotations plus or minus (as appropriate) the Margin (if any), all as determined by the Calculation Agent; or

- (c) if the Rate of Interest cannot be determined by applying the provisions of (a) and (b) above, the Rate of Interest for the relevant Interest Period shall be the rate per annum which the Calculation Agent determines as being the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the rates, as communicated to (and at the request of) the Calculation Agent by the Reference Banks or any two or more of them, at which such banks offered, at approximately 11.00 a.m. (Johannesburg time) on the relevant Interest Determination Date, deposits in an amount approximately equal to the nominal amount of the Notes of the relevant Series, for a period equal to that which would have been used for the Reference Rate to prime banks in the Johannesburg inter-bank market plus or minus (as appropriate) the Margin (if any). If fewer than two of the Reference Banks provide the Calculation Agent with such offered rates, the Rate of Interest for the relevant Interest Period will be determined by the Calculation Agent as the arithmetic mean (rounded as provided above) of the rates for deposits in an amount approximately equal to the nominal amount of the Notes of the relevant Series, for a period equal to that which would have been used for the Reference Rate, quoted at approximately 11.00 a.m. (Johannesburg time) on the relevant Interest Determination Date, by the Reference Banks plus or minus (as appropriate) the Margin (if any). If the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be determined as at the last preceding Interest Determination Date (though substituting, where a different Margin is to be applied to the relevant Interest Period from that which applied to the last preceding Interest Period, the Margin relating to the relevant Interest Period, in place of the Margin relating to that last preceding Interest Period).

“**Reference Banks**” means four leading banks in the South African inter-bank market selected by the Calculation Agent.

If the Reference Rate from time to time in respect of Floating Rate Notes is specified in the Applicable Pricing Supplement as being other than ZAR-JIBAR-SAFEX, the Rate of Interest in respect of such Notes will be determined as provided in the Applicable Pricing Supplement.

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 most recent 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 either: (i) if the applicable Floating Rate Option is based on ZAR-JIBAR-SAFEX on the first day of that Interest Period; or (ii) in any other case, as specified in the Applicable Pricing Supplement.

For the purposes of the above sub-paragraph “**Floating Rate**”, “**Floating Rate Option**”, “**Designated Maturity**” and “**Reset Date**” have the meanings given to those terms in the ISDA Definitions specified in the Applicable Pricing Supplement.

Notification of Rate of Interest and Interest Amount

The Issuer will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified to BESA and the CSD as soon as possible after their determination but in any event no 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 BESA, the CSD and to the Noteholders in accordance with Condition 19.

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 6.2, by the Calculation Agent shall (in the absence of wilful deceit, bad faith or manifest error) be binding on the Issuer and all Noteholders and in the absence as aforesaid no liability to the Issuer or the Noteholders shall attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

9.3 Mixed Rate Notes

The Interest Rate payable from time to time on Mixed Rate Notes shall be the Interest Rate payable on the form of interest bearing Note (be it a Fixed Rate Note, Floating Rate Note or Indexed Note) specified for each respective period, each as specified in the Applicable Pricing Supplement. During each such applicable period, the Interest Rate on the Mixed Rate Notes shall be determined and fall due for payment on the basis that such Mixed Rate Notes are Fixed Rate Notes, Floating Rate Notes or Indexed Notes, as the case may be.

9.4 Indexed Notes

In the case of Indexed Notes, if the Interest Rate or Interest Amount falls to be determined by reference to an index and/or a formula, such rate or amount of interest payable in respect of each Interest Period shall be determined in the manner specified in the Applicable Pricing Supplement. Any interest so accruing shall fall due for payment on the applicable Interest Payment Date(s) in each year and on the date of early redemption in accordance with Condition 11 or, in relation to the Senior, Dated Tier 2 and Tier 3 Notes, the Maturity Date, as the case may be, if either such date does not fall on an Interest Payment Date.

9.5 Partly Paid Notes

In the case of Partly Paid Notes (other than Partly Paid Notes which are Zero Coupon Notes), interest will accrue on the paid-up Nominal Amount of such Notes and otherwise as specified in the Applicable Pricing Supplement.

9.6 Accrual of Interest

Each Note (or in the case of the redemption of part only of a Note, that part only of such Note) will cease to bear interest (if any) 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 Default Rate specified in the Applicable Pricing Supplement until the date on which all amounts due in respect of such Note have been paid, or, in respect of Notes evidenced by a Global Certificate, the date on which the full amount of the moneys payable has been received by the CSD and notice to that effect has been given to Noteholders in accordance with Condition 19.

9.7 Business Day Convention

If any Interest Payment Date (or other date) which is specified in the Applicable Pricing Supplement to be subject to adjustment in accordance with a Business Day Convention would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:

- (a) the “**Floating Rate 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: (i) such Interest Payment Date (or other date) shall be brought forward to the first preceding Business Day and (ii) each subsequent Interest Payment Date (or other date) shall be the last Business Day in the month which falls 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 first preceding Business Day; or
- (d) the “**Preceding Business Day Convention**”, such Interest Payment Date (or other date) shall be brought forward to the first preceding Business Day.

10. PAYMENTS

10.1 Registered Notes

Payments of interest on an Individual Certificate shall be made to the registered holder of such Note, as set forth in the Register on the close of business on the Last Date to Register (as specified in the Applicable Pricing Supplement). In addition to the above, in respect of the Senior Notes, Dated Tier 2 Notes and Tier 3 Notes, in the case of a final redemption payment, the holder of the Individual Certificate shall be required, on or before the Last Date to Register prior to the Maturity Date, to surrender such Individual Certificate at the offices of the Transfer Secretary.

Payments of interest in respect of a Global Certificate will be made to the CSD, or such other registered holder of the Global Certificate, as shown in the Register on the Last Date to Register and the Issuer will be discharged by proper payment to the registered holder of the Global Certificate in respect of each amount so paid. Each of the persons shown in the records of the CSD and the Participants, as the case may be, shall look solely to the CSD or the Participant, as the case may be, for his share of each payment so made by the Issuer to the registered holder of such Global Certificate(s).

10.2 Payments – Bearer Notes

Payments of interest in respect of Bearer Notes will be made to the Bearer only against presentation and surrender by the Bearer or its Representative of the relevant Coupon or (in respect of interest bearing Bearer Notes issued without Coupons) only against presentation by the Bearer or its Representative of the relevant Certificate. Payments of Instalment Amounts in respect of Bearer Notes which are Senior Notes, Undated Tier 2 Notes or Tier 3 Notes will be made to the Bearer only following presentation and surrender by the Bearer or its Representative of the relevant Receipt. Payments of the final instalment of principal in respect of Bearer Notes which are Senior Notes, Undated Tier 2 Notes or Tier 3 Notes will be made to the Bearer only following presentation and surrender by the Bearer or its Representative of the Certificate evidencing such Bearer Notes. Upon surrender as aforesaid, the Bearer or its Representative shall be required to nominate in writing to the Paying Agent a bank account within the Republic of South Africa (or any Other Banking Jurisdiction specified in the Applicable Pricing Supplement) into which the relevant payment must be made and provide details of its address (being an address within the Republic of South Africa or any other Banking Jurisdiction specified in the Applicable Pricing Supplement).

Payments of interest in respect of Bearer Notes shall be made in accordance with Condition 10.4 only following surrender of the relevant Coupon to the Paying Agent.

Payments of Instalment Amounts in respect of Instalment Notes which are Bearer Notes which are Senior Notes, Undated Tier 2 Notes or Tier 3 Notes shall be made by the

Issuer in accordance with Condition 10.4 only following surrender of the relevant Receipt to the Issuer. No payment in respect of the final redemption of a Bearer Note shall be made until the later of:

10.2.1 the Relevant Date; and

10.2.2 the date on which the Certificate in respect of the Note to be redeemed has been surrendered to the Paying Agent.

Upon final redemption as aforesaid, all unmatured Coupons relating to Bearer Notes (whether or not surrendered with the relevant Certificate) shall become void and no payment shall be made thereafter in respect of them.

10.3 **Payments – Order Notes**

Payments of interest in respect of Order Notes will be made to the Payee only following presentation and surrender by the Payee or its Representative of the relevant Coupon. Payments of Instalment Amounts in respect of Order Notes which are Senior Notes, Dated Tier 2 Notes or Tier 3 Notes will be made to the Noteholder only following presentation and surrender by the Payee or its Representative of the relevant Receipt. Payments of the final instalment of principal in respect of Order Notes which are Senior Notes, Dated Tier 2 Notes or Tier 3 Notes will be made to the Payee only following presentation and surrender by the Payee or its Representative of the Certificate evidencing such Order Notes. Upon presentation and/or surrender as aforesaid, the Payee or its Representative shall be required to nominate in writing to the Paying Agent a bank account within the Republic of South Africa (or any Other Banking Jurisdiction specified in the Applicable Pricing Supplement) into which the relevant payment must be made and provide details of its address (being an address within the Republic of South Africa or any other Banking Jurisdiction specified in the Applicable Pricing Supplement).

Payments of interest in respect of Order Notes shall be made in accordance with Condition 10.4 only following surrender of the relevant Coupon to the Paying Agent.

Payments of Instalment Amounts in respect of Instalment Notes which are Order Notes which are Senior Notes, Dated Tier 2 Notes or Tier 3 Notes shall be made by the Issuer in accordance with Condition 10.4 only following surrender of the relevant Receipt to the Issuer. No payment in respect of the final redemption of an Order Note shall be made until the later of:

10.3.1 the Relevant Date; and

10.3.2 the date on which the Certificate in respect of the Note to be redeemed has been surrendered to the Paying Agent.

Upon final redemption as aforesaid of Notes which are Senior Notes, Dated Tier 2 Notes and Tier 3 Notes, all unmatured Coupons relating to Order Notes (whether or not surrendered with the relevant Certificate) shall become void and no payment shall be made thereafter in respect of them.

10.4 **Method of Payment**

Payments will be made by credit or transfer, by means of electronic settlement, to the Noteholder.

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 payment by cheque (or by such number of cheques as may be required in accordance with applicable banking law and practice) to make payment of any such amounts. Such payments by cheque shall be sent by post to:

10.4.1 the address of the Noteholder of Registered Notes as set forth in the Register or, in the case of joint Noteholders of Registered Notes, the address set forth in

the Register of that one of them who is first named in the Register in respect of that Note;

- 10.4.2 the address nominated by the Bearer or the Payee in respect of Bearer Notes or Order Notes, as the case may be, upon surrender in accordance with Condition 10.2 or 10.3, as the case may be.

Each such cheque shall be made payable to the relevant Noteholder or, in the case of joint Noteholders of Registered Notes, the first one of them named in the Register. Cheques may be posted by ordinary post, provided that neither the Issuer nor the Paying Agent shall be responsible for any loss in transmission and the postal authorities shall be deemed to be the agent of the Noteholders for the purposes of all cheques posted in terms of this Condition 10.4.

In the case of joint Noteholders of Registered Notes payment by electronic funds transfer will be made to the account of the Noteholder first named in the Register. Payment by electronic transfer to the Noteholder first named in the Register shall discharge the Issuer of its relevant payment obligations under the Notes.

Payments will be subject in all cases to any fiscal or other laws, directives and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 12.

10.5 **Payment Day**

If the date for payment of any amount in respect of any Note is not a Business Day, the holder thereof shall not be entitled to payment until the next following Business Day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay.

10.6 **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:

- 10.6.1 any additional amounts which may be payable with respect to principal under Condition 12;
- 10.6.2 the Final Redemption Amount of the Notes or the Early Redemption Amount, Early Redemption Amount (Tax) or Early Redemption Amount (Regulatory) of the Notes, as the case may be;
- 10.6.3 the Optional Redemption Amount(s) (if any) of the Notes;
- 10.6.4 in relation to Instalment Notes, the Instalment Amounts;
- 10.6.5 in relation to Zero Coupon Notes, the Amortised Face Amount (as defined in Condition 11.7.3; and
- 10.6.6 any premium and any other amounts which may be payable by the Issuer under or in respect of the Notes, but excluding for the avoidance of doubt, interest.

Any reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 12.

11. **REDEMPTION AND PURCHASE**

11.1 **Scheduled Redemption**

- 11.1.1 Subject to Condition 11.5, unless previously redeemed or purchased and cancelled as specified below, the Dated Tier 2 Notes, the Tier 3 Notes and the Senior Notes will be redeemed by the Issuer in the Specified Currency at its Final Redemption Amount specified in, or determined in the manner specified in, the Applicable Pricing Supplement on the Maturity Date.
- 11.1.2 Undated Tier 2 Notes have no maturity and may only be redeemed or purchased (subject to Condition 11.5 and subject to compliance with the

Solvency Condition and Condition 6.3.3) and without prejudice to Condition 6.3.5 or Condition 17.2.2 in accordance with the provisions of this Condition 11.

11.2 **Redemption for Tax Reasons**

The Notes may, subject to Condition 11.5, be redeemed at the option of the Issuer in whole, but not in part if a Tax Event occurs and is continuing:

- 11.2.1 at any time (if neither the Floating Rate Note Provisions nor the Index-Linked Interest Note Provisions are specified in the relevant Applicable Pricing Supplement as being applicable or, if they are, such provisions are not applicable at the time of redemption); or
- 11.2.2 on any Interest Payment Date (if the Floating Rate Note Provisions or the Index-Linked Interest Note Provisions are specified in the relevant Applicable Pricing Supplement as being applicable and are applicable at the time of redemption),

on giving not less than 30 nor more than 60 days' notice to the Noteholders (which notice shall be irrevocable) in accordance with Condition 19 and to the Registrar and the Transfer Secretary, at their Early Redemption Amount (Tax),

provided, however, that no such notice of redemption shall be given earlier than:

- 11.2.3 where the Notes may be redeemed at any time, 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts or would not be entitled (or such entitlement is materially reduced) to claim a deduction in respect of computing its taxation liabilities; or

where the Notes may be redeemed only on an Interest Payment Date, 60 days prior to the Interest Payment Date occurring immediately before the earliest date on which the Issuer would be obliged to pay such additional amounts or would not be entitled (or such entitlement is materially reduced) to claim a deduction in respect of computing its taxation liabilities.

11.3 **Redemption for regulatory reasons**

Any Series of Subordinated Notes may (subject to Condition 11.5 and, in the case of Undated Tier 2 Notes, the Issuer satisfying the Solvency Condition) be redeemed at the option of the Issuer in whole, but not in part:

- 11.3.1 at any time (if neither the Floating Rate Note Provisions nor the Index-Linked Interest Note Provisions are specified in the relevant Applicable Pricing Supplement as being applicable or, if they are, such provisions are not applicable at the time of redemption); or
- 11.3.2 on any Interest Payment Date (if the Floating Rate Note Provisions or the Index Linked Interest Note Provisions are specified in the relevant Applicable Pricing Supplement as being applicable and are applicable at the time of redemption),

on giving not less than 30 nor more than 60 days notice to the Noteholders (which notice shall be irrevocable) in accordance with Condition 19 and to the Registrar and the Transfer Secretary, at their Early Redemption Amount (Regulatory), together with interest accrued (if any) to the date fixed for redemption, if a Regulatory Event occurs and is continuing.

11.4 **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 may, (subject to Condition 11.5 in the case of Subordinated Notes and, in the case of Undated Tier 2 Notes, the Issuer satisfying the Solvency Condition) having given not less than 15 nor more than 30 days' irrevocable notice to the Noteholders in accordance with Condition 19, 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 must be of a Nominal Amount equal to the Minimum Redemption Amount or 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 (“**Redeemed Notes**”) will be selected individually by lot, in the case of Redeemed Notes represented by Individual Certificates, and in accordance with the rules of CSD, the BESA Settlement Agents and BESA, in the case of Redeemed Notes represented by a Global Certificate, and in each case not more than 30 days prior to the date fixed for redemption (such date of selection being hereinafter called the “**Selection Date**”).

In the case of Redeemed Notes represented by Individual Certificates, a list of the serial numbers of such Redeemed Notes (which shall include, in the case of Redeemed Notes which are Bearer Notes or Order Notes, the Receipts and/or Coupons) will be published in accordance with Condition 19 not less than 15 days prior to the date fixed for redemption. The aggregate Nominal Amount of Redeemed Notes represented by Individual Certificates shall bear the same proportion to the aggregate Nominal Amount of all Redeemed Notes as the aggregate Nominal Amount of Individual Certificates outstanding bears to the aggregate Nominal Amount of the Notes outstanding, in each case on the Selection Date, provided that such first mentioned Nominal Amount shall, if necessary, be rounded downwards to the nearest integral multiple of the Specified Denomination and the aggregate Nominal Amount of Redeemed Notes represented by a Global Certificate shall be equal to the balance of the Redeemed Notes. No exchange of the relevant Global Certificate will be permitted during the period from and including the Selection Date to and including the date fixed for redemption pursuant to this subparagraph and notice to that effect shall be given by the Issuer to the Noteholders in accordance with Condition 19 at least five days prior to the Selection Date.

Holder of Redeemable Notes shall surrender the Individual Certificates, together with Receipts and Coupons, if any, representing the Notes in accordance with the provisions of the notice given to them by the Issuer as contemplated above. Where only a portion of the Notes represented by such Individual Certificates, Receipts and Coupons are redeemed, the Transfer Secretary shall deliver new Individual Certificates, Receipts and Coupons to such Noteholders in respect of the balance of the Notes.

11.5 **Redemption of Subordinated Notes**

Subject to the applicable Capital Regulations and Condition 11.2 and Condition 11.3, Subordinated Notes may be redeemed, or purchased and cancelled at the option of the Issuer only and provided that:

- 11.5.1 Dated Tier 2 Notes shall have a minimum Maturity Period of five years and one day;
- 11.5.2 Tier 3 Notes shall have a minimum Maturity Period of two years and one day;
- 11.5.3 Undated Tier 2 Notes may only be redeemed pursuant to Condition 11.4 after a minimum initial period of issue of five years; provided that in any case unless the Registrar of Banks determines that the Issuer is duly capitalised the Issuer may not redeem such Undated Tier 2 Notes unless such Undated Tier 2 Notes are replaced by the Issuer with instruments of similar or better quality;
- 11.5.4 the Issuer has notified the Registrar of Banks of its intention to redeem, or purchase and cancel the relevant Subordinated Notes at least one month (or such other period, longer or shorter, as the Registrar of Banks may then require or accept) prior to the date scheduled for such redemption or purchase and cancellation and written approval of the same has been received from the Registrar of Banks;
- 11.5.5 such redemption is effected in accordance with conditions (if any) approved by the Registrar of Banks in writing; and

11.5.6 both at the time when the notice of redemption is given and immediately following such redemption, the Issuer is or will be (as the case may be) in compliance with its capital adequacy requirements as provided in the Capital Regulations (except to the extent that the Registrar of Banks no longer so requires) as confirmed by an Independent Investment Bank or the Registrar of Banks.

11.6 Redemption at the Option of the Senior Noteholders

If holders of Senior Notes are specified in the Applicable Pricing Supplement as having an option to request the redemption of Notes, such holders may exercise such option in respect of such Notes represented by Individual Certificates by delivering to the Transfer Secretary, in accordance with Condition 19, a duly executed notice (“**Put Notice**”), at least 15 days but not more than 30 days, prior to the Optional Redemption Date.

For redemption in part, the redemption amount specified in such Put Notice in respect of any such Note must be of a principal amount equal to or greater than the Minimum Redemption Amount or equal to or less than the Higher Redemption Amount, each as indicated in the Applicable Pricing Supplement.

