



## FirstRand Bank Limited

(Registration number 1929/001225/06)

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# ZAR5,000,000,000

## Domestic Medium Term Note Programme

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Under this ZAR5,000,000,000 Domestic Medium Term Note Programme (“**the Programme**”) FirstRand Bank Limited (“**the Issuer**” or “**FirstRand**”), may from time to time issue notes (“**the Notes**”), which expression shall include Senior Notes and Subordinated Notes (each as defined below) that are subject to the terms and conditions (“**Terms and Conditions**”) contained in this Programme Memorandum. Any other terms and conditions not contained in the Terms and Conditions that are applicable to any Notes, replacing or modifying the Terms and Conditions, will be set forth in a pricing supplement (the “**Applicable Pricing Supplement**”). 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 ZAR5,000,000,000.

Application will be made for this Programme to be listed on the Bond Exchange of South Africa (“**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 “**Terms and Conditions of Notes**”) of Notes will be set forth in the Applicable Pricing Supplement which will be delivered to BESA and STRATE Limited (as defined under “**Form of Notes**”) on or before the date of issue of such Notes and the Notes may then be traded by or through members of 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 “**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.



RAND MERCHANT BANK

A division of FirstRand Bank Limited

*Arranger, Dealer and Sponsoring Member*

The date of this Programme Memorandum is 24 February 2004

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

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

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

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

*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 or any other information supplied in connection with the Programme 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 and other professional advisers represents that this Programme Memorandum may be lawfully distributed, or that any Notes may be lawfully offered, in compliance with any applicable registration or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder, or assumes any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer, the Dealers or other professional advisers which would permit a public offering of any Notes or distribution of this document in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or 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 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.*

***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

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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; 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](http://www.firstrand.co.za).

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## GENERAL DESCRIPTION OF THE PROGRAMME

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Under the Programme, the Issuer may from time to time issue Notes denominated in the currency specified in the Applicable Pricing Supplement. The applicable terms of any Notes will be set out in the Terms and Conditions incorporated by reference into the Notes, as modified and supplemented by the Applicable Pricing Supplement relating to the Notes 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 ZAR5,000,000,000. 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.

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## SUMMARY OF THE PROGRAMME

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*The following summary does not purport to be complete and is taken from, and is qualified by, the remainder of this Programme Memorandum and, in relation to the terms and conditions of any particular Tranche of Notes, the Applicable Pricing Supplement.*

|                                 |   |
|---------------------------------|---|
| <b>Issuer:</b>                  | FirstRand Bank Limited (“ <b>FirstRand</b> ”) (Registration number 1929/001225/06).   |
| <b>Arranger and Dealer:</b>     | Rand Merchant Bank, a division of FirstRand Bank Limited.   |
| <b>Blocked Rand:</b>            | Blocked Rand may be used to purchase Notes.   |
| <b>Calculation Agent:</b>       | In relation to any Tranche of Notes, Rand Merchant Bank, a division of FirstRand Bank Limited, or such other person specified in the Applicable Pricing Supplement as the Calculation Agent.  |
| <b>Central Depository:</b>      | STRATE Limited, registered as a central securities depository in terms of the Custody and Administration of Securities Act of 1992, or such additional, alternative or successor central securities depository as may be agreed between the Issuer and the relevant Dealers.  |
| <b>Clearing and Settlement:</b> | 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 Central Depository, 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 (“ <b>Euroclear</b> ”) and Clearstream Banking, société anonyme (Clearstream Luxembourg) (“ <b>Clearstream</b> ”) may hold Notes through their BESA Settlement Agent. |
| <b>Currency:</b>                | 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.  |
| <b>Denomination:</b>            | Notes will be issued in such denominations as may be indicated in the Applicable Pricing Supplement.  |
| <b>Distribution:</b>            | 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.   |
| <b>Form of Notes:</b>           | Notes will be issued in the form of Registered Notes, Order Notes or Bearer Notes as described in “ <b>Form of Notes</b> ”. 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 STRATE Limited (the “ <b>Central Depository</b> ”) and registered in the name of the nominee of the Central Depository. Beneficial Interests in a Global Certificate will not be exchangeable for Individual Certificates except in the circumstances described in this Programme Memorandum.   |
| <b>Governing Law:</b>           | 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.   