The redemption of Notes represented by a Global Certificate shall take place in accordance with the Applicable Procedures.

The Issuer shall proceed to redeem the Notes in respect of which such option has been exercised in accordance with the terms of the Applicable Pricing Supplement, at the Optional Redemption Amount and on the Optional Redemption Date, together, if appropriate, with interest accrued to (but excluding) the Optional Redemption Date(s).

In the event that the redeeming Noteholder is the holder of an Individual Certificate, then such Noteholder shall (attached to the Put Notice) deliver the Individual Certificate, together with Receipts and/or Coupons, if any, to the Transfer Secretary for cancellation. A holder of an Individual Certificate shall in that holder’s Put Notice specify a bank account into which the redemption payment amount is to be paid.

The delivery of Put Notices shall be required to take place during normal office hours of the Issuer and Transfer Secretary. Put Notices shall be available from the specified offices of the Transfer Secretary.

Any Put Notice given by a holder of any Senior Note pursuant to this paragraph shall be irrevocable except where after giving the notice but prior to the due date of redemption an Event of Default shall have occurred and be continuing in which event such Noteholder, at its option, may elect by notice to the Issuer to withdraw the notice given pursuant to this paragraph and instead to declare such Senior Note forthwith due and payable pursuant to Condition 17.

The Issuer shall have no liability to remedy any defects in any Put Notice or bring any such defects to the attention of any Noteholder.

11.7 Early Redemption Amounts

For the purpose of the Condition 11.2 and Condition 17, the Notes will be redeemed at the Early Redemption Amount calculated as follows:

- 11.7.1 in the case of Notes with a Final Redemption Amount equal to the Issue Price, at the Final Redemption Amount thereof; or
- 11.7.2 in the case of Notes (other than Zero Coupon Notes) with a Final Redemption Amount which is or may be less or greater than the Issue Price, or determined in the manner specified in, the Applicable Pricing Supplement or, if no such amount or manner is so specified in the Pricing Supplement, at their Nominal Amount; or
- 11.7.3 in the case of Zero Coupon Notes, at an amount (the “**Amortised Face Amount**”) equal to the sum of: (i) the Reference Price; and (ii) the product of the Implied Yield (compounded 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 in the Applicable Pricing Supplement.

Where such calculation is to be made for a period which is not a whole number of years, it shall be calculated on the basis of actual days elapsed divided by 365 or such other calculation basis as may be specified in the Applicable Pricing Supplement.

11.8 Instalment Notes

Instalment Notes will be redeemed at the Instalment Amounts and on the Instalment Dates. In the case of early redemption in accordance with Conditions 11.2 or 17, the Early Redemption Amount will be determined pursuant to Condition 11.7.

11.9 Partly Paid Notes

If the Notes are Partly Paid Notes, they will be redeemed, whether at maturity, early redemption or otherwise, in accordance with the provisions of this Condition 11 and the Applicable Pricing Supplement. In the case of early redemption in accordance with Conditions 11.2 or 17, the Early Redemption Amount will be determined pursuant to Condition 11.7.

11.10 Exchangeable Notes

If the Notes are Exchangeable Notes, they will be redeemed, whether at maturity, early redemption or otherwise in the manner indicated in the Applicable Pricing Supplement. Exchangeable Notes in respect of which Mandatory Exchange is indicated in the Applicable Pricing Supplement as applying, or upon the exercise by the Noteholder of the Noteholder's Exchange Right (if applicable), will be redeemed by the Issuer delivering to each Noteholder so many of the Exchange Securities as are required in accordance with the Exchange Price. The delivery by the Issuer of the Exchange Securities in the manner set out in the Applicable Pricing Supplement shall constitute the in specie redemption in full of such Notes.

11.11 Purchases

Subject to giving written notice to, and receiving prior written approval from, the Registrar of Banks, the Issuer or any of its Subsidiaries may at any time purchase Notes in the open market or otherwise and at any price.

11.12 Cancellation

All Notes so redeemed or purchased by the Issuer or any of its Subsidiaries may, at its option, be cancelled and may, if cancelled, not be reissued or resold.

11.13 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 Condition 11 or upon its becoming due and repayable as provided in Condition 17 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 Condition 11.7.3 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 which is the earlier of: (i) the date on which all amounts due in respect of such Zero Coupon Note have been paid; and (ii) 5 days after the date on which the full amount of the moneys payable has been received by the CSD, and notice to that effect has been given to the Noteholder in accordance with Condition 19.

12. TAXATION

All payments of principal and interest in respect of the Notes by the Issuer will be made without withholding or deduction for or on account of any present or future taxes or duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of the Republic of South Africa or any political subdivision or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law.

In such event, the Issuer will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes after such withholding or deduction shall equal

the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes, as the case may be, in the absence of such withholding or deduction except that no such additional amounts shall be payable with respect to any Note:

- 12.1 held by or on behalf of a Noteholder, who is liable for such taxes or duties in respect of such Note by reason of his having some connection with the Republic of South Africa other than the mere holding of such Note or the receipt of principal or interest in respect thereof; or
- 12.2 held by or on behalf of a Noteholder who would not be liable or subject to the withholding or deduction by making a declaration of non-residency or other similar claim for exemption to the relevant tax authority (the effect of which is not to require the disclosure of the identity of the relevant Noteholder); or
- 12.3 where such withholding or deduction is in respect of taxes levied or imposed on interest or principal payments only by virtue of the inclusion of such payments in the taxable income (as defined in Section 1 of the Income Tax Act, 1962) or taxable capital gain (as defined in paragraph 1 of Schedule 8 to the Income Tax Act, 1962) of any Noteholder; or
- 12.4 more than 30 days after the Relevant Date except to the extent that the Noteholder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day; or
- 12.5 if such withholding or deduction arises through the exercise by revenue authorities of special powers in respect of tax defaulters.

Any reference in these Terms and Conditions to any amounts in respect of the Notes shall be deemed also to refer to any additional amounts which may be payable under these Terms and Conditions or under any undertakings given in addition to, or in substitution for, these Terms and Conditions.

13. CERTIFICATES

- 13.1 Listed Registered Notes will initially be evidenced by a single Global Certificate which will be lodged with the CSD. The CSD's Nominee will be reflected in the Register as the holder of the Global Certificate.
- 13.2 A Beneficial Interest in Notes will be exchangeable for an Individual Certificate if (i) a written request for Notes in definitive form is submitted by the holder of the Beneficial Interest to the relevant Participant not later than 14 days prior to the requested date of such exchange, (ii) the Applicable Procedures for obtaining such a Certificate from the Transfer Secretary are followed, and (iii) an equivalent number of Notes are transferred in accordance with the provisions of Condition 15 from the CSD's Nominee to the holder of such Beneficial Interest. If only part of the Notes represented by a Global Certificate is exchanged, a new Global Certificate for the balance will be issued and the cancelled Global Certificate will be retained by the Transfer Secretary.
- 13.3 A Noteholder shall be entitled to receive a Certificate evidencing the Notes transferred to that Noteholder within 7 days after registration of that transfer in accordance with Condition 15 (and which will apply *mutatis mutandis* to such Certificate), provided that joint Noteholders will be entitled to receive only one Certificate in respect of that joint holding, and the delivery to one of those Noteholders shall be delivery to all of them.
- 13.4 If a Certificate, Receipt or Coupon is worn out or defaced then, within 14 days of its presentation to the Transfer Secretary, the Transfer Secretary shall cancel that Certificate, Receipt or Coupon and issue a new Certificate, Receipt or Coupon in its place.
- 13.5 If a Certificate, Receipt or Coupon is lost or destroyed then upon proof thereof to the satisfaction of the Transfer Secretary, a new Certificate, Receipt or Coupon in lieu thereof may be issued to the person entitled to that lost or destroyed Certificate, Receipt or Coupon, provided that the Noteholder shall provide the Transfer Secretary and the Issuer with an indemnity and pay any out-of-pocket expenses incurred in connection with the indemnity. The person providing the indemnity and the form of the indemnity shall be to the satisfaction of the Issuer. The new Certificate, Receipt or Coupon shall be

issued within 14 days from the date that the conditions for issuing such Certificate Receipt or Coupon have been fulfilled.

- 13.6 An entry as to the issue of a new Certificate, Receipt or Coupon and indemnity (if any) shall be made in the Register (in respect of Registered Notes) upon the date of issue of the new Certificate, Receipt or Coupon.
- 13.7 Certificates, Receipts and Coupons to be provided by the Issuer to Noteholders shall be collected by the Noteholders from the Transfer Secretary.
- 13.8 Certificates, Receipts and Coupons shall be provided where relevant by the Issuer without charge, save as otherwise provided in these Terms and Conditions. Separate costs and expenses relating to the provision of Certificates Receipt or Coupon and/or the transfer of Notes may be levied by other persons, such as a Settlement Agent, under the Applicable Procedures and such costs and expenses shall not be borne by the Issuer. The costs and expenses of delivery of Certificates otherwise than by ordinary post (if any) and, if the Issuer shall so require, taxes or governmental charges or insurance charges that may be imposed in relation to such mode of delivery shall be borne by the Noteholder.

14. REGISTER

- 14.1 The Register of Noteholders:
 - 14.1.1 shall be kept at the office of the Issuer or such other person as may be appointed for the time being by the Issuer to maintain the Register;
 - 14.1.2 shall contain the names, addresses and bank account numbers of the registered Noteholders;
 - 14.1.3 shall show the total Nominal Amount of the Notes held by Noteholders;
 - 14.1.4 shall show the dates upon which each of the Noteholders was registered as such;
 - 14.1.5 shall show whether the Notes are Registered Notes, Bearer Notes or Order Notes;
 - 14.1.6 shall show the serial numbers of the Certificates and the dates of issue thereof;
 - 14.1.7 shall be open for inspection at all reasonable times during business hours on Business Days by any Noteholder or any person authorised in writing by a Noteholder;
 - 14.1.8 shall be closed during the Books Closed Period.
- 14.2 The Transfer Secretary shall alter the Register in respect of any change of name, address or account number of any of the Noteholders of which it is notified.
- 14.3 Except as provided for in these Conditions or as required by law, in respect of Registered Notes, the Issuer will only recognise a Noteholder as the owner of the Notes registered in that Noteholder's name as per the Register;
- 14.4 Except as provided for in these Conditions or as required by law, the Issuer 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 Certificate may be subject.

15. TRANSFER OF NOTES

15.1 Registered Notes

Beneficial Interests in Notes registered in the name of the CSD's Nominee or its nominee may be transferred in accordance with the Applicable Procedures. Such transfers will not be recorded in the Register. In order for any transfer of Registered Notes to be effected through the Register and for the transfer to be recognised by the Issuer, each transfer of a Registered Note:

- 15.1.1 must be in writing and in the usual form or in such other form approved by the Transfer Secretary;

- 15.1.2 must be signed by the relevant Noteholder and the transferee, or any authorised representatives of that registered Noteholder or transferee;
- 15.1.3 shall only be in respect of the Specified Denomination of the Note or integral multiples thereof, and consequently the Issuer will not recognise any fraction of the Specified Denomination;
- 15.1.4 must be delivered to the Transfer Secretary together with the Certificate in question for cancellation (if only part of the Notes represented by a Certificate is transferred, a new Certificate for the balance will be issued to the transferor and the cancelled Certificate will be retained by the Transfer Secretary).

The transferor of any Notes represented by a Certificate will 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 Transfer Secretary reasonably requires as to the identity and title of the transferor and the transferee.

No transfer will be registered whilst the Register is closed.

If a transfer is registered then the transfer form and cancelled Certificate will be retained by the Transfer Secretary.

In the event of a partial redemption of Notes under Condition 11.3 or 11.5, the Transfer Secretary shall not be required:

- 15.1.5 in terms of Condition 11.3, 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
- 15.1.6 in terms of Condition 11.5, to register the transfer of any Note, or part of a Note, called for partial redemption.

15.2 **Transfer of Bearer Notes**

Bearer Notes (including rights to Instalment Amounts and/or interest thereon, as applicable) may be transferred by the delivery of the Certificate evidencing such Bearer Note or the relevant Receipt or Coupon relating thereto, as the case may be. Where the last Endorsement on a Certificate evidencing an Order Note or a Receipt or Coupon relating thereto is an Endorsement in Blank, then such Certificate, Receipt or Coupon, as the case may be, shall be treated as evidencing a Bearer Note.

15.3 **Transfer of Order Notes**

Order Notes (including rights to Instalment Amounts and/or interest thereon, as applicable) may be transferred by the Endorsement of the Certificate evidencing such Order Note or Receipt or Coupon relating thereto, as the case may be, by the old Payee and the delivery of such Certificate, Receipt or Coupon to the new Payee.

15.4 **Prohibition on stripping**

Where so specified in the Applicable Pricing Supplement, Bearer Notes or Order Notes which are issued with Receipts and/or Coupons attached and which are redeemable at the option of the Issuer and/or Noteholders shall be issued subject to the condition that the relevant Notes (including rights to Instalment Amounts and/or interest thereon, as applicable) may only be transferred to a single transferee at a time and accordingly that the various rights in respect of such Notes may not be stripped and transferred to various transferees at different times.

16. **PRESCRIPTION**

The Notes, Receipts and Coupons will become void unless presented for payment of principal within a period of three years after their redemption date, save that claims against the Issuer under any Certificate, Receipt or Coupon constituting a “*bill of exchange or other negotiable instrument*” in accordance with Section 11 of the Prescription Act, 1969 will prescribe within a period of six years after their redemption date.

17. EVENTS OF DEFAULT

17.1 Senior Notes

This Condition 17.1 only applies to Senior Notes.

If any of the following events occurs and is continuing:

17.1.1 *Non-payment*: the Issuer fails to pay any amount of principal in respect of the Notes within five days of the due date for payment thereof or fails to pay any amount of interest in respect of the Notes within 10 days of the due date for payment thereof; or

17.1.2 *Breach of other obligations*: the Issuer defaults in the performance or observance of any of its other obligations under or in respect of the Notes and such default remains unremedied for 30 days after written notice thereof, has been delivered by any Noteholder to the Issuer or to the specified office of the Transfer Secretary (addressed to the Issuer); or

17.1.3 *Cross-default of Issuer or Principal Subsidiary*:

(i) any Financial Indebtedness of the Issuer or any of its Principal Subsidiaries is not paid when due or (as the case may be) within any originally applicable grace period;

(ii) any such Financial Indebtedness becomes (or becomes capable of being declared) due and payable prior to its stated maturity otherwise than at the option of the Issuer or (as the case may be) the relevant Principal Subsidiary or (provided that no Event of Default, howsoever described, has occurred) any Person entitled to such Financial Indebtedness; or

(iii) the Issuer or any of its Principal Subsidiaries fails to pay when due any amount payable by it under any Guarantee of any Financial Indebtedness;

provided that the amount of Financial Indebtedness referred to in sub-paragraph (i) and/or sub-paragraph (ii) above and/or the amount payable under any Guarantee referred to in sub-paragraph (iii) above individually or in the aggregate exceeds ZAR200,000,000 (or its equivalent in any other currency or currencies); or

17.1.4 *Unsatisfied judgment*: one or more judgment(s) or order(s) from which no further appeal is permissible under applicable law for the payment of any amount in excess of ZAR200,000,000 (or its equivalent in any other currency or currencies) is rendered against the Issuer or any of its Principal Subsidiaries and continue(s) unsatisfied and unstayed for a period of 30 days after the date(s) thereof or, if later, the date therein specified for payment; or

17.1.5 *Security enforced*: any present or future Security Interest created by the Issuer or any Principal Subsidiary over all or a substantial part of its undertaking, assets and revenues for an amount at the relevant time in excess of ZAR200,000,000 (or its equivalent in any other currency or currencies) becomes enforceable and any step is taken to enforce it (including, but not limited to, the taking of possession or the appointment of a receiver, administrative receiver, manager or other similar person or analogous event) unless such enforcement is discharged within 45 days or the Issuer or Principal Subsidiary (as the case may be) is contesting such enforcement in good faith; or

17.1.6 *Insolvency etc.*: (i) the Issuer or its Principal Subsidiaries becomes insolvent or is unable to pay its debts as they fall due, (ii) an administrator, curator, judicial manager or liquidator is appointed (or application for any such appointment is made) in respect of the Issuer or any of its Principal Subsidiaries or in respect of the whole or a substantial part of the undertaking, assets and revenues of the Issuer or any of its Principal Subsidiaries, (iii) the Issuer or any of its Principal

Subsidiaries takes any action for a readjustment or deferment of any of its obligations or makes a general assignment or an arrangement or composition with or for the benefit of its creditors or declares a moratorium in respect of any of its Financial Indebtedness or any Guarantee of any Financial Indebtedness given by it or (iv) the Issuer or any of its Principal Subsidiaries ceases or threatens to cease to carry on all or any substantial part of its business (otherwise than (A) in the case of a Principal Subsidiary of the Issuer for the purposes of or pursuant to an amalgamation, reorganisation or restructuring whilst solvent; or (B) in the case of the Issuer, in respect of a Solvent Reconstruction); or

- 17.1.7 *Winding-up etc.*: an order is made or an effective resolution is passed for the winding-up, liquidation, administration or dissolution of the Issuer or any of its Principal Subsidiaries (otherwise than (A) in the case of a Principal Subsidiary of the Issuer for the purposes of or pursuant to an amalgamation, reorganisation or restructuring whilst solvent; or (B) in the case of the Issuer, in respect of a Solvent Reconstruction); or
- 17.1.8 *Analogous event*: any event occurs which under the laws of South Africa or other relevant jurisdiction in the case of a Principal Subsidiary has an analogous effect to any of the events referred to in paragraphs 17.1.4 to 17.1.7 above; or
- 17.1.9 *Failure to take action etc.*: any action, condition or thing at any time required to be taken, fulfilled or done in order (i) to enable the Issuer lawfully to enter into, exercise its rights and perform and comply with its obligations under and in respect of the Notes, (ii) to ensure that those obligations are legal, valid, binding and enforceable and (iii) to make the Note Certificates admissible in evidence in the courts of South Africa is not taken, fulfilled or done; or
- 17.1.10 *Unlawfulness*: it is or will become unlawful for the Issuer to perform or comply with any of its obligations under or in respect of the Notes,

then any Senior Note may, by written notice from the Holder thereof to the Issuer and delivered to the Issuer, be declared immediately due and payable, whereupon it shall become immediately due and payable at its Early Redemption Amount together with accrued interest (if any) without further action or formality.

17.2 Subordinated Notes

17.2.1 Events of Default relating to Dated Subordinated Notes

This Condition 17.2.1 applies only to Dated Subordinated Notes.

- (i) If default shall be made in the payment of any principal or interest due on the Dated Subordinated Notes of the relevant Series for a period of five days or more after any date on which the payment of principal is due or 10 days or more after any date on which the payment of interest is due (as the case may be), any Dated Subordinated Noteholder of that Series may, subject as provided below, at its discretion and without further notice, institute proceedings for the winding-up of the Issuer and/or prove in any winding-up of the Issuer, but take no other action in respect of that default.
- (ii) If an order is made or an effective resolution is passed for the winding-up of the Issuer (other than pursuant to a Solvent Reconstruction), each Dated Subordinated Noteholder may, by written notice to the Issuer and delivered to the Issuer or to the Specified Office of the Transfer Secretary (addressed to the Issuer), be declared immediately due and payable, whereupon it shall become immediately due and payable at its Early Redemption Amount together with accrued interest (if any) (subject to Condition 6.1.3 in the case of Tier 3 Notes and Condition 6.2.3 in the case of Dated Tier 2 Notes) and Condition 11.5 without further action or formality.

- (iii) Without prejudice to paragraph (i) or (ii) above, if the Issuer breaches any of its obligations under the Dated Subordinated Notes of the relevant Series (other than any obligation in respect of the payment of principal or interest on such Notes) then each Dated Subordinated Noteholder may at its discretion and without further notice, bring such proceedings as it may think fit to enforce the obligation in question provided that the Issuer shall not, as a result of the bringing of any such proceedings, be obliged to pay any sum representing or measured by reference to principal or interest on such Series of Dated Subordinated Notes sooner than the same would otherwise have been payable by it.

17.2.2 **Events of Default relating to Undated Tier 2 Notes**

Notwithstanding any of the provisions below in this Condition 17.2.2, the right to institute winding-up proceedings is limited to circumstances where payment of principal or interest (as the case may be) has become due and payable. No principal, premium, interest or any other amount will be due unless the Solvency Condition is satisfied. Also, in the case of the payment of any Interest Amount, payment thereof will not be due if the Issuer has elected to defer that payment pursuant to Condition 8.1 or the Issuer is prohibited from making that payment pursuant to Condition 8.2 or 8.3.

This Condition 17.2.2 applies only to Undated Tier 2 Notes.

- (i) If default shall be made in the payment of any principal or any interest (or any other amount in respect of the Undated Tier 2 Notes) due on the Undated Tier 2 Notes of the relevant Series for a period of five days or more after any date on which the payment of principal is due and payable or 10 days or more after any date on which the payment of interest is due and payable (as the case may be) each Undated Tier 2 Noteholder of that Series may, subject as provided below, at its discretion and without further notice, institute proceedings for the winding-up of the Issuer and/or prove in any winding-up of the Issuer, but take no other action in respect of that default.
- (ii) Without prejudice to paragraph (i) above, if the Issuer breaches any of its obligations under the Undated Tier 2 Notes of the relevant Series (other than any obligation in respect of the payment of principal or interest on such Notes) then each Undated Tier 2 Noteholder may, subject as provided below, at its discretion and without further notice, bring such proceedings as it may think fit to enforce the obligation in question provided that the Issuer shall not, as a result of the bringing of any such proceedings, be obliged to pay any sum representing or measured by reference to principal or interest on such Series of Undated Tier 2 Notes sooner than the same would otherwise have been payable by it.

18. **CALCULATION AGENT AND OTHER AGENTS**

Any third party appointed by the Issuer as Calculation Agent, Transfer Secretary or otherwise shall act solely as the agents of the Issuer and does not assume any obligation towards or relationship of agency or trust for or with any Noteholders. The Issuer is entitled to vary or terminate the appointment of such agents and/or appoint additional or other agents and/or approve any change in the specified office through which any agent acts.

19. **NOTICES**

Notices to holders of Registered Notes shall be valid if mailed to their registered addresses appearing in the Register. Any such notice shall be deemed to have been given on the seventh day after the day on which it is mailed.

In the event of there being any Individual Certificates (whether evidencing Registered Notes, Bearer Notes or Order Notes) in issue, such notices shall be published, not earlier than four days

after the date of posting of such notice in terms of this clause (i) in an English language daily newspaper of general circulation in the Republic of South Africa and (ii) and for so long as the Notes are listed on BESA or such other Financial Exchange upon which the Notes are listed, a daily newspaper of general circulation in the city in which BESA or such other Financial Exchange is situated, and any such notices shall be deemed to have been given on the date of first publication.

If any notice is given to holders of Notes represented by a Global Certificate, a copy thereof shall be delivered to BESA, the CSD and the BESA Settlement Agents.

Any notice to the Issuer shall be deemed to have been received by the Issuer, if delivered to the registered office of the Issuer, on the date of delivery, and if sent by registered mail, on the seventh day after the day on which it is sent, together with a certified copy of the relevant Certificate, Coupon or Receipt with the Transfer Secretary. The Issuer may change its registered office upon prior written notice to Noteholders specifying such new registered office.

For so long as any of the Notes are represented by a Global Certificate, notice may be given by any holder of a Beneficial Interest in Notes represented by a Global Certificate to the Issuer via the relevant Settlement Agent in accordance with the Applicable Procedures, in such manner as the Issuer and the relevant Settlement Agent may approve for this purpose.

20. AMENDMENT OF THESE CONDITIONS

20.1 These Conditions set out all the rights and obligations relating to the Notes and, subject to the further provisions of this Condition 20, no addition, variation or consensual cancellation of these Conditions shall be of any force or effect unless reduced to writing and signed by or on behalf of the Issuer and the Noteholders.

20.2 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 Group 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 law of the jurisdiction in which the Issuer is incorporated, provided that the consent of BESA shall be required where such Notes are listed. Any such modification shall be binding on the relevant Group of Noteholders and any such modification shall be notified to the relevant Group of Noteholders in accordance with Condition 19 as soon as practicable thereafter.

20.3 The Issuer may, with the prior sanction of an Extraordinary Resolution of Noteholders or with the prior written consent of Noteholders holding not less than 66 $\frac{2}{3}$ % (sixty six and two thirds per cent) in Nominal Amount of the Notes outstanding from time to time, amend these Conditions, provided that no such amendment shall be of any force or effect unless notice of the intention to make such amendment shall have been given to all Noteholders in terms of Condition 19.

21. MEETINGS OF NOTEHOLDERS

21.1 The Issuer may at any time convene a meeting of all Noteholders or holders of any Series of Notes upon at least 21 days' prior written notice to such Noteholders. This notice is required to be given in terms of Condition 19. Such notice shall specify the date, place and time of the meeting to be held, which place shall be in the Republic of South Africa.

21.2 Every director or duly appointed representative of the Issuer may attend and speak at a meeting of Noteholders, but shall not be entitled to vote, other than as a proxy or representative of a Noteholder.

21.3 Noteholders holding not less than 10% (ten per cent) in Nominal Amount of the outstanding Notes shall be able to request the Issuer to convene a meeting of Noteholders. Should the Issuer fail to requisition such a meeting within 10 days of such a request being received by the Issuer, the Noteholders requesting such a meeting may convene such meeting.

21.4 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.

- 21.5 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.
- 21.6 Any proxy or representative appointed shall, so long as the appointment remains in force, be deemed for all purposes in connection with any meeting or proposed meeting of the Noteholder 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 holder.
- 21.7 The chairman of the meeting shall be appointed by the Issuer. The procedures to be followed at the meeting shall be as determined by the chairman subject to the remaining provisions of this Condition 21. Should the Noteholder requisition a meeting, and the Issuer fail to call such a meeting within 10 days of the requisition, then the chairman of the meeting held at the instance of the Noteholders shall be selected by a majority of Noteholders present in person, by representative or by proxy.
- 21.8 At any such meeting one or more Noteholders present in person, by representative or by proxy, holding in aggregate not less than one third of the Nominal Amount of Notes for the time being outstanding shall form a quorum for the transaction of business. On a poll, each Noteholder present in person or by proxy at the meeting shall have the number of votes equal to the number of Notes, by denomination, held by the Noteholder.

22. **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.

23. **GOVERNING LAW**

The Notes and all rights and obligations to the Notes are governed by, and shall be construed in accordance with, the laws of the Republic of South Africa in force from time to time.

TERMS AND CONDITIONS OF THE TIER 1 NOTES

The following are the Terms and Conditions of the Tier 1 Notes to be issued by the Issuer which will be incorporated by reference into each Note. The Applicable Pricing Supplement in relation to any Tranche of Notes may specify other terms and conditions which shall to the extent so specified or to the extent inconsistent with the following Terms and Conditions of the Tier 1 Notes, replace or modify the following Terms and Conditions of the Tier 1 Notes for the purpose of such Tranche of Notes. The Applicable Pricing Supplement will be attached to each Tier 1 Note.

Before the Issuer issues any Tranche of Tier 1 Notes, the Issuer shall complete, sign and deliver to BESA and the CSD a pricing supplement based on the pro forma Pricing Supplement included in the Programme Memorandum (a “**Pricing Supplement**”) setting out details of such Tier 1 Notes.

If there is any conflict or inconsistency between provisions set out in the Pricing Supplement and the provisions set out in these Terms and Conditions of the Tier 1 Notes, then the provisions in the Pricing Supplement will prevail.

Words and expressions used in the Applicable Pricing Supplement shall have the same meanings where used in these Terms and Conditions of the Tier 1 Notes unless the context otherwise requires or unless otherwise stated.

All subsequent references in these Terms and Conditions of the Tier 1 Notes to “**Notes**” are to the Notes which are the subject of the Applicable Pricing Supplement (as defined below).

1. INTERPRETATION

In these Terms and Conditions of the Tier 1 Notes, unless inconsistent with the context or separately defined in the Applicable Pricing Supplement, the following expressions shall have the following meanings:

- 1.1 “**Additional Conditions**” means, in relation to any issue of Notes, the proceeds of which are intended by the Issuer to qualify as Primary Share Capital, such conditions, in addition to the conditions specified in the applicable Capital Regulations, as may be prescribed by the Registrar of Banks for the proceeds of the issue of such Notes to qualify as Primary Share Capital, pursuant to the approval granted by the Registrar of Banks for the issue of such Notes, as specified in the Applicable Pricing Supplement;
- 1.2 “**Agency Agreement**” means the agency agreement to be entered into between the Issuer, the Transfer Secretary, the Calculation Agent and the Paying Agent, if the Issuer is not acting in any of the aforementioned capacities;
- 1.3 “**Applicable Pricing Supplement**” means the Pricing Supplement relating to each Tranche of Notes;
- 1.4 “**Applicable Procedures**” means the rules and operating procedures for the time being of the CSD and BESA, as the case may be;
- 1.5 “**Assets**” means the total amount of the non consolidated gross assets of the Issuer as shown in the latest published audited non consolidated balance sheet of the Issuer, but adjusted for contingencies and subsequent events in such manner as the directors of the Issuer, the auditors of the Issuer or a liquidator or administrator of the Issuer (if applicable) may determine;
- 1.6 “**Banks Act**” means the Banks Act, 1990;
- 1.7 “**Beneficial Interest**” means the undivided share of a co-owner of the Notes represented by a Global Certificate as provided in Section 41 of the Securities Services Act;
- 1.8 “**BESA**” means the Bond Exchange of South Africa Limited (Registration Number 2007/034441/06), a licensed financial exchange in terms of the Securities Services Act or any exchange which operates as a successor exchange to BESA;

- 1.9 “**Books Closed Period**” means 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;
- 1.10 “**Business Day**” means a day (other than a Saturday or Sunday or public holiday within the meaning of the Public Holidays Act, 1994, as amended) which is a day on which commercial banks settle ZAR payments in Johannesburg or any Additional Business Centre specified in the Applicable Pricing Supplement, save that if the Specified Currency is not ZAR, “*Business Day*” shall mean a day (other than a Saturday or Sunday) which is a day on which commercial banks and foreign exchange markets settle payments in the principal financial centre of the Specified Currency and in each (if any) Additional Business Centre, save further that if the Applicable Pricing Supplement so provides, “*Business Day*” shall include a Saturday;
- 1.11 “**Calculation Agent**” means FirstRand Bank Limited, acting through its Rand Merchant Bank Division, unless the Issuer elects to appoint, in relation to a particular Tranche or Series of Notes, another entity as Calculation Agent in respect of that Tranche or Series of Notes;
- 1.12 “**Capital Regulations**” means, at any time, any legislation, regulations, requirements, guidelines and policies relating to capital adequacy then in effect in South Africa in relation to banks registered under the Banks Act and licensed to conduct the business of a bank in South Africa (including the Additional Conditions (if any)) (or if the Issuer becomes domiciled in a jurisdiction other than South Africa, any legislation, regulations, requirements, guidelines and policies relating to capital adequacy then in effect in such other jurisdiction in relation to banks registered in, and licensed to conduct the business of a bank in, such other jurisdiction);
- 1.13 “**Certificate**” means a Global Certificate or Individual Certificate;
- 1.14 “**Controlling Company**” means FirstRand Bank Holdings Limited and/or any other company which is a “*controlling company*” in relation to the Issuer as contemplated by the Banks Act;
- 1.15 “**CSD**” means Strate Limited (Registration Number 1998/022242/06), or its nominee, operating in terms of the Securities Services Act (or any successor legislation thereto), or any additional or alternate depository approved by the Issuer;
- 1.16 “**CSD’s Nominee**” means Central Depository Nominees (Proprietary) Limited (Registration Number 1990/006665/07) a Wholly Owned Subsidiary of the CSD;
- 1.17 “**Day Count Fraction**” means, in respect of the calculation of an amount of interest for any Interest Period:
- (a) if “**1/1**” is specified, 1;
 - (b) if “**Actual/365**”, “**Act/365**”, “**Actual/Actual**” or “**Act/Act**” is specified in the Applicable Pricing Supplement, the actual number of days in the Interest Period in respect of which payment is being made divided by 365 (or, if any portion of that Interest Period falls in a leap year, the sum of (i) the actual number of days in that portion of the Interest Period falling in a leap year divided by 366 and (ii) the actual number of days in that portion of the Interest Period falling in a non-leap year divided by 365); or
 - (c) if “**Actual/365 (Fixed)**”, “**Act/365 (Fixed)**”, “**A/365 (Fixed)**” or “**A/365F**” is specified in the Applicable Pricing Supplement, the actual number of days in the Interest Period in respect of which payment is being made divided by 365; or
 - (d) if “**Actual/360**”, “**Act/360**” or “**A/360**” is specified in the Applicable Pricing Supplement, the actual number of days in the Interest Period in respect of which payment is being made divided by 360; or

- (e) if “**30/360**”, “**360/360**” or “**Bond Basis**” is specified in the Applicable Pricing Supplement, the number of days in the Interest Period in respect of which payment is being made divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months (unless (i) the last day of the Interest Period is the 31st day of a month but the first day of the Interest Period is a day other than the 30th or 31st day of a month, in which case the month that includes that last day shall not be considered to be shortened to a 30-day month or (ii) that last day of the Interest Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month)); or
 - (f) if “**30E/360**” or “**Eurobond Basis**” is specified in the Applicable Pricing Supplement, the number of days in the Interest Period in respect of which payment is being made divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30-day months, without regard to the date of the first day or last day of the Interest Period unless, in the case of the final Interest Period, the Interest Payment Date is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30-day month); or
 - (g) such other calculation method as is specified in the Applicable Pricing Supplement.
- 1.18 “**Dealer**” means any Dealer, as may be appointed under the Programme from time to time, which appointment may be for a specific issue or on an ongoing basis, subject to the Issuer’s right to terminate the appointment of any Dealer;
- 1.19 “**Deposit**” means a “*deposit*” as defined in the Banks Act;
- 1.20 “**Depositor**” means any Person having a claim against the Issuer in respect of a Deposit;
- 1.21 “**Early Redemption Amount (Regulatory)**” means the Make Whole Redemption Price;
- 1.22 “**Early Redemption Amount (Tax)**” means, in respect of any Note, in relation to an Early Redemption Amount (Tax) paid as a result of an event of as described in paragraph (a) of the definition of “**Tax Event**”, its principal amount plus accrued interest (if any) to the date fixed for redemption and, as a result of any event described in paragraph (b) of the definition of “**Tax Event**”, at the Make Whole Redemption Price;
- 1.23 “**Eligible Capital**” means Notes that are treated on issue by the Registrar of Banks for inclusion in the Primary Share Capital, Undated Secondary Capital, Dated Secondary Capital or Tertiary Capital, as the case may be, of the Issuer or the Controlling Company on a solo and/or consolidated basis, in accordance with the Capital Regulations;
- 1.24 “**Endorsement**” means an “indorsement”, *mutatis mutandis*, within the meaning of the Bills of Exchange Act, 1964;
- 1.25 “**Endorsement in Blank**” means an Endorsement which specifies no named Payee;
- 1.26 “**Event of Default**” means an event of default by the Issuer as set out in Condition 16;
- 1.27 “**Extraordinary Resolution**” means a resolution passed at a meeting (duly convened) of the Noteholders by a majority consisting of not less than 66⅔% (sixty six and two thirds per cent) of the persons voting thereat upon a show of hands or if a poll be duly demanded then by a majority consisting of not less than 66⅔% (sixty six and two thirds per cent) of the votes given on such poll;
- 1.28 “**First Optional Redemption Date**” has the meaning given in the Applicable Pricing Supplement;

- 1.29 “**Final Redemption Amount**” means the amount of principal specified in the Applicable Pricing Supplement payable in respect of each Note upon the Maturity Date;
- 1.30 “**FirstRand Group**” means the Issuer, its holding company and any subsidiaries of its holding company;
- 1.31 “**Fixed Rate Notes**” means Notes which will bear interest at the fixed Interest Rate, as indicated in the Applicable Pricing Supplement;
- 1.32 “**Floating Rate Notes**” means Notes which will bear interest as indicated in the Applicable Pricing Supplement and more fully described in Condition 7.2;
- 1.33 “**Global Certificate**” means the single Certificate, without interest coupons, registered in the name of the CSD’s Nominee and representing those Notes issued in terms of the Terms and Conditions which are lodged and immobilised in the CSD other than those Notes represented by the Individual Certificates. A Global Certificate may be replaced by the issue of uncertificated securities in terms of Section 37 of the Securities Services Act;
- 1.34 “**Group of Noteholders**” means the holders of a Series of Notes or, where appropriate, the holders of different Series of Notes;
- 1.35 “**Independent Investment Bank**” means the independent investment bank or financial institution of international repute selected and appointed by the Issuer (at the Issuer’s expense) for the purposes of performing one or more of the functions expressed to be performed by it under these Conditions;
- 1.36 “**Individual Certificate**” means, in respect of Registered Notes, a Note in the definitive registered form of a single Certificate and, in respect of Registered Notes which are listed, being a Certificate exchanged for a Beneficial Interest in the Notes represented by the Global Certificate in accordance with Condition 12 and any further Certificate issued in consequence of a transfer thereof;
- 1.37 “**Interest Amount**” means the amount of interest payable in respect of each Principal Amount of Fixed Rate Notes and Floating Rate Notes, as determined in accordance with Conditions 7.1 and 7.2, respectively;
- 1.38 “**Interest Commencement Date**” means the first date from which interest on the Notes will accrue, as specified in the Applicable Pricing Supplement;
- 1.39 “**Interest Payment Date**” means 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, the last day of the Interest Period commencing on the preceding Interest Payment Date, or, in the case of the first Interest Payment Date, commencing on the Interest Commencement Date;
- 1.40 “**Interest Period**” means 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;
- 1.41 “**Interest Rate**” means the rate or rates of interest applicable to Notes as indicated in the Applicable Pricing Supplement;
- 1.42 “**ISDA**” means the International Swaps and Derivatives Association, Inc;
- 1.43 “**ISDA Definitions**” means the ISDA Definitions as published by ISDA (as amended, supplemented, revised or republished from time to time) as specified in the Applicable Pricing Supplement;
- 1.44 “**ISIS**” means the mechanism set out in Condition 8;
- 1.45 “**ISIS Amount**” means the whole or any part of any Interest Amount the payment of which the Issuer has elected to settle using the ISIS in accordance with Condition 8;
- 1.46 “**ISIS Business Day**” means a Business Day;

- 1.47 “**ISIS Calculation Agency Agreement**” means any agreement entered into or to be entered into between the Issuer and the ISIS Calculation Agent in respect of the appointment of the ISIS Calculation Agent to perform the functions expressed to be performed by the ISIS Calculation Agent under these Conditions;
- 1.48 “**ISIS Calculation Agent**” means the Independent Investment Bank appointed on the terms of an ISIS Calculation Agency Agreement, selected by the Issuer, but acting for and on behalf of the Noteholders, for the purposes of performing the functions expressed to be performed by it under these Conditions;
- 1.49 “**Issue Date**” has the meaning given in the Applicable Pricing Supplement;
- 1.50 “**Issuer**” means FirstRand Bank Limited (Registration Number 1929/001225/06);
- 1.51 “**Junior Securities**” means the Ordinary Shares or any other share capital of the Issuer or any other member of the FirstRand Group or any other securities of the Issuer or any other member of the FirstRand Group the proceeds of which qualify as Primary Share Capital ranking or expressed to rank junior to the Notes either issued directly by the Issuer or, where issued by a member of the FirstRand Group, where the terms of the securities benefit from a guarantee or support agreement entered into by the Issuer or any other member of the FirstRand Group which ranks or is expressed to rank junior to the Notes;
- 1.52 “**Last Day to Register**” means, 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 Transfer Secretary 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;
- 1.53 “**Liabilities**” means the total amount of the non consolidated gross liabilities of the Issuer as shown in the latest published audited non consolidated balance sheet of the Issuer, but adjusted for contingencies and subsequent events in such manner as the directors of the Issuer, the auditors of the Issuer or a liquidator or administrator of the Issuer (if applicable) may determine;
- 1.54 “**Make Whole Redemption Price**” has the meaning given thereto in the Applicable Pricing Supplement;
- 1.55 “**Mandatory Preference Shares**” means any class of preference shares (i) the terms of which do not allow the relevant issuer’s board of directors to cancel, defer, pass or eliminate any distribution or dividend payment at its discretion and (ii) which are not treated on issue by the Registrar of Banks for inclusion in the Eligible Capital of the relevant issuer;
- 1.56 “**Market Disruption Event**” means the occurrence or existence of any of the following events or sets of circumstances:
- 1.56.1 the trading in the Ultimate Parent Company’s ordinary shares or securities generally on any internationally recognised exchange on which the securities issued by the Issuer or any member of the FirstRand Group are traded has been suspended or the settlement of such trading generally shall have been materially disrupted;
 - 1.56.2 a general moratorium shall have been declared on commercial banking activities or securities settlement systems in South Africa, the United States or the United Kingdom; or
 - 1.56.3 there shall have occurred an outbreak or escalation of hostilities, any terrorist attacks or calamity or crisis, or any change or development involving or likely to involve a prospective change in national or international financial, political or economic conditions in any country,

which in any such case prevents, or to a material extent restricts, the ability of the Issuer to utilise the ISIS for the purpose referred to in Condition 8;

- 1.57 “**NACA**” means nominal annual compounded annually;
- 1.58 “**NACM**” means nominal annual compounded monthly;
- 1.59 “**NACQ**” means nominal annual compounded quarterly;
- 1.60 “**NACS**” means nominal annual compounded semi-annually;
- 1.61 “**Nominal Amount**” means, in relation to any Note, the total amount, excluding interest and any adjustments on account of any formula, owing by the Issuer under the Note;
- 1.62 “**Non-Redeemable Non-Cumulative Preference Shares**” means non-redeemable non-cumulative preference shares in the issued share capital of the Issuer;
- 1.63 “**Noteholders**” means the holders of the Registered Notes (as recorded in the Register);
- 1.64 “**Noteholders’ Exchange Right**” means, if indicated as applicable in the Applicable Pricing Supplement, the right of Noteholders of Exchangeable Notes to elect to receive delivery of the Exchange Securities in lieu of cash from the Issuer upon redemption of such Notes;
- 1.65 “**Notes**” means the notes issued or to be issued by the Issuer under the Programme and represented by a Certificate or uncertificated Notes;
- 1.66 “**Optional Redemption Amount**” means, in respect of any Note, its principal amount or such other amount as may be specified in, or determined in accordance with, the Applicable Pricing Supplement;
- 1.67 “**Ordinary Shares**” means ordinary shares in the issued share capital of the Issuer having on the Issue Date a par value of ZAR2 each;
- 1.68 “**Outstanding**” means in relation to the Notes, all the Notes issued other than:
- 1.68.1 those which have been redeemed in full;
- 1.68.2 those in respect of which the date for redemption in accordance with the Terms and Conditions has occurred and the redemption moneys wherefor (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 Certificates;
- 1.68.3 those which have been purchased and cancelled as provided in Condition 10;
- 1.68.4 those which have become prescribed under Condition 16;
- 1.68.5 Notes represented by those mutilated or defaced Certificates which have been surrendered in exchange for replacement Certificates pursuant to Condition 12;
- 1.68.6 (for the purpose only of determining how many Notes are Outstanding and without prejudice to their status for any other purpose) those Notes represented by Certificates alleged to have been lost, stolen or destroyed and in respect of which replacement Certificates have been issued pursuant to Condition 12,
- provided that for each of the following purposes, namely:
- 1.68.7 the right to attend and vote at any meeting of the Noteholders; and
- 1.68.8 the determination of how many and which Notes are for the time being Outstanding for the purposes of Conditions 19 and 20,
- all:
- 1.68.9 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 shall (unless and until ceasing to be so held);

1.68.10 Receipts and Coupons,

shall be deemed not to be Outstanding;

- 1.69 “**Parity Securities**” means Non-Redeemable Non-Cumulative Preference Shares qualifying as Primary Share Capital from time to time outstanding or any other securities issued by the Issuer or any other member of the FirstRand Group ranking or expressed to rank equally as to payments with Non-Redeemable Non-Cumulative Preference Shares and the proceeds from which qualify as Primary Share Capital or any securities issued by a member of the FirstRand Group that benefit from a guarantee or support agreement from the Issuer or any other member of the FirstRand Group which ranks or is expressed to rank equally as to payments with the Notes and the proceeds from the issue of which securities qualify as Primary Share Capital;
- 1.70 “**Participants**” means depository institutions accepted by the CSD as participants in terms of the Securities Services Act;
- 1.71 “**Paying Agent**” means FirstRand Bank Limited, acting through its Rand Merchant Bank Division, 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;
- 1.72 “**Payment Day**” means any day which is a Business Day and upon which a payment is due by the Issuer in respect of the Notes;
- 1.73 “**Primary Share Capital**” means “*primary share capital*” as defined in the Banks Act;
- 1.74 “**Programme**” means the Domestic Medium Term Note Programme under which the Issuer may from time to time issue Notes;
- 1.75 “**Rate of Interest**” means the rate or rates (expressed as a percentage per annum) of interest payable in respect of the Notes specified in the Applicable Pricing Supplement or calculated or determined in accordance with the provisions of these Conditions and/or the Applicable Pricing Supplement;
- 1.76 “**Redemption Amount**” means, as appropriate, the Early Redemption Amount (Regulatory), the Early Redemption Amount (Tax), the Optional Redemption Amount or such other amount in the nature of a redemption amount as may be specified in, or determined in accordance with the provisions of, the Applicable Pricing Supplement;
- 1.77 “**Reference Banks**” means four leading banks in the South African inter-bank market selected by the Calculation Agent.
- 1.78 “**Reference Price**” means the reference price as set out in the Applicable Pricing Supplement;
- 1.79 “**Register**” means the register maintained by the Issuer in terms of Condition 13;
- 1.80 “**Registered Note**” means a Note issued in registered form and transferable in accordance with Condition 14.1;
- 1.81 “**Regulations Relating to Banks**” means the Regulations Relating to Banks published under Government Notice R3 in Government Gazette 30629 of 1 January 2008, issued under Section 90 of the Banks Act;
- 1.82 “**Regulatory Change**” means a change in, or amendment to, the Capital Regulations or any change in the application of or official or generally published guidance or interpretation of the Capital Regulations, which change or amendment becomes, or would become, effective on or after the Issue Date;
- 1.83 “**Regulatory Event**” means an event which is deemed to have occurred if the proceeds of the issue of the Notes would, as a result of a Regulatory Change, no

longer be eligible to qualify (save where such non-qualification is only as a result of any applicable limitation on the amount of such capital) for inclusion in the Primary Share Capital of the Issuer and the Controlling Company on a solo and/or consolidated basis;

- 1.84 “**Registrar of Banks**” means the Registrar of Banks in accordance with the Banks Act;
- 1.85 “**Relevant Date**” means in respect of any payment relating to the Notes, the date on which such payment first becomes due, except that, in relation to monies payable to the CSD in accordance with these Terms and Conditions, it means the first date on which (i) the full amount of such monies have been received by the CSD, (ii) such monies are available for payment to the holders of Beneficial Interests and (iii) notice to that effect has been duly given to such holders in accordance with the Applicable Procedures;
- 1.86 “**Representative**” means a person duly authorised to act on behalf of a Noteholder, the Transfer Secretary and the Paying Agent who may be regarded by the Issuer (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;
- 1.87 “**Secondary Capital**” means “*secondary capital*” as defined in the Banks Act;
- 1.88 “**Securities Services Act**” means the Securities Services Act, 2004, as amended;
- 1.89 “**Senior Creditors**” means:
- 1.89.1 creditors of the Issuer who are unsubordinated creditors of the Issuer;
or
- 1.89.2 creditors of the Issuer whose claims are, or are expressed to be, subordinated to the claims of other creditors, whether subordinated or unsubordinated, of the Issuer other than those whose claims rank, or are expressed to rank, *pari passu* with, or junior to, the claims of the Noteholders;
- 1.90 “**Series**” means a Tranche of Notes together with any further Tranche or Tranches of Notes which are:
- 1.90.1 expressed to be consolidated and form a single series;
- 1.90.2 identical in all respects (including as to listing) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices;
- 1.91 “**Settlement Agent**” means a Participant, approved by BESA in terms of the rules of BESA to perform electronic settlement of both funds and scrip on behalf of market participants;
- 1.92 “**Solvent Reconstruction**” means the event where an order is made or an effective resolution is passed for the winding-up or administration of the Issuer, other than under or in connection with a scheme of amalgamation or reconstruction not involving a bankruptcy or insolvency where the obligations of the Issuer in relation to the outstanding Notes are assumed by the successor entity to which all, or substantially all, of the property, assets and undertaking of the Issuer are transferred or where an arrangement with similar effect not involving bankruptcy or insolvency is implemented;
- 1.93 “**Subordinated Debt**” means, any subordinated debt issued by the Issuer, the proceeds of which subordinated debt qualify as Secondary Capital or Tertiary Capital of the Issuer;
- 1.94 “**Subsidiary**” means, in relation to any Person (the “**first Person**”) at any particular time, any other Person (the “**second Person**”) whose affairs and policies the first Person controls or has the power to control, whether by ownership of share capital,

contract, the power to appoint or remove members of the governing body of the second Person or otherwise;

- 1.95 “**Tax Event**” means an event where, (a) as a result of a Tax Law Change, (i) the Issuer has paid or will or would on the next Interest Payment Date be required to pay additional amounts as provided or referred to in Condition 11; or (ii) in respect of the Issuer’s obligation to make any payment of interest on the next following Interest Payment Date or any subsequent Interest Payment Date, the Issuer would not be entitled to claim a deduction in respect of computing its taxation liabilities in South Africa, or such entitlement is materially reduced, or (b) other than as a result of a Tax Law Change, the Issuer’s treatment of the interest payable by it on the Notes as a tax deductible expense for South African income tax purposes as reflected on the tax returns (including provisional tax returns) filed (or to be filed) by the Issuer is not accepted by the South African Revenue Service, and in each case the Issuer cannot avoid the foregoing in connection with the Notes by taking measures reasonably available to it (such reasonable measures to exclude any requirement to instigate litigation in respect of any decision or determination of the South African Revenue Service that any such interest does not constitute a tax deductible expense);
- 1.96 “**Tax Law Change**” means a change in or proposed change in, or amendment or proposed amendment to, the laws or regulations of South Africa, 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 (including a holding by a court of competent jurisdiction), whether or not having retrospective effect, which change or amendment is announced on or after the Issue Date;
- 1.97 “**Terms and Conditions**” means the terms and conditions incorporated in this section headed “*Terms and Conditions of the Tier 1 Notes*” and in accordance with which the Notes will be issued;
- 1.98 “**Tertiary Capital**” means “*tertiary capital*” as defined in the Banks Act;
- 1.99 “**Tranche**” means, in relation to any particular Series, all Notes which are identical in all respects (including as to listing);
- 1.100 “**Transfer Secretary**” means FirstRand Bank Limited, acting through its Rand Merchant Bank Division, unless the Issuer elects to appoint another entity as Transfer Secretary in accordance with the Agency Agreement, in which event that other entity shall act as an Transfer Secretary in respect of the Notes;
- 1.101 “**Transfer Form**” means the written form for the transfer of a Registered Note, in the form approved by the Transfer Secretary, and signed by the transferor and transferee;
- 1.102 “**Ultimate Parent Company**” means FirstRand Limited;
- 1.103 “**Undated Secondary Capital**” means the proceeds of the issue of hybrid-debt instruments that combine features of equity instruments and debt instruments contemplated in Section 1(1) of the Banks Act which proceeds are intended, upon issue of such hybrid-debt instruments, to qualify as Secondary Capital in accordance with the Undated Tier 2 Capital Regulations;
- 1.104 “**Undated Tier 2 Capital Regulations**” means Regulation 38(14)(a) of the Regulations Relating to Banks and/or such other provisions of the Capital Regulations with which Undated Tier 2 Notes must comply in order for the proceeds of the issue of such Notes to qualify as Secondary Capital;
- 1.105 “**Undated Tier 2 Notes**” means Notes specified as such in the Applicable Pricing Supplement and complying with the Undated Tier 2 Capital Regulations;
- 1.106 “**Wholly Owned Subsidiary**” means a wholly owned subsidiary as defined in Section 1(5) of the Companies Act;
- 1.107 “**ZAR**” means the lawful currency of the Republic of South Africa, being South African Rand, or any successor currency; and

- 1.108 “**ZAR-JIBAR-SAFEX**” means 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 11:00, Johannesburg time on the relevant date.

2. **ISSUE**

- 2.1 Subject to the prior consent of the Registrar of Banks (to the extent required), Tier 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 knowledge 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 herein 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 registered office of the Issuer.

3. **FORM AND DENOMINATION**

3.1 **General**

- 3.1.1 Listed Notes issued in registered form will be issued in the form of a Global Certificate, which will be deposited with and registered in the name of, and for the account of the CSD’s Nominee. An owner of a Beneficial Interest in the Notes represented by the Global Certificate shall be entitled to exchange such Beneficial Interest for an Individual Certificate in accordance with Condition 12.
- 3.1.2 All payments in relation to the Notes will be made in the Specified Currency.
- 3.1.3 Each Note shall be a Subordinated Note, as indicated in the Applicable Pricing Supplement.
- 3.1.4 Each Note may be a Fixed Rate Note, a Floating Rate Note or a combination of any of the foregoing or such other types of Note as may be determined by the Issuer, as indicated in the Applicable Pricing Supplement.
- 3.1.5 Notes will be issued in such denominations as may be determined by the Issuer and as indicated in the Applicable Pricing Supplement. Listed and/or unlisted Notes may be issued under the Programme. Notes which were not originally issued under this Programme may (provided they are amended to be documented in terms of the Programme) be listed under the Programme.

3.2 **Registered Notes**

Each Tranche of Registered Notes listed on BESA will be issued in the form of a Global Certificate, which will be deposited with and registered in the name of, and for the account of the CSD’s Nominee. An owner of a Beneficial Interest in the Notes represented by the Global Certificate shall be entitled to exchange such Beneficial Interest for an Individual Certificate in accordance with Condition 12.

4. **TITLE**

4.1 **Registered Notes**

- 4.1.1 Subject to the provisions set out below, title to the Registered Notes will pass upon registration of transfer in the Register.

- 4.1.2 The Issuer may deem and treat the person reflected in the Register as the holder of any Note as the absolute owner of the Note (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 but, in the case of any Global Certificate, without prejudice to the provisions set out in the next succeeding paragraph.
- 4.1.3 For so long as any of the Notes are represented by a Global Certificate registered in the name of, and held by the CSD's Nominee, each holder of a Beneficial Interest (in which regard any certificate or other document issued by a Participant, as to the nominal amount of such Beneficial Interest in Notes standing to the account of any person shall be prima facie proof of such Beneficial Interest), shall be treated by the Issuer as the Noteholder of such nominal amount of such Notes (represented by such Beneficial Interest) for all purposes, other than with respect to the payment of principal or interest on the Notes. For the purposes of the payment of principal or interest on the Notes, the registered holder of the Notes reflected in the Register shall be treated by the Issuer as the holder of such Notes in accordance with and subject to these Conditions.
- 4.1.4 Should an Event of Default occur, then for the purposes of pursuing a remedy against the Issuer pursuant to Condition 16, the holder of a Beneficial Interest shall be deemed to be in the same position as a holder of an Individual Certificate whose name was entered in the Register.

5. STATUS

- 5.1 *Status of the Notes:* The Notes constitute direct, unsecured and, in accordance with Condition 5.2, subordinated obligations of the Issuer and rank *pari passu* without any preference among themselves. The Notes rank *pari passu* with all subordinated debt issued by the Issuer the proceeds of which qualify as Primary Share Capital and all Non-Redeemable Non-Cumulative Preference Shares issued by the Issuer the proceeds of which qualify as Primary Share Capital in accordance with the Capital Regulations and senior in respect of the rights and claims of the holders of Ordinary Shares.
- 5.2 *Subordination:* The claims of the Noteholders entitled to be paid amounts due in respect of the Notes (including amounts raised by way of the issuance of Ordinary Shares in accordance with Condition 8) are subordinated to the claims of Depositors, Senior Creditors and the holders of Subordinated Debt and, accordingly in the event of the dissolution of the Issuer or if the Issuer is placed into liquidation, administration or wound-up:
- 5.2.1 no Noteholder shall be entitled to prove or tender to prove a claim in respect of the Notes;
- 5.2.2 no amount due under the Notes shall be eligible for set-off, counterclaim, abatement or other similar remedy which a Noteholder might otherwise have under the laws of any jurisdiction in respect of the Notes nor shall any amount due under the Notes be payable to any Noteholder; and
- 5.2.3 subject to applicable law, a Noteholder may not exercise or claim any right of set-off in respect of any amount in respect of the principal of and/or interest on the Notes owed to it by the Issuer and each Noteholder shall, by virtue of its subscription, purchase or holding of any Notes, be deemed to have waived all such rights of set-off and, to the extent that any set-off takes place, whether by operation of law or otherwise, between: (aa) any amount in respect of the principal and/or interest on the Notes owed by the Issuer to a Noteholder; and (bb) any amount owed to the Issuer by such Noteholder, such Noteholder will immediately transfer such amount which is set-off to the Issuer or, in the event of its winding-up or administration (as the case may be), the liquidator, administrator or other relevant insolvency official of the Issuer, to hold in trust for the Depositors, the Senior Creditors and the holders of Subordinated Debt,

until the claims of Depositors, Senior Creditors and the holders of Subordinated Debt which are admissible in any such dissolution, insolvency, administration or winding-up have been paid or discharged in full.

5.3 **Solvency Condition:**

Payments in respect of the principal of and interest on the Notes (including payment of additional amounts pursuant to Condition 12 are, in addition to the right of the Issuer to elect not to pay interest in accordance with Condition 6, conditional upon the Issuer being solvent at the time of payment by the Issuer, and, no principal of or interest on the Notes (including amounts raised by way of the issuance of Ordinary Shares in accordance with Condition 8) shall be due and payable in respect of the Notes except to the extent that the Issuer could make such payment and still be solvent immediately thereafter. For the purposes of this Condition 5, the Issuer shall be solvent if (1) it is able to pay its debts owed to Depositors, Senior Creditors and the holders of Subordinated Debt as they fall due and (2) its Assets exceed its Liabilities to Depositors, Senior Creditors and the holders of Subordinated Debt (the “**Solvency Condition**”). A report as to the solvency of the Issuer made by two directors of the Issuer or, if the Issuer is in winding-up, its liquidator or, if in administration, its administrator shall, in the absence of manifest error, be treated and accepted by the Issuer and the Noteholders as correct and sufficient evidence of such solvency.

5.4 **Solvency Claims**

Amounts representing any payments of principal in respect of which the Solvency Condition is not satisfied on the date upon which the same would otherwise be due and payable (“**Solvency Claims**”) will be payable by the Issuer (i) in a winding-up or administration of the Issuer and (ii) subject to satisfying the Solvency Condition, on any redemption pursuant to Condition 10.2, Condition 10.3, Condition 10.4 provided that in the event that, prior to any winding-up or administration of the Issuer, the Issuer shall again be solvent and would be solvent immediately after the making of such payment of Solvency Claims, then the Issuer shall promptly notify the Noteholders in accordance with Condition 18, the Registrar and the Transfer Secretary of such fact and the Solvency Claims shall, subject to satisfying the Solvency Condition, be due and payable on the 16th Business Day after the Issuer shall have given such notice. A Solvency Claim shall not bear interest unless and only so long as the Issuer shall be solvent once again, in which case interest shall accrue on any such Solvency Claim from (and including) the date on which the Issuer is so solvent again to (but excluding) the date on which such Solvency Claim is paid. Any such interest shall accrue at a rate equal to the then applicable Rate of Interest determined in accordance with Condition 7.1 or Condition 7.2. In the event that the Issuer shall be so solvent once again, the Issuer may not declare or pay a dividend (in accordance with Condition 6.3) from the date that the Issuer is so solvent again until the date on which the Solvency Claim and any relevant interest on the Solvency Claim is paid.

For the avoidance of doubt, if the Issuer would otherwise not be solvent for the purposes of the above, any sums which would otherwise be payable in respect of the Notes will be available to be put towards the losses of the Issuer.

5.5 **Capital Regulations and Additional Conditions**

In order for the proceeds of the issuance of the Notes to qualify as Primary Share Capital, the Notes must comply with the applicable Capital Regulations, including the Additional Conditions (if any) prescribed by the Registrar of Banks in respect of a particular Tranche of Notes. The Additional Conditions (if any) prescribed by the Registrar of Banks in respect of the Notes will be specified in the Applicable Pricing Supplement or a supplement to the Programme Memorandum.

6. **INTEREST PAYMENTS ON THE NOTES**

6.1 *Non payment of interest:* Interest payments on the Notes will not be cumulative. The Issuer shall be obliged to pay interest on each Interest Payment Date unless:

6.1.1 subject to Condition 6.2 below, it elects not to pay the relevant Interest Amount on such Interest Payment Date and it notifies the Noteholders on or

prior to such Interest Payment Date of such election in accordance with Condition 18;

- 6.1.2 it is in breach of either of the Capital Regulations or the Solvency Condition on the Business Day prior to such Interest Payment Date or would be in breach of the Capital Regulations or the Solvency Condition if the relevant Interest Amount were paid on such Interest Payment Date; or
- 6.1.3 at any time the Registrar of Banks imposes a mandatory prohibition on the payment by the Issuer of such Interest Amount.

If the Issuer is not obliged to pay the relevant Interest Amount in respect of an Interest Period in accordance with this Condition 6.1 then any such failure to pay such Interest Amount shall not constitute a default by the Issuer or any other breach of obligations under the Notes or for any other purpose and a Noteholder will have no claim in respect of any such non-payment.

- 6.2 *Compulsory payment of interest:* On any Interest Payment Date on which (i) a Regulatory Event has occurred and is continuing, (ii) the Issuer is in compliance with the Capital Regulations and the Solvency Condition and (iii) the Registrar of Banks has not imposed a mandatory prohibition on the payment of interest, the Issuer shall, subject to the Issuer's right to redeem the Notes pursuant to Condition 10.3, not be permitted to exercise its right under Condition 6.1.1 to elect not to pay any Interest Amount on an Interest Payment Date and shall be obliged to pay in respect of each Note the Interest Amount payable on such Interest Payment Date.
- 6.3 *Restrictions following non payment of interest:* If, on any Interest Payment Date (the "**Relevant Interest Payment Date**"), the Interest Amount in respect of the Notes shall not have been paid in full pursuant to Condition 6.1, then from such Relevant Interest Payment Date until the date on which the Issuer next pays in full the Interest Amount due and payable on any succeeding Interest Payment Date on all outstanding Notes, the Issuer shall not and it shall procure that no member of the FirstRand Group shall: (a) declare or pay a distribution or dividend or pay any interest on Junior Securities or Parity Securities (other than Mandatory Preference Shares or a final dividend declared by the Ultimate Parent Company before such Relevant Interest Payment Date, or intra-group dividends between wholly-owned FirstRand Group Subsidiaries and to FirstRand Group holding companies, which can be paid at any time); or (b) redeem, purchase, reduce or otherwise acquire any Junior Securities or Parity Securities or any securities of any of its Subsidiary undertakings benefiting from a guarantee from any member of the FirstRand Group ranking, as to the right of repayment of principal, or in the case of any such guarantee, as to the payment of sums under such guarantee, *pari passu* with or junior to the Notes.

7. INTEREST PROVISIONS

7.1 Interest on Fixed Rate Notes

Unless otherwise specified in the Applicable Pricing Supplement, six monthly interest on Fixed Rate Notes is payable in arrear on the Fixed Interest Payment Dates, subject to Condition 5 and 9.

Each Fixed Rate Note bears interest on its Nominal Amount (or, if it is a Partly Paid Note, the amount paid up) from (and including) the Interest Commencement Date at the rate(s) per annum equal to the Fixed Rate of Interest. Such interest shall fall due for payment in arrears on the Fixed Interest Payment Date(s) in each year and on the date of early redemption in accordance with Condition 10, if such date does not fall on a Fixed Interest Payment Date. The first payment of interest will be made on the Fixed Interest Payment Date next following the Interest Commencement Date.

Unless otherwise specified, the amount of interest payable per Note in respect of each Interest Period shall be calculated by multiplying the applicable Fixed Rate of Interest by the Nominal Amount of such Note amount (or, if it is a Partly Paid Note, the amount paid up) and the product thereof divided by 2, provided that:

7.1.1 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

7.1.2 if a Final Broken Amount is specified in the Applicable Pricing Supplement, then the final Interest Amount shall equal the Final Broken Amount.

Save as provided above, if interest is required to be calculated for a period other than a full Interest Period, such interest shall be calculated on the basis of the actual number of days elapsed, divided by 365 (and for the purposes of the foregoing, leap years shall be disregarded).

7.2 Interest on Floating Rate Notes

General

Floating Rate Notes will bear interest on such basis as indicated in the Applicable Pricing Supplement which shall either be (i) on such basis of a reference rate appearing on the agreed screen page of a commercial quotation service, or (ii) on such other basis as may be set out in the Applicable Pricing Supplement.

Interest Payment Dates

Each Floating Rate Note bears interest on its Nominal 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) in each year specified in the Applicable Pricing Supplement and on the date of early redemption in accordance with Condition 10, if such date does not fall on a Floating Interest Payment Date.

Rate of Interest

The Rate of Interest payable from time to time in respect of the Floating Rate Notes will be determined in the manner specified in the Applicable Pricing Supplement.

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 amount of interest payable in respect of each Note (each an “**Interest Amount**”) for the relevant Interest Period, and the Calculation Agent shall notify the Issuer 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 Nominal Amount of the Note, multiplying such sum by the applicable Day Count Fraction and rounding the resultant figure to the nearest cent, half a cent being rounded upwards.

Interest Determination, Screen Rate Determination including Fallback Provisions

Where Screen Rate 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 either:

- (a) if the Relevant Screen Page is available,
 - (i) the offered quotation (if only one quotation appears on the screen page); or
 - (ii) the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the offered quotations,

(expressed as a percentage per annum) for the Reference Rate which appears on the Relevant Screen Page as at 11.00 a.m. (or as otherwise specified in the Applicable Pricing Supplement) (Johannesburg time) on the Interest Determination Date in question plus or minus (as indicated in the Applicable Pricing Supplement) the Margin (if any), all as determined by the Calculation Agent. If five or more such offered quotations are available on the Relevant Screen Page, the highest (or, if there is more than one such highest quotation, one only of such quotations) and the lowest (or, if there is more than one such lowest quotation, one only of such quotations) shall be disregarded by the Calculation Agent for the purpose of determining the arithmetic mean (rounded as provided above) of such offered quotations; or

- (b) if the Relevant Screen Page is not available or if, in the case of (i) above, no such offered quotation appears or, in the case of (ii) above, fewer than three such offered quotations appear, in each case as at the time specified in the preceding paragraph, the Calculation Agent shall request the principal Johannesburg office of each of the Reference Banks (as defined below) to provide the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate at approximately 11.00 a.m. (Johannesburg time) on the Interest Determination Date in question. If two or more of the Reference Banks provide the Calculation Agent with such offered quotations, the Rate of Interest for such Interest Period shall be the arithmetic mean (rounded if necessary to the fifth decimal place with 0.000005 being rounded upwards) of such offered quotations plus or minus (as appropriate) the Margin (if any), all as determined by the Calculation Agent; or
- (c) if the Rate of Interest cannot be determined by applying the provisions of (a) and (b) above, the Rate of Interest for the relevant Interest Period shall be the rate per annum which the Calculation Agent determines as being the arithmetic mean (rounded if necessary to the fifth decimal place, with 0.000005 being rounded upwards) of the rates, as communicated to (and at the request of) the Calculation Agent by the Reference Banks or any two or more of them, at which such banks offered, at approximately 11.00 a.m. (Johannesburg time) on the relevant Interest Determination Date, deposits in an amount approximately equal to the nominal amount of the Notes of the relevant Series, for a period equal to that which would have been used for the Reference Rate to prime banks in the Johannesburg inter-bank market plus or minus (as appropriate) the Margin (if any). If fewer than two of the Reference Banks provide the Calculation Agent with such offered rates, the Rate of Interest for the relevant Interest Period will be determined by the Calculation Agent as the arithmetic mean (rounded as provided above) of the rates for deposits in an amount approximately equal to the nominal amount of the Notes of the relevant Series, for a period equal to that which would have been used for the Reference Rate, quoted at approximately 11.00 a.m. (Johannesburg time) on the relevant Interest Determination Date, by the Reference Banks plus or minus (as appropriate) the Margin (if any). If the Rate of Interest cannot be determined in accordance with the foregoing provisions of this paragraph, the Rate of Interest shall be determined as at the last preceding Interest Determination Date (though substituting, where a different Margin is to be applied to the relevant Interest Period from that which applied to the last preceding Interest Period, the Margin relating to the relevant Interest Period, in place of the Margin relating to that last preceding Interest Period).

If the Reference Rate from time to time in respect of Floating Rate Notes is specified in the Applicable Pricing Supplement as being other than ZAR-JIBAR-SAFEX, the Rate of Interest in respect of such Notes will be determined as provided in the Applicable Pricing Supplement.

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 most recent 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 either: (i) if the applicable Floating Rate Option is based on ZAR-JIBAR-SAFEX on the first day of that Interest Period; or (ii) in any other case, as specified in the Applicable Pricing Supplement.

For the purposes of the above sub-paragraph “**Floating Rate**”, “**Floating Rate Option**”, “**Designated Maturity**” and “**Reset Date**” have the meanings given to those terms in the ISDA Definitions specified in the Applicable Pricing Supplement.

Notification of Rate of Interest and Interest Amount

The Issuer will cause the Rate of Interest and each Interest Amount for each Interest Period and the relevant Interest Payment Date to be notified to BESA and the CSD as soon as possible after their determination but in any event no 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 BESA, the CSD and to the Noteholders in accordance with Condition 18.

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 9.2, by the Calculation Agent shall (in the absence of wilful deceit, bad faith or manifest error) be binding on the Issuer and all Noteholders and in the absence as aforesaid no liability to the Issuer or the Noteholders shall attach to the Calculation Agent in connection with the exercise or non-exercise by it of its powers, duties and discretions pursuant to such provisions.

7.3 **Accrual of Interest**

Each Note (or in the case of the redemption of part only of a Note, that part only of such Note) will cease to bear interest (if any) 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 Default Rate specified in the Applicable Pricing Supplement until the date on which all amounts due in respect of such Note have been paid, or, in respect of Notes evidenced by a Global Certificate, the date on which the full amount of the moneys payable has been received by the CSD and notice to that effect has been given to Noteholders in accordance with Condition 18.

7.4 **Business Day Convention**

If any Interest Payment Date (or other date) which is specified in the Applicable Pricing Supplement to be subject to adjustment in accordance with a Business Day Convention would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:

- (a) the “**Floating Rate 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: (i) such Interest Payment Date (or other date) shall be brought forward to the first preceding Business Day and (ii) each subsequent Interest Payment Date

(or other date) shall be the last Business Day in the month which falls 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 first preceding Business Day; or
- (d) the “**Preceding Business Day Convention**”, such Interest Payment Date (or other date) shall be brought forward to the first preceding Business Day.

8. INTEREST SATISFIED VIA ISSUE OF SHARES MECHANISM

- 8.1 *Interest Satisfied via Issue of Shares Mechanism (ISIS)*: The Issuer may elect (an “**ISIS Election**”) to satisfy the payment of any Interest Amount in full or in part through the operation of the ISIS in accordance with this Condition 8. In the absence of, or save to the extent of, an ISIS Election, payments must, subject to Conditions 6.1.2 and 6.1.3 be satisfied in accordance with Condition 9.

Each ISIS Amount when due to be satisfied in accordance with these Conditions, will be satisfied by the Issuer only through the issue of Ordinary Shares in accordance with this Condition 8. The Issuer shall appoint an ISIS Calculation Agent (if it has not already done so) and notify the Ultimate Parent Company, the Registrar, the Transfer Secretary and the ISIS Calculation Agent not less than 30 days prior to the relevant Interest Payment Date that it shall endeavour to satisfy an Interest Amount through the ISIS.

The payment of any relevant ISIS Amount will only be made by operation of the ISIS to the extent the proceeds raised in connection with the issue of the Payment Ordinary Shares (as defined below) are received no more than six months before the relevant Interest Payment Date.

- 8.2 *Issue of Ordinary Shares*: If the payment of any ISIS Amount is to be satisfied through the issue of Ordinary Shares in accordance with the provisions of this Condition 8 then:

8.2.1 the ISIS Calculation Agent will determine the number of Ordinary Shares (the “**Payment Ordinary Shares**”) that will have a market value as near as practicable to, but not less than, the relevant ISIS Amount to be satisfied in accordance with this Condition 8;

8.2.2 the ISIS Calculation Agent shall be required to agree in the ISIS Calculation Agency Agreement to use reasonable endeavours to procure subscribers for any Payment Ordinary Shares and the ISIS Calculation Agency Agreement shall also provide that the Ultimate Parent Company or its nominee shall have first option to subscribe for such Payment Ordinary Shares and the Issuer shall procure that the ISIS Calculation Agent does use such reasonable endeavours; and

8.2.3 by or before the close of business on the seventh ISIS Business Day prior to the relevant Interest Payment Date the Issuer will allot and issue to the subscribers procured by the ISIS Calculation Agent such number of Payment Ordinary Shares for which the ISIS Calculation Agent has procured subscribers for and the ISIS Calculation Agent shall receive the cash proceeds of the subscription for such Payment Ordinary Shares from the relevant subscribers. The ISIS Calculation Agent shall further be required to agree in the ISIS Calculation Agency Agreement to convert the proceeds of such sale, allotment and issue into the Specified Currency, if necessary, at prevailing market exchange rates and to pay such proceeds as it holds in respect of the relevant ISIS Amount on its due date to the Transfer Secretary for the purpose of paying such proceeds to the Noteholders.

If the Issuer is unable to raise the necessary amounts through the operation of the ISIS to satisfy the payment in full of the relevant ISIS Amount on the relevant Interest Payment Date for any reason (including, but not limited to, the occurrence of a Market Disruption Event) then the Issuer shall make payment to Noteholders on a pro rata basis of an amount raised through operation of the ISIS on the relevant Interest Payment Date.

In respect of any Interest Amount due on the relevant Interest Payment Date which cannot be satisfied by payment of the ISIS Amount (the “**Shortfall Interest Amount**”) then, provided that the Issuer is not required to pay such Shortfall Interest Amount in accordance with Condition 6.2, the Issuer may elect not to pay such Shortfall Interest Amount in accordance with Condition 6.1.1.

The Issuer shall notify the Noteholders in accordance with Condition 18 (which notice shall be irrevocable) that the Issuer is not obliged to pay such Shortfall Interest Amount. Any such failure to pay such Shortfall Interest Amount shall not constitute a default of the Issuer or any other breach of obligations under the Notes or for any other purpose and a Noteholder will have no claim in respect of any such non-payment.

9. PAYMENTS

9.1 Registered Notes

Payments of interest on an Individual Certificate shall be made to the registered holder of such Note, as set forth in the Register on the close of business on the Last Date to Register (as specified in the Applicable Pricing Supplement). In addition to the above, in the case of a redemption payment, the holder of the Individual Certificate shall be required to surrender such Individual Certificate at the offices of the Transfer Secretary.

Payments of interest in respect of a Global Certificate will be made to the CSD, or such other registered holder of the Global Certificate, as shown in the Register on the Last Date to Register and the Issuer will be discharged by proper payment to the registered holder of the Global Certificate in respect of each amount so paid. Each of the persons shown in the records of the CSD and the Participants, as the case may be, shall look solely to the CSD or the Participant, as the case may be, for his share of each payment so made by the Issuer to the registered holder of such Global Certificate(s).

9.2 Method of Payment

Payments will be made by credit or transfer, by means of electronic settlement, to the Noteholder.

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 payment by cheque (or by such number of cheques as may be required in accordance with applicable banking law and practice) to make payment of any such amounts. Such payments by cheque shall be sent by post to the address of the Noteholder of Registered Notes as set forth in the Register or, in the case of joint Noteholders of Registered Notes, the address set forth in the Register of that one of them who is first named in the Register in respect of that Note.

Each such cheque shall be made payable to the relevant Noteholder or, in the case of joint Noteholders of Registered Notes, the first one of them named in the Register. Cheques may be posted by ordinary post, provided that neither the Issuer nor the Paying Agent shall be responsible for any loss in transmission and the postal authorities shall be deemed to be the agent of the Noteholders for the purposes of all cheques posted in terms of this Condition 9.2.

In the case of joint Noteholders of Registered Notes payment by electronic funds transfer will be made to the account of the Noteholder first named in the Register.

Payment by electronic transfer to the Noteholder first named in the Register shall discharge the Issuer of its relevant payment obligations under the Notes.

Payments will be subject in all cases to any fiscal or other laws, directives and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 11.

9.3 **Payment Day**

If the date for payment of any amount in respect of any Note is not a Business Day, the holder thereof shall not be entitled to payment until the next following Business Day in the relevant place and shall not be entitled to further interest or other payment in respect of such delay.

9.4 **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:

- 9.4.1 any additional amounts which may be payable with respect to principal under Condition 11;
- 9.4.2 the Early Redemption Amount (Tax) or Early Redemption Amount (Regulatory) of the Notes, as the case may be;
- 9.4.3 the Optional Redemption Amount(s) (if any) of the Notes;
- 9.4.4 any premium and any other amounts which may be payable by the Issuer under or in respect of the Notes, but excluding for the avoidance of doubt, interest.

Any reference in these Terms and Conditions to interest in respect of the Notes shall be deemed to include, as applicable, any additional amounts which may be payable with respect to interest under Condition 11.

10. **REDEMPTION AND PURCHASE**

10.1 **No maturity date**

The Notes have no maturity date and are only redeemable or may only be redeemed, substituted, varied or purchased (subject to the provisions of Condition 5.3 and without prejudice to the provisions of Condition 16) on a winding-up or administration (other than pursuant to a Solvent Reconstruction) in accordance with the provisions of Condition 5.2 or the following provisions of this Condition 10.

10.2 **Redemption for Tax Reasons**

The Notes may, subject to the Solvency Condition and to Condition 10.5 be redeemed at the option of the Issuer in whole, but not in part, if a Tax Event occurs and is continuing:

- 10.2.1 at any time (if the Floating Rate Note Provisions are not specified in the relevant Applicable Pricing Supplement as being applicable or, if they are, such provisions are not applicable at the time of redemption); or
- 10.2.2 on any Interest Payment Date (if the Floating Rate Note Provisions are specified in the relevant Applicable Pricing Supplement as being applicable and are applicable at the time of redemption),

on giving not less than 30 nor more than 60 days notice to the Noteholders (which notice shall be irrevocable) in accordance with Condition 18 and to the Registrar and Transfer Secretary, at their Early Redemption Amount (Tax),

provided, however, that no such notice of redemption shall be given earlier than:

- 10.2.3 where the Notes may be redeemed at any time, 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts or would not be entitled (or such entitlement is materially reduced) to claim a deduction in respect of computing its taxation liabilities; or

10.2.4 where the Notes may be redeemed only on an Interest Payment Date, 60 days prior to the Interest Payment Date occurring immediately before the earliest date on which the Issuer would be obliged to pay such additional amounts or would not be entitled (or such entitlement is materially reduced) to claim a deduction in respect of computing its taxation liabilities.

10.3 **Redemption for regulatory reasons**

The Notes may, subject to the Solvency Condition and to the requirements of Condition 10.5, be redeemed at the option of the Issuer in whole, but not in part:

10.3.1 at any time (if the Floating Rate Note Provisions are not specified in the relevant Applicable Pricing Supplement as being applicable or, if they are, such provisions are not applicable at the time of redemption); or

10.3.2 on any Interest Payment Date (if the Floating Rate Note Provisions are specified in the relevant Applicable Pricing Supplement as being applicable and are applicable at the time of redemption),

on giving not less than 30 nor more than 60 days notice to the Noteholders (which notice shall be irrevocable) in accordance with Condition 18 and to the Registrar and the Transfer Secretary, at their Early Redemption Amount (Regulatory), together with interest accrued (if any) to the date fixed for redemption, if a Regulatory Event occurs and is continuing.

10.4 **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 may and subject to the Solvency Condition and the requirements of Condition 10.5, having given not less than 15 nor more than 30 days' irrevocable notice to the Noteholders in accordance with Condition 18, redeem all or some of the Notes then Outstanding on the first 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 must be of a Nominal Amount equal to the Minimum Redemption Amount or 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 ("**Redeemed Notes**") will be selected individually by lot, in the case of Redeemed Notes represented by Individual Certificates, and in accordance with the rules of CSD, the BESA Settlement Agents and BESA, in the case of Redeemed Notes represented by a Global Certificate, and in each case not more than 30 days prior to the date fixed for redemption (such date of selection being hereinafter called the "**Selection Date**").

In the case of Redeemed Notes represented by Individual Certificates, a list of the serial numbers of such Redeemed Notes will be published in accordance with Condition 18 not less than 15 days prior to the date fixed for redemption. The aggregate Nominal Amount of Redeemed Notes represented by Individual Certificates shall bear the same proportion to the aggregate Nominal Amount of all Redeemed Notes as the aggregate Nominal Amount of Individual Certificates outstanding bears to the aggregate Nominal Amount of the Notes outstanding, in each case on the Selection Date, provided that such first mentioned Nominal Amount shall, if necessary, be rounded downwards to the nearest integral multiple of the Specified Denomination and the aggregate Nominal Amount of Redeemed Notes represented by a Global Certificate shall be equal to the balance of the Redeemed Notes. No exchange of the relevant Global Certificate will be permitted during the period from and including the Selection Date to and including the date fixed for redemption pursuant to this sub-paragraph and notice to that effect shall be given by the Issuer to the Noteholders in accordance with Condition 18 at least five days prior to the Selection Date.

Holders of Redeemable Notes shall surrender the Individual Certificates, together with Receipts and Coupons, if any, representing the Notes in accordance with the provisions

of the notice given to them by the Issuer as contemplated above. Where only a portion of the Notes represented by such Individual Certificates, Receipts and Coupons are redeemed, the Transfer Secretary shall deliver new Individual Certificates, Receipts and Coupons to such Noteholders in respect of the balance of the Notes.

10.5 Conditions to Redemption

Notes may only be redeemed by the Issuer pursuant to Condition 10.2, Condition 10.3, Condition 10.4 or Condition 10.6, *provided that*:

- 10.5.1 Notes may only be redeemed pursuant to Condition 10.4 after a minimum initial period of issue of five years; provided that in any case unless the Registrar of Banks determines that the Issuer is duly capitalised the Issuer may not redeem such Notes unless such Notes are replaced by the Issuer with instruments of similar or better quality;
- 10.5.2 the Issuer has notified the Registrar of Banks of its intention to redeem the Notes at least one month (or such other period, longer or shorter, as the Registrar of Banks may then require or accept) prior to the date scheduled for redemption, substitution or variation and written approval has been received from the Registrar of Banks;
- 10.5.3 such redemption is effected in accordance with conditions (if any) approved by the Registrar of Banks in writing; and
- 10.5.4 both at the time when the notice of redemption is given and immediately following such redemption, the Issuer is or will be (as the case may be) in compliance with its capital adequacy requirements as provided in the Capital Regulations (except to the extent that the Registrar of Banks no longer so requires) as confirmed by an Independent Investment Bank to be appropriate.

10.6 Substitution or Variation instead of Redemption

If a Tax Event or Regulatory Event has occurred and is continuing, then the Issuer may instead of giving notice to redeem, subject to the Solvency Condition and Condition 10.5 (but without any requirement for the consent or approval of the Noteholders) and having given not less than 60 nor more than 90 days' notice to the Transfer Secretary, the ISIS Calculation Agent (if any) and, in accordance with Condition 18, the Noteholders (which notice shall be irrevocable), substitute at any time all (but not some only) of the Notes for, or vary the terms of the Notes so that they remain, Qualifying Primary Share Capital Securities or become Qualifying Secondary Capital Securities, and subject to the following provisions of this Condition 10.6 and subject to the issue of the certificate of the two directors referred to in the definition of Qualifying Primary Share Capital Securities or (as the case may be) Qualifying Secondary Capital Securities and subject further to the receipt by the Issuer of the opinion of the Independent Investment Bank referred to therein such substitution or variation shall be effected.

Upon expiry of such notice, the Issuer shall vary the terms of or substitute, as the case may be, the Notes in accordance with this Condition 10.6.

In connection with any substitution or variation in accordance with this Condition 10.6, the Issuer shall comply with the rules of any stock exchange on which the Notes are for the time being listed or admitted to trading.

10.7 No other redemption, substitution or variation

The Issuer shall not be entitled to redeem, substitute or vary the terms of the Notes otherwise than as provided in Condition 10.1 to 10.6 above.

10.8 Purchases

Subject to giving written notice to, and receiving prior written approval from, the Registrar of Banks, the Issuer or any of its Subsidiaries may at any time purchase Notes in the open market or otherwise and at any price.,

10.9 Cancellation

All Notes so redeemed or purchased by the Issuer or any of its Subsidiaries may, at its option, be cancelled and may, if cancelled, not be reissued or resold.

It is the intention of the Issuer that the Notes will constitute permanent group funding. In case of redemption of the Notes, the Issuer intends to make available for the purposes of redemption of the Notes proceeds raised through the issuance of new Primary Share Capital within a period of six months prior to the redemption date of the Notes.

11. TAXATION

All payments of principal and interest in respect of the Notes by the Issuer will be made without withholding or deduction for or on account of any present or future taxes or duties, assessments or governmental charges of whatever nature imposed or levied by or on behalf of the Republic of South Africa or any political subdivision or any authority thereof or therein having power to tax, unless such withholding or deduction is required by law.

In such event, the Issuer will pay such additional amounts as shall be necessary in order that the net amounts received by the holders of the Notes after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Notes, as the case may be, in the absence of such withholding or deduction except that no such additional amounts shall be payable with respect to any Note:

- 11.1 held by or on behalf of a Noteholder, who is liable for such taxes or duties in respect of such Note by reason of his having some connection with the Republic of South Africa other than the mere holding of such Note or the receipt of principal or interest in respect thereof; or
- 11.2 held by or on behalf of a Noteholder who would not be liable or subject to the withholding or deduction by making a declaration of non-residency or other similar claim for exemption to the relevant tax authority (the effect of which is not to require the disclosure of the identity of the relevant Noteholder); or
- 11.3 where such withholding or deduction is in respect of taxes levied or imposed on interest or principal payments only by virtue of the inclusion of such payments in the taxable income (as defined in Section 1 of the Income Tax Act, 1962) or taxable capital gain (as defined in paragraph 1 of Schedule 8 to the Income Tax Act, 1962) of any Noteholder; or
- 11.4 more than 30 days after the Relevant Date except to the extent that the Noteholder thereof would have been entitled to an additional amount on presenting the same for payment on such thirtieth day; or
- 11.5 if such withholding or deduction arises through the exercise by revenue authorities of special powers in respect of tax defaulters.

Any reference in these Terms and Conditions to any amounts in respect of the Notes shall be deemed also to refer to any additional amounts which may be payable under these Terms and Conditions or under any undertakings given in addition to, or in substitution for, these Terms and Conditions.

12. CERTIFICATES

- 12.1 Listed Registered Notes will initially be evidenced by a single Global Certificate which will be lodged with the CSD. The CSD's Nominee will be reflected in the Register as the holder of the Global Certificate.
- 12.2 A Beneficial Interest in Notes will be exchangeable for an Individual Certificate if (i) a written request for Notes in definitive form is submitted by the holder of the Beneficial Interest to the relevant Participant not later than 14 days prior to the requested date of such exchange, (ii) the Applicable Procedures for obtaining such a Certificate from the Transfer Secretary are followed, and (iii) an equivalent number of Notes are transferred in accordance with the provisions of Condition 14 from the CSD's Nominee to the holder of such Beneficial Interest. If only part of the Notes represented by a Global Certificate is exchanged, a new Global

Certificate for the balance will be issued and the cancelled Global Certificate will be retained by the Transfer Secretary.

- 12.3 A Noteholder shall be entitled to receive a Certificate evidencing the Notes transferred to that Noteholder within 7 days after registration of that transfer in accordance with Condition 14 (and which will apply *mutatis mutandis* to such Certificate), provided that joint Noteholders will be entitled to receive only one Certificate in respect of that joint holding, and the delivery to one of those Noteholders shall be delivery to all of them.
- 12.4 If a Certificate is worn out or defaced then, within 14 days of its presentation to the Transfer Secretary, the Transfer Secretary shall cancel that Certificate and issue a new Certificate in its place.
- 12.5 If a Certificate is lost or destroyed then upon proof thereof to the satisfaction of the Transfer Secretary, a new Certificate in lieu thereof may be issued to the person entitled to that lost or destroyed Certificate, Receipt or Coupon, provided that the Noteholder shall provide the Transfer Secretary and the Issuer with an indemnity and pay any out-of-pocket expenses incurred in connection with the indemnity. The person providing the indemnity and the form of the indemnity shall be to the satisfaction of the Issuer. The new Certificate shall be issued within 14 days from the date that the conditions for issuing such Certificate have been fulfilled.
- 12.6 An entry as to the issue of a new Certificate and indemnity (if any) shall be made in the Register (in respect of Registered Notes) upon the date of issue of the new Certificate.
- 12.7 Certificates to be provided by the Issuer to Noteholders shall be collected by the Noteholders from the Transfer Secretary.
- 12.8 Certificates shall be provided where relevant by the Issuer without charge, save as otherwise provided in these Terms and Conditions. Separate costs and expenses relating to the provision of Certificates and/or the transfer of Notes may be levied by other persons, such as a Settlement Agent, under the Applicable Procedures and such costs and expenses shall not be borne by the Issuer. The costs and expenses of delivery of Certificates otherwise than by ordinary post (if any) and, if the Issuer shall so require, taxes or governmental charges or insurance charges that may be imposed in relation to such mode of delivery shall be borne by the Noteholder.

13. REGISTER

- 13.1 The Register of Noteholders:
 - 13.1.1 shall be kept at the office of the Issuer or such other person as may be appointed for the time being by the Issuer to maintain the Register;
 - 13.1.2 shall contain the names, addresses and bank account numbers of the registered Noteholders;
 - 13.1.3 shall show the total Nominal Amount of the Notes held by Noteholders;
 - 13.1.4 shall show the dates upon which each of the Noteholders was registered as such;
 - 13.1.5 shall show that the Notes are Registered Notes;
 - 13.1.6 shall show the serial numbers of the Certificates and the dates of issue thereof;
 - 13.1.7 shall be open for inspection at all reasonable times during business hours on Business Days by any Noteholder or any person authorised in writing by a Noteholder;
 - 13.1.8 shall be closed during the Books Closed Period.
- 13.2 The Transfer Secretary shall alter the Register in respect of any change of name, address or account number of any of the Noteholders of which it is notified.

- 13.3 Except as provided for in these Conditions or as required by law, in respect of Registered Notes, the Issuer will only recognise a Noteholder as the owner of the Notes registered in that Noteholder's name as per the Register;
- 13.4 Except as provided for in these Conditions or as required by law, the Issuer 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 Certificate may be subject.

14. TRANSFER OF NOTES

14.1 Registered Notes

Beneficial Interests in Notes registered in the name of the CSD's Nominee or its nominee may be transferred in accordance with the Applicable Procedures. Such transfers will not be recorded in the Register. In order for any transfer of Registered Notes to be effected through the Register and for the transfer to be recognised by the Issuer, each transfer of a Registered Note:

- 14.1.1 must be in writing and in the usual form or in such other form approved by the Transfer Secretary;
- 14.1.2 must be signed by the relevant Noteholder and the transferee, or any authorised representatives of that registered Noteholder or transferee;
- 14.1.3 shall only be in respect of the Specified Denomination of the Note or integral multiples thereof, and consequently the Issuer will not recognise any fraction of the Specified Denomination;
- 14.1.4 must be delivered to the Transfer Secretary together with the Certificate in question for cancellation (if only part of the Notes represented by a Certificate is transferred, a new Certificate for the balance will be issued to the transferor and the cancelled Certificate will be retained by the Transfer Secretary).

The transferor of any Notes represented by a Certificate will 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 Transfer Secretary reasonably requires as to the identity and title of the transferor and the transferee.

No transfer will be registered whilst the Register is closed.

If a transfer is registered then the transfer form and cancelled Certificate will be retained by the Transfer Secretary.

In the event of a partial redemption of Notes under Condition 10.3 or 10.5, the Transfer Secretary shall not be required:

- 14.1.5 in terms of Condition 10.3, 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
- 14.1.6 in terms of Condition 10.5, to register the transfer of any Note, or part of a Note, called for partial redemption.

15. PRESCRIPTION

The Notes, Receipts and Coupons will become void unless presented for payment of principal within a period of three years after their redemption date, save that claims against the Issuer under any Certificate, Receipt or Coupon constituting a "*bill of exchange or other negotiable instrument*" in accordance with Section 11 of the Prescription Act, 1969 will prescribe within a period of six years after their redemption date.

16. EVENTS OF DEFAULT

Notwithstanding any of the provisions in this Condition 16, the right to institute winding up proceedings is limited to circumstances where payment has become due and payable. No principal, premium, interest or any other amount will be due unless the Solvency Condition is satisfied. Also, in the case of any Interest Amount, payment thereof will not be due if the Issuer has elected not to pay interest or prohibited from paying interest pursuant to Condition 6.

16.1 If default shall be made in the payment of any principal or any interest (or any other amount in respect of the Notes) due on the Notes of the relevant Series for a period of seven days or more after any date on which such payment became due and payable each Noteholder may, subject as provided below, at its discretion and without further notice, institute proceedings for the winding-up of the Issuer and/or prove in any winding-up of the Issuer, but may take no other action in respect of such default.

16.2 Without prejudice to Condition 16.1 above, if the Issuer breaches any of its obligations under the Notes of the relevant Series (other than any obligation in respect of the payment of principal or interest on such Notes) then each Noteholder may, subject as provided below, at its discretion and without further notice, bring such proceedings as it may think fit to enforce the obligation in question provided that the Issuer shall not, as a result of the bringing of any such proceedings, be obliged to pay any sum representing or measured by reference to principal or interest on such Series of Notes sooner than the same would otherwise have been payable by it.

17. CALCULATION AGENT AND OTHER AGENTS

Any third party appointed by the Issuer as Calculation Agent, Transfer Secretary or otherwise shall act solely as the agents of the Issuer and does not assume any obligation towards or relationship of agency or trust for or with any Noteholders. The Issuer is entitled to vary or terminate the appointment of such agents and/or appoint additional or other agents and/or approve any change in the specified office through which any agent acts.

18. NOTICES

Notices to holders of Registered Notes shall be valid if mailed to their registered addresses appearing in the Register. Any such notice shall be deemed to have been given on the seventh day after the day on which it is mailed.

In the event of there being any Individual Certificates (whether evidencing Registered Notes or Order Notes) in issue, such notices shall be published, not earlier than four days after the date of posting of such notice in terms of this clause (i) in an English language daily newspaper of general circulation in the Republic of South Africa and (ii) and for so long as the Notes are listed on BESA or such other Financial Exchange upon which the Notes are listed, a daily newspaper of general circulation in the city in which BESA or such other Financial Exchange is situated, and any such notices shall be deemed to have been given on the date of first publication.

If any notice is given to holders of Notes represented by a Global Certificate, a copy thereof shall be delivered to BESA, the CSD and the BESA Settlement Agents.

Any notice to the Issuer shall be deemed to have been received by the Issuer, if delivered to the registered office of the Issuer, on the date of delivery, and if sent by registered mail, on the seventh day after the day on which it is sent, together with a certified copy of the relevant Certificate, Coupon or Receipt with the Transfer Secretary. The Issuer may change its registered office upon prior written notice to Noteholders specifying such new registered office.

For so long as any of the Notes are represented by a Global Certificate, notice may be given by any holder of a Beneficial Interest in Notes represented by a Global Certificate to the Issuer via the relevant Settlement Agent in accordance with the Applicable Procedures, in such manner as the Issuer and the relevant Settlement Agent may approve for this purpose.

19. AMENDMENT OF THESE CONDITIONS

19.1 These Conditions set out all the rights and obligations relating to the Notes and, subject to the further provisions of this Condition 19, no addition, variation or consensual cancellation of these Conditions shall be of any force or effect unless reduced to writing and signed by or on behalf of the Issuer and the Noteholders.

- 19.2 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 Group 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 law of the jurisdiction in which the Issuer is incorporated, provided that the consent of BESA shall be required where such Notes are listed. Any such modification shall be binding on the relevant Group of Noteholders and any such modification shall be notified to the relevant Group of Noteholders in accordance with Condition 18 as soon as practicable thereafter.
- 19.3 The Issuer may, with the prior sanction of an Extraordinary Resolution of Noteholders or with the prior written consent of Noteholders holding not less than 66 $\frac{2}{3}$ % (sixty six and two thirds per cent) in Nominal Amount of the Notes outstanding from time to time, amend these Conditions, provided that no such amendment shall be of any force or effect unless notice of the intention to make such amendment shall have been given to all Noteholders in terms of Condition 18.

20. MEETINGS OF NOTEHOLDERS

- 20.1 The Issuer may at any time convene a meeting of all Noteholders or holders of any Series of Notes upon at least 21 days' prior written notice to such Noteholders. This notice is required to be given in terms of Condition 18. Such notice shall specify the date, place and time of the meeting to be held, which place shall be in the Republic of South Africa.
- 20.2 Every director or duly appointed representative of the Issuer may attend and speak at a meeting of Noteholders, but shall not be entitled to vote, other than as a proxy or representative of a Noteholder.
- 20.3 Noteholders holding not less than 10% (ten per cent) in Nominal Amount of the outstanding Notes shall be able to request the Issuer to convene a meeting of Noteholders. Should the Issuer fail to requisition such a meeting within 10 days of such a request being received by the Issuer, the Noteholders requesting such a meeting may convene such meeting.
- 20.4 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.
- 20.5 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.
- 20.6 Any proxy or representative appointed shall, so long as the appointment remains in force, be deemed for all purposes in connection with any meeting or proposed meeting of the Noteholder 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 holder.
- 20.7 The chairman of the meeting shall be appointed by the Issuer. The procedures to be followed at the meeting shall be as determined by the chairman subject to the remaining provisions of this Condition 20. Should the Noteholder requisition a meeting, and the Issuer fail to call such a meeting within 10 days of the requisition, then the chairman of the meeting held at the instance of the Noteholders shall be selected by a majority of Noteholders present in person, by representative or by proxy.
- 20.8 At any such meeting one or more Noteholders present in person, by representative or by proxy, holding in aggregate not less than one third of the Nominal Amount of Notes for the time being outstanding shall form a quorum for the transaction of business. On a poll, each Noteholder present in person or by proxy at the meeting

shall have the number of votes equal to the number of Notes, by denomination, held by the Noteholder.

21. **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.

22. **GOVERNING LAW**

The Notes and all rights and obligations to the Notes are governed by, and shall be construed in accordance with, the laws of the Republic of South Africa in force from time to time.

USE OF PROCEEDS

Words used in this section entitled "Use of Proceeds" shall bear the same meanings as used in the Terms and Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.

The net proceeds from each issue of Notes will be applied by the Issuer for its general banking purposes or as may otherwise be described in the Applicable Pricing Supplement.

SIGNED at _____ this _____ day of _____ 2008.

For and on behalf of
FIRSTRAND BANK LIMITED



Name: _____
Capacity: _____
Who warrants his authority hereto



Name: _____
Capacity: _____
Who warrants his authority hereto

DESCRIPTION OF FIRSTRAND BANK LIMITED

1. OVERVIEW

FirstRand Bank Limited (the “**Bank**”), one of the four leading banks in South Africa (in terms of total asset value), provides a comprehensive range of retail, commercial, corporate and investment banking services in South Africa. As at 30 June 2007 the Bank was the third largest commercial bank in South Africa in terms of total assets (according to statistics published by the South African Reserve Bank (the “**SARB**”) (DI900:SARB)). As at 30 June 2007, the Bank had total assets of R459.1 billion. The Bank’s profits attributable to ordinary shareholders amounted to R5.4 billion for the year ended 30 June 2007.

The Bank operates through divisions that are separately branded and provide distinct banking products and financial services. The Bank’s primary divisions are FirstRand Bank Limited (acting through its First National Bank division) (“**FNB**”), FirstRand Bank Limited (acting through its Rand Merchant Bank division) (“**RMB**”) and WesBank. FNB provides retail and corporate banking services including savings and deposit accounts, credit cards, overdraft facilities, cheque accounts, mortgage finance and loans. FNB currently operates 680 branches and over 4,000 ATMs across South Africa. RMB is the investment banking division of the Bank. It offers specialist services and takes principal positions in the fields of corporate finance, structured finance, project finance, private equity and trading markets. WesBank provides instalment credit finance to the retail and corporate market, in particular, finance for motor vehicles, aircraft and industrial plants.

Indirectly the Bank is wholly owned by FirstRand Limited (“**FirstRand**”), a company listed (by market capitalisation) in the top 10 companies of the JSE Limited (“**JSE**”) and the Namibian Stock Exchange. As at 30 June 2007, FirstRand had a current market capitalisation of R125 billion (US\$ 18 billion). The FirstRand group of companies, which comprises FirstRand and its subsidiaries (the “**Group**”), is an integrated financial services group with over 36,000 employees. The Group provides a comprehensive range of financial products and services to the Southern African marketplace and niche products to certain international markets. The Group is structured into three divisions – Banking & Short Term Insurance, Long Term Insurance & Asset Management and Health & Insurance. The Bank is the principal banking operation within the Group’s division.

The Bank holds a full banking licence granted by the Registrar of Banks and is authorised as a financial services provider in South Africa by the Registrar of Financial Services Providers. The Bank is also an authorised dealer in foreign exchange in terms of the Exchange Control Regulations of the SARB. It is a Central Securities Depository Participant in Strate Limited and is also a full member of The Bond Exchange of South Africa Limited and a member of the JSE.

2. CORPORATE STRUCTURE

Share capital and ownership

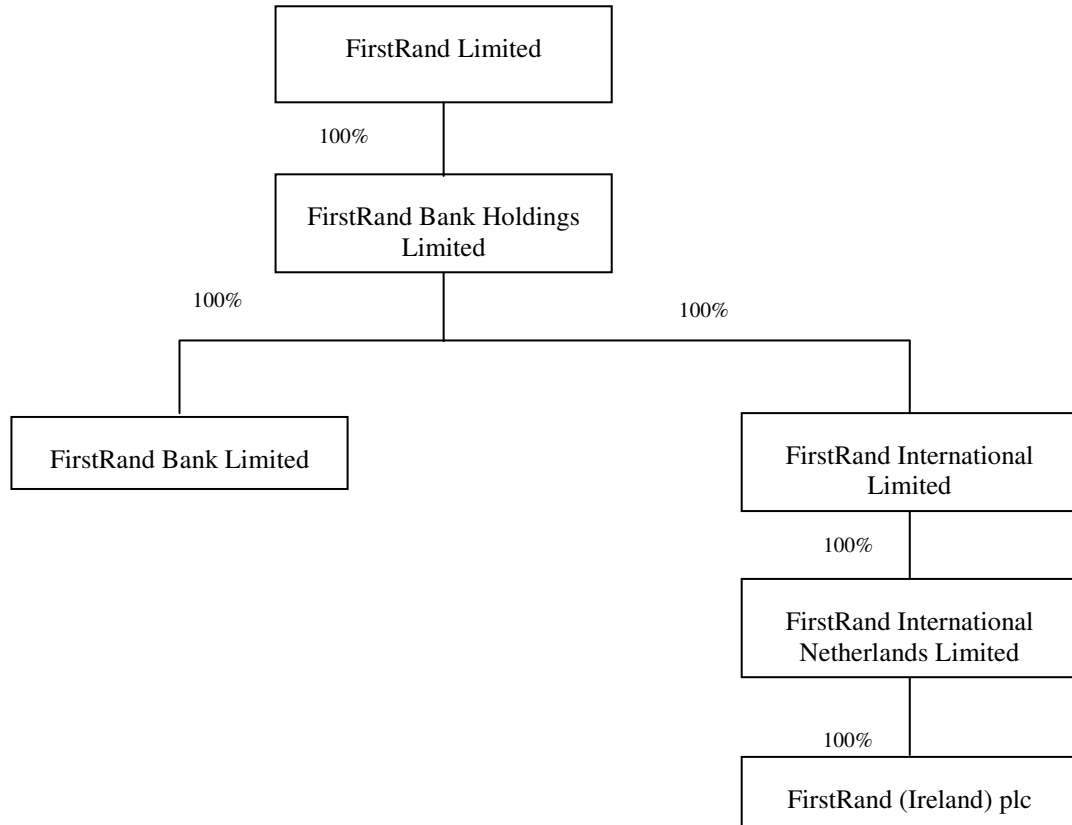
The Bank is wholly owned by FirstRand Bank Holdings Limited which, in turn, is wholly owned by FirstRand. The major shareholders of FirstRand are RMB Holdings Limited (which holds 30.0 per cent of its share capital), FirstRand Empowerment Share Trusts (which holds 9.5 per cent of its share capital), the Public Investment Corporation Limited (which directly holds 9.0 per cent of its share capital), the Rembrandt Group (which directly holds 8.5 per cent of its share capital), FirstRand Share Trust (which directly holds 4.8 per cent of its share capital), and Old Mutual Asset Management (which holds 3.2 per cent of its share capital).

Banking operations within FirstRand Bank Holdings Limited and its subsidiaries (the “**Banking Group**”) include the activities carried out by the Bank in South Africa as well as other banking operations carried out by the Banking Group primarily outside South Africa.

FNB, RMB and WesBank carry out business activities both within and outside South Africa. Only those activities carried out by FNB, RMB and WesBank within South Africa form part of the operations of, and are aggregated within the financial results of, the Bank. Banking activities carried out by FNB Namibia, FNB Botswana, FNB Swaziland and RMB’s offshore operations are aggregated within the financial results of FirstRand Bank Holdings Limited. Unless

otherwise stated, references to the operations and financial performances of FNB, RMB and WesBank in this Programme Memorandum refer to those operations and financial performances that are consolidated within the financial statements of the Bank.

FirstRand's corporate structure (although not its subsidiaries, which are set out in "*Subsidiaries and Affiliates*") is shown in the diagram below:



BUSINESS OF FIRSTRAND BANK LIMITED

OVERVIEW

FirstRand Bank Limited (the “**Bank**”) provides a comprehensive range of retail, commercial, corporate and investment banking products and services in South Africa through its principal divisions, FirstRand Bank Limited (acting through its First National Bank division) (“**FNB**”), WesBank and FirstRand Bank Limited (acting through its Rand Merchant Bank division) (“**RMB**”). Each division is clearly differentiated and has its own strategy, management function and premises.

FNB

Overview

FNB is the commercial banking division of the Bank. It provides retail and corporate banking services in South Africa from 680 branches and over 4,000 ATMs. Its retail banking products and services include savings and deposit accounts, credit cards, overdraft facilities, cheque accounts, mortgage finance and consumer loans. Its corporate banking activities are primarily focused on standard transactional banking products, structured finance and investment products.

FirstRand Bank Holdings Limited and its subsidiaries (the “**Banking Group**”) conducts business under the FNB brand both in South Africa and in certain other jurisdictions (Namibia, Botswana, Lesotho and Swaziland). Only the business and operations of FNB which are carried out within South Africa are aggregated within the Bank’s financial statements.

WesBank

WesBank provides instalment credit finance for moveable assets including motor vehicles, machinery, aircraft and industrial plants for private individuals, professionals and the corporate market. Its main products are vehicle finance, corporate finance, car allowance packages, personal loans, fleet services and credit cards.

RMB

RMB is the investment banking division of the Bank. It is a full-service investment bank which delivers services ranging from corporate advisory, debt and equity capital raising, principal investments and structured finance products, management buy-outs and privatisation to public-private partnerships, mergers and acquisitions, and the trading of vanilla and complex financial instruments in local and global markets.

In the PricewaterhouseCoopers Incorporated South African Banking Survey for 2005, 2006 and 2007 (a peer group survey conducted amongst 23 local and foreign banks) RMB was rated, from a product perspective, top in listings, mergers and acquisitions, structured and project finance, private equity (2005 and 2006 only) and Black Economic Empowerment (“**BEE**”) transactions.

RMB operates both in South Africa and internationally. In South Africa, RMB operates from offices in Johannesburg, Cape Town, Durban and Port Elizabeth. Internationally, RMB operates through FirstRand and its subsidiaries (the “**Group**”) from offices in the United Kingdom, Ireland, the United Arab Emirates, China, Australia and Brazil. Only the business and operations of RMB that are carried out within South Africa are aggregated within the Bank’s financial statements.

MANAGEMENT

The Board of Directors of the Bank (the “**Board**”) is responsible for reviewing and guiding corporate strategy, major plans of action, risk policy, annual budgets and business plans, monitoring corporate performance and overseeing major capital expenditures, acquisitions and disposals.

The Board consists of fourteen members elected at the general shareholders’ meeting. The current members of the Board and their position within the Board, as well as their positions within the board of directors of other members of the Group, are set out below:

<u>Name</u>	<u>Position</u>
Gerrit Thomas Ferreira	Chairman of the Board, Chairman of FirstRand and RMB Holdings Limited and Director of Momentum Group Limited,

<u>Name</u>	<u>Position</u>
	Director of FirstRand Bank Holdings Limited
Sizwe Errol Nxasana	Chief Executive Officer of the Bank and director of FirstRand Bank Holdings Limited
Vivian Wade Bartlett	Director of FirstRand, and FirstRand Bank Holdings Limited
Johan Petrus Burger	Financial Director of the Bank and Chief Financial Officer of FirstRand, Director of FirstRand Bank Holdings Limited, and Director of Momentum Group Limited
Lauritz Lanser Dippenaar	Chairman of Momentum Group Limited and Discovery Holdings Limited, Director of FirstRand and of RMB Holdings Limited, Director of FirstRand Bank Holdings Limited, FirstRand STI Holdings Limited and RMB Asset Management Limited
Dennis Martin Falck	Director of FirstRand and RMB Holdings Limited, Director of FirstRand Bank Holdings Limited
Patrick Maguire Goss	Director of FirstRand and RMB Holdings Limited, Director of FirstRand Bank Holdings Limited
Paul Kenneth Harris	Chief Executive Officer of FirstRand, Director of RMB Holdings Limited and Momentum Group Limited, Director of FirstRand Bank Holdings Limited
William Rodger Jardine	Director of FirstRand Bank Holdings Limited
Ethel Gothatamodimo Matenge-Sebesho	Director of FirstRand Bank Holdings Limited
Ronald Keith Store	Director of FirstRand Bank Holdings Limited
Benedict James Van der Ross	Director of FirstRand and Momentum Group Limited, Director of FirstRand Bank Holdings Limited and RMB Asset Management Limited
Robert Albert Williams	Director of FirstRand, Director of FirstRand Bank Holdings Limited
Zyda Rylands	Director of FirstRand Bank Holdings Limited

The business address of the members of the Board is the Bank's registered office.

Additionally, the Bank has a company secretary, who is suitably qualified and was appointed by the Board in 1998. He is, *inter alia*, responsible for the duties stipulated in Section 268G of the Companies Act, 1973.

Bank's Committees

The Bank also has the following committees:

Audit Committee

The Audit Committee is responsible for considering the annual financial statements for approval by the Board, monitoring the quality of the internal controls and processes of the Bank and the implementation of corrective actions. The committee meets quarterly.

Risk Committee

The Risk Committee is responsible for approving the risk management policy, standards and processes, monitoring the Bank's risk assessments and the effectiveness of risk management and high priority corrective actions. The committee meets quarterly.

Remuneration Committee

The primary objective of the Remuneration Committee is to develop the reward strategy for the Bank. It is responsible for:

- evaluating the performance of executive directors;
- recommending remuneration packages for executive directors and senior management, including, but not limited to, basic salary, benefits in kind, performance based incentives, pension and other benefits;
- recommending policy relating to the Group's bonus and share incentive schemes;
- recommending the basis for non-executive directors' fees; and
- reviewing annual salary increases.

Large Exposures Credit Committee

The Large Exposures Credit Committee of the Bank is responsible for approving credit exposures in excess of 10% of the Bank's capital. The committee meets quarterly.

Director's Affairs and Governance Committee

The objective of this committee is to assist the Board in discharging its responsibilities relative to corporate governance structures, matters relating to performance and remuneration of directors, the appointment of new directors, the effectiveness of the Board and succession planning at executive level. The committee meets quarterly.

CAPITAL ADEQUACY

The Bank is subject to regulatory capital requirements. The capital adequacy of the Bank is measured in terms of the Banks Act, 1990.

The Bank's capital management policy is contained in the FirstRand Capital Management Framework which is approved by the Board. The Bank seeks to maintain total capital and Tier 1 capital in excess of the minimum requirements of the SARB. The Capital Management Framework requires the Bank to be capitalised at the higher of economic or regulatory capital (inclusive of a buffer to allow for expansion and volatility). Economic capital is defined as the capital which the Bank must hold, commensurate with its risk profile under severe stress conditions, to give comfort to third party stakeholders (shareholders, counterparties and depositors, rating agencies and regulators) that it will be able to discharge its obligations to third parties in accordance with an indicated degree of certainty even under stress conditions, and that it will continue to be able to operate as a going concern. The "bottom-up" statistical economic capital calculation is done at a 99.9% confidence interval.

Basel II

Basel II has been operational in South Africa from 1 January 2008. Under the Basel II regime, the Bank's regulatory capital requirements are determined based on the risk sensitive measurement approaches of Basel II.

As indicated in the June 2005 annual report, the intention is to implement the advanced internal ratings based approach for credit risk for the material portfolios in the Bank. For operational risk, the standardised or alternative standardised approach will be implemented for the Bank, the intention being to migrate to the advanced measurement approach during 2009.

LEGAL PROCEEDINGS

The Bank has been, and continues to be, the subject of legal proceedings and adjudications from time to time.

There are no government, legal or arbitration proceedings (including any such proceedings are pending or threatened of which the Bank is aware) which, during the 12 months prior to the date of this Programme Memorandum or in the recent past, may have, or have had a significant effect on the

financial position or profitability of the Bank.

There are a number of potential or current legal claims against the Bank, the outcome of which cannot be foreseen at present. These claims are not regarded by management as material either on an individual or a collective basis.

PROPERTY

As at 30 June 2007, the Bank held the freehold title to land and buildings to the value of R995 million and leasehold title to properties with a net book value the value of R403 million compared to R879 million and R348 million respectively as at 30 June 2006. (Note that properties are carried at cost less amortisation.)

SETTLEMENT, CLEARING AND TRANSFER OF NOTES

Words used in this section entitled “Settlement, Clearing and Transfers” shall bear the same meanings as used in the Terms and Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.

GLOBAL CERTIFICATES

Registered Notes listed on BESA or such other or further exchange or exchanges will initially be issued in the form of a single Global Certificate which will be lodged and immobilised in the CSD, which forms part of the settlement system of BESA. The CSD’s Nominee will be the sole Noteholder in respect of the Global Certificate.

The CSD holds Notes subject to the Securities Services Act and the Rules of the CSD. The Rules of the CSD, as at the date of this Programme Memorandum, are as published by the Registrar of Securities Services in Government Gazette No. 27758 of 8 July 2005.

While the Notes are held in the CSD under the Global Certificate, the CSD will be reflected as the Noteholder in the register maintained by the Transfer Agent. Accordingly, in terms of the Terms and Conditions of the Notes, all amounts to be paid and all rights to be exercised in respect of the Notes held in the CSD, will be paid to and may be exercised only by the CSD, for the holders of beneficial interests in the Notes held by the CSD under the Global Certificate.

The CSD maintains accounts only for the Participants. The Participants are also approved settlement agents of BESA. As at the date of this Programme Memorandum, the Settlement Agents are ABSA Bank Limited, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited and the South African Reserve Bank. The Participants are in turn required to maintain securities accounts for their clients. The clients of Participants may include the holders of Beneficial Interests in the Notes or their custodians. The clients of Participants, as the holders of the Beneficial Interests in the Notes or as custodians for such holders, may exercise their rights in respect of the Notes held by them in the CSD only through the Participants. Euroclear Bank S.A./N.V. as operator of the Euroclear System (“**Euroclear**”) and Clearstream Banking, société anonyme, (Clearstream Luxembourg) (“**Clearstream**”) may hold Notes through their Participants.

Transfers of Beneficial Interests in Notes in the CSD to and from clients of Participants, who are also Settlement Agents, occur by electronic book entry in the securities accounts of the clients with the Settlement Agents. Transfers among Participants of Notes held in the CSD occur through electronic book entry in the Participant’s central security accounts with the CSD.

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

A Beneficial Interest will be exchangeable for an Individual Certificate if (i) a written request for Notes in definitive form is submitted by the holder of the Beneficial Interest to the relevant Participant not later than 14 days prior to the requested date of such exchange, (ii) the Applicable Procedures for obtaining such a Certificate from the Transfer Secretary are followed, and (iii) an equivalent number of Notes are transferred in accordance with the provisions of Condition 15 of the Ordinary Conditions and Condition 14 of the Tier 1 Conditions from the CSD’s Nominee to the holder of such Beneficial Interest.

INDIVIDUAL CERTIFICATES

All Notes not represented by a Global Certificate, including Bearer Notes and Order Notes shall be issued in definitive form, in the form of Individual Certificates. Notes issued in the form of Bearer Notes or order form of Order Notes, and which are interest bearing, have Coupons attached on issue. Notes repayable in instalments have Receipts for the payment of the instalments of principal (other than the final instalment) attached on issue.

Title to Bearer Notes and/or Receipts and Coupons attached on issue to the Certificate evidencing such Bearer Note will pass by delivery of such Certificate, Receipt, Coupon or Talon (as the case may be). Title to Order Notes and/or any Receipts and Coupons attached on issue to the Certificate evidencing such Order Note, are transferable by way of endorsement and delivery of such Certificate, Receipt, Coupon or Talon (as the case may be).

Payments of interest and principal in respect of Individual Certificates will be made to Noteholders in accordance with Condition 10 of the Ordinary Conditions and Condition 9 of the Tier 1 Conditions.

SUBSCRIPTION AND SALE

Words used in this section entitled “Subscription and Sale” shall bear the same meanings as used in the Terms and Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.

Republic of South Africa

The Dealer has represented and agreed and each additional Dealer will be required to represent and agree that the offer of Notes for sale pursuant to the Programme shall comply with the provisions of the Companies Act, 1973 and the Banks Act and regulations issued thereunder.

United States of America

The Notes have not been, and will not be, registered under the United States Securities Act of 1933, (as amended) (the “**Securities Act**”) and may not be offered or sold within the United States of America or to, or for the account or benefit of, U.S. persons except in certain transactions exempt from the registration requirements of the Securities Act. Terms used in this paragraph have the meanings given to them by Regulation S under the Securities Act.

The Notes are subject to U.S. tax law requirements and may not be offered, sold or delivered within the United States or its possessions or to a United States person, except in certain transactions permitted by U.S. tax regulations. Terms used in this paragraph have the meanings given to them by the U.S. Internal Revenue Code of 1986 and the Regulations thereunder.

Each Dealer has represented and agreed, and each additional Dealer appointed under the Programme will be required to represent and agree, that it will not offer, sell or deliver Notes, (i) as part of their distribution at any time or (ii) otherwise until 40 days after the completion of the distribution of the Notes comprising the relevant Tranche of Notes, as certified to the Issuer by such Dealers (or, in the case of the sale of a Tranche of Notes to or through more than one Dealer, by each of such Dealers as to the Notes of such Tranche of Notes purchased by or through it, in which case the Issuer shall notify each such Dealer when all such Dealers have so certified) within the United States or to, or for the account or benefit of, U.S. persons, and such Dealer will have sent to each Dealer to which it sells Notes during the distribution compliance period relating thereto a confirmation or other notice setting forth the restrictions on offers and sales of the Notes within the United States or to, or for the account or benefit of, U.S. persons.

In addition, until 40 (forty) days after the commencement of the offering of Notes, an offer or sale of such Notes within the United States by any Dealer (whether or not participating in the offering) may violate the registration requirements of the Securities Act.

United Kingdom

Each Dealer has represented, warranted and agreed, and each additional Dealer appointed under the Programme will be required to represent and agree, that:

- (a) **No deposit-taking:** in relation to any Notes which having a maturity of less than one year:
 - (i) it is a person whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its business; and
 - (ii) it has not offered or sold and will not offer or sell any Notes other than to persons:
 - (aa) whose ordinary activities involve it in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of its businesses; or
 - (bb) who it is reasonable to expect will acquire, hold, manage or dispose of investments (as principal or agent) for the purposes of its businesses,

where the issue of the Notes would otherwise constitute a contravention of Section 19 of the Financial Services and Markets Act, 2000 (the “**FSMA**”) by the Issuer;

- (b) **Financial promotion:** 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 or sale of any Notes in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer; and

- (c) **General Compliance:** it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by them in relation to any Notes in, from or otherwise involving the United Kingdom.

European Economic Area

In relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a “**Relevant Member State**”), each Dealer has represented and agreed, and each additional Dealer appointed under the Programme will be required to represent and agree, that with effect from and including the date on which the Prospectus Directive is implemented in that Relevant Member State (the “**Relevant Implementation Date**”) it has not made and will not make an offer of Notes which are the subject of the offering contemplated by the prospectus to the public in that Relevant Member State, except that they may, with effect from and including the Relevant Implementation Date, make an offer of such Notes to the public in that Relevant Member State:

- (a) **Authorised institutions:** at any time to legal entities which are authorised or regulated to operate in the financial markets or, if not so, are authorised or regulated, whose corporate purpose is solely to invest in securities;
- (b) **Significant enterprises:** at any time to any legal entity which has two or more of (i) an average of at least 250 employees during the last financial year; (ii) a total balance sheet of more than €43,000,000; and (iii) an annual net turnover of more than €50,000,000 all as shown in its last annual or consolidated accounts;
- (c) **Fewer than 100 offerees:** at any time to fewer than 100 natural or legal persons (other qualified investors as defined in the Prospectus Directive) subject to obtaining the prior consent of the relevant Joint Lead Managers nominated by the Issuer for any such offer; or
- (d) **Other exempt offers:** at any time in any other circumstances falling within Article 3(2) of the Prospectus Directive,

provided that no such offer of Notes referred to in the above paragraphs (a) to (d) above shall require the Issuer or any Dealer to publish a prospectus pursuant to Article 3 of the Prospectus Directive or supplement a prospectus pursuant to Article 16 of the Prospectus Directive.

For the purposes of this paragraph, headed “*European Economic Area*”, the expression an “*offer of Notes to the public*” in relation to any Notes in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Notes to be offered so as to enable an investor to decide to purchase or subscribe for the Notes, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression “*Prospectus Directive*” means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

General

The Dealers have agreed and each additional Dealer appointed under the Programme will be required to agree that it will (to the best of its knowledge and belief) comply with all applicable securities laws and regulations in force in any jurisdiction in which it subscribes or procures the subscription of Notes, offers or sells Notes or possesses or distributes this Programme Memorandum and will obtain any consent, approval or permission required by it for the purchase, offer or sale by it of Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers or sales and neither the Issuer nor any other Dealer shall have any responsibility therefor.

Neither the Issuer nor the Dealers represent 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 thereunder or assumes any responsibility for facilitating such sale.

SOUTH AFRICAN TAXATION

The information contained below is intended to be a general guide to the relevant tax laws of South Africa as at the date of this Programme Memorandum and is not intended as comprehensive advice and does not purport to describe all of the considerations that may be relevant to a prospective purchaser of Notes. Prospective purchasers of Notes should consult their own professional advisers in regard to the purchase of Notes and the tax implications thereof. Accordingly, the Issuer makes no representation and gives no warranty or undertaking, express or implied, and accepts no responsibility for the accuracy or completeness of the information contained in this paragraph. The information contained below sets out guidelines on the current position regarding South African taxation for taxpayers who hold the Notes as capital assets. Traders in these Notes should consult their own 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.

Stamp Duty and Uncertificated Securities Tax

In terms of the Stamp Duties Act, 1968, no stamp duty is payable on the original issue of debentures or on their transfer, provided that they constitute instruments as contemplated in Section 24J of the Income Tax Act, 1962 (as amended) (the “Act”).

In terms of the Uncertificated Securities Tax Act, 1998, no uncertificated securities tax is payable on the issue or transfer of securities qualifying as instruments as contemplated in Section 24J of the Act.

Accordingly, as at the date of this Programme Memorandum, (i) no stamp duty (as contemplated in the Stamp Duties Act, 1968) is payable on the issue, cancellation, redemption or on the transfer of the Notes, and (ii) no uncertificated securities tax (as contemplated in the Uncertificated Securities Tax Act, 1998) is payable on the issue or on the transfer of the Notes.

General

In general interest received on the Notes will be subject to income tax in South Africa (the “Republic”). Certain entities may be exempt from the tax. Purchasers are advised to consult their own professional advisers as to whether the interest will be exempt or not. The amount of interest to be included in income, the position of non-residents and the capital gains tax consequences are examined below.

Interest for Purposes of Section 24J of the Income Tax Act

In terms of Section 24J of the Act, any discount or premium to the nominal value at which a Note is issued or acquired is treated as part of the interest income on the Note by the Revenue authorities. The Noteholder will be deemed to have accrued such interest income on a day-to-day basis until the Noteholder disposes of the Note or until maturity. This day-to-day basis is determined by calculating the yield to maturity and applying it to the capital involved for the relevant tax period. In practice the premium or discount is treated as interest for the purposes of the exemption under Section 10(1)(h) of the Act.

Noteholders who are not Residents of the Common Monetary Area

In terms of Section 10(1)(h) of the Act, interest received by or accruing to a Noteholder who is not a resident during any year of assessment is exempt from income tax, unless that person:

- (a) is a natural person who was physically present in the Republic for a period exceeding 183 days in aggregate during that year of assessment; or
- (b) at any time during that year of assessment carried on business through a permanent establishment in the Republic.

Capital Gains Tax

Capital gains and losses of residents on the disposal of Notes are subject to Capital Gains Tax. Any discount or premium on acquisition which has already been treated as interest for income tax purposes, under Section 24J of the Act will not be taken into account when determining any capital gain or loss. In terms of Section 24J(4A) of the Act a loss on disposal will, to the extent that it has previously been included in taxable income (as interest) be allowed as a deduction from the taxable income of the

holder when it is incurred and accordingly will not give rise to a capital loss.

Capital Gains Tax in terms of the Eighth Schedule to the Act does not apply to assets such as Notes disposed of by a person who is not a resident unless the Note disposed of is attributable to a permanent establishment of that person through which a trade is carried on in South Africa during the relevant year of assessment.

SOUTH AFRICAN EXCHANGE CONTROL

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, or subscriber for, Notes. Prospective subscribers for Notes that are non-South African residents or emigrants from the Common Monetary Area are urged to seek further professional advice in regard to the purchase of, or subscription for, Notes.

Words used in this section entitled "South African Exchange Control" shall have the same meanings as defined in the section entitled "Terms and Conditions of the Notes" above, unless they are defined in this section or this is clearly inappropriate from the context.

Emigrant Blocked Rand

Emigrant Blocked Rands may be used for the purchase of, or subscription for, Notes. Any amounts payable by the Issuer in respect of the Notes purchased, or subscribed for, with Emigrant Blocked Rands may not, in terms of the Exchange Control Regulations be remitted out of South Africa or paid into any non-South African bank account. The Minister of Finance stated on 26 February 2003 that Emigrants' blocked assets are to be unwound and such Emigrants will be entitled, on application to the exchange control department of the South African Reserve Bank, subject to an exiting schedule and an exit charge of 10% (ten per cent) of the amount, to exit such Emigrant blocked assets from South Africa.

Emigrants from the Common Monetary Area

In the event that a Beneficial Interest in Notes is held by an Emigrant from the Common Monetary Area through the CSD and its relevant Settlement Agents, the securities account of such Emigrant will be designated as an "*emigrant*" blocked account. Any Individual Certificates issued to Noteholders in respect of Notes in materialised form will be restrictively endorsed "*non-resident*". Such restrictively endorsed Individual Certificates shall be deposited with the authorised foreign exchange dealer controlling such Emigrant's blocked assets.

Any payments of principal due to an Emigrant Noteholder in respect of Notes will be deposited into such Emigrant's Blocked Rand account with the authorised foreign exchange dealer controlling such Emigrant blocked assets. These amounts are not freely transferable from the Common Monetary Area and may only be dealt with in terms of the Exchange Control Regulations. Any payments of interest due to an Emigrant Noteholder in respect of Notes will be deposited into such Emigrant's Non-Resident Rand account with the authorised foreign exchange dealer controlling such Emigrant blocked assets.

Non-residents of the Common Monetary Area

In terms of the Exchange Control Regulations, Non-Residents of the Common Monetary Area may invest in the Notes.

Any Individual Certificates issued to Noteholders who are not resident in the Common Monetary Area will be endorsed "*non-resident*". In the event that a Beneficial Interest in Notes is held by a Non-Resident of the Common Monetary Area through the CSD and its relevant Settlement Agents, the securities account of such Noteholder will be designated as a "*non-resident*" account.

It will be incumbent on any such Non-resident to instruct the Non-Resident's nominated authorised foreign exchange dealer as to how any funds due to such Non-Resident in respect of Notes are to be dealt with. Such funds may, in terms of the Exchange Control Regulations, be remitted abroad only if the relevant Notes are acquired with foreign currency introduced into South Africa or with Rand from a Non-Resident account and provided that the relevant Individual Certificates or securities account, as the case may be, is designated "*non-resident*".

For the purposes of these paragraphs:

"Authorised Dealer" means, in relation to any transaction in respect of gold, a person authorised by the Treasury to deal in gold and, in relation to any transaction in respect of foreign exchange, a person authorised by the Treasury to deal in foreign exchange.

"Common Monetary Area" means South Africa, Lesotho, Namibia and Swaziland.

“**Emigrant**” means a South African resident who is leaving or has left the Republic to take up permanent residence in any country outside the Common Monetary Area.

“**Emigrant Blocked Account**” means the account of an emigrant from the Common Monetary Area to which exchange control restrictions have been applied.

“**Emigrant Blocked Rand**” means funds which may not be remitted out of South Africa. These funds are held in an Emigrant Blocked Account and controlled by an Authorised Dealer in terms of the Exchange Control Regulations.

“**Non-Resident**” means a person (i.e. a natural person or legal entity) whose normal place of residence, domicile or registration is outside the Common Monetary Area.

GENERAL INFORMATION

Words used in this section entitled “General Information” shall bear the same meanings as used in the Terms and Conditions, except to the extent that they are separately defined in this section or this is clearly inappropriate from the context.

Authorisation

All consents, approvals, authorisations or other orders of all regulatory authorities required by the Issuer under the laws of the Republic of South Africa have been given for the establishment of the Programme and the issue of Notes and for the Issuer to undertake and perform its obligations under the Notes.

Listing

The Programme has been approved by BESA. Notes to be issued under the Programme will be listed on BESA or its successor or such other or further exchanges as may be agreed between the Issuer and the relevant Dealer(s).

Documents Available

So long as Notes are capable of being issued under the Programme, copies of the following documents will, when published, be available from the registered office of the Issuer and from the specified office of the Transfer Secretary for the time being in Johannesburg:

- (a) the most recently published annual report containing of FirstRand, incorporating the audited annual financial statements, and notes thereto;
- (b) a copy of this Programme Memorandum; and
- (c) any future prospectuses, Programme Memoranda, supplementary listing particulars, information memoranda and supplements (including the Pricing Supplements in respect of listed Notes) to this Programme Memorandum and any other documents incorporated herein or therein by reference.

Clearing Systems

The Bonds have been accepted for clearance through the CSD, which forms part of the BESA clearing system that is managed by the CSD and may be accepted for clearance through any additional clearing system as may be agreed between BESA and the Issuer.

Settlement Agents

As at the date of this Programme Memorandum, the BESA-recognised Settlement Agents are ABSA Bank Limited, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited and the South African Reserve Bank. Euroclear Bank S.A./N.V. as operator of the Euroclear System (“Euroclear”) and Clearstream Banking, société anonyme, (Clearstream Luxembourg) (“Clearstream”) may settle offshore transfers in the Notes through their appointed BESA Settlement Agents.

Settlement, Transfer and Clearing

Notes will be issued, cleared and transferred in accordance with the procedures and rules set out by BESA and the CSD. Notes will be settled through BESA-recognised Settlement Agents who will comply with the electronic settlement procedures. The CSD’s Nominee will be the registered holder of a Global Certificate and will maintain securities accounts for the Participants who, in turn, will maintain securities accounts for investors in the Notes.

The BESA Settlement Agents will be responsible for the settlement of scrip and payment transfers through the CSD and the South African Reserve Bank. Individual Certificates will only be issued to Noteholders in terms of the procedures set out in Condition 13 of the Ordinary Conditions and Condition 12 of the Tier 1 Conditions. Transfer of Notes shall be undertaken in accordance with the rules of the CSD as well as the Terms and Conditions, save for the transfer of Individual Certificates which shall take place in accordance with the procedures set out in Condition 15 of the Ordinary Conditions and Condition 14 of the Tier 1 Conditions. The CSD’s Nominee, and any individual Noteholder of Individual Certificate(s), shall be the registered holders of Notes.

The Settlement Agents and the Transfer Secretary shall not be required to recognise any notice of any trust nor recognise the right of any other person other than the beneficial holder of Notes.

No transfer of Notes will be made in the Register unless the prescribed transfer form and the Individual Certificate (if any) has been properly lodged with the Transfer Secretary.

Material Change

Save as disclosed in this Programme Memorandum, there has been no material adverse change in the financial or trading position of the Issuer and no material adverse change in the prospects of the Issuer since the date of the Issuer's latest audited financial statements.

Litigation

Save as disclosed herein, the Issuer is not (whether as defendant or otherwise) engaged 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.

Auditors

PricewaterhouseCoopers Incorporated and Deloitte have acted as the auditors of the financial statements of FirstRand for the financial years ended 30 June 2005, 30 June 2006 and 30 June 2007 and, in respect of these years, issued unqualified audit reports.

ISSUER

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**ARRANGER, DEALER and SPONSORING
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South Africa
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**PAYING AGENT, CALCULATION AGENT
and TRANSFER SECRETARY**

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Mr C van Heerden

AUDITORS TO ISSUER

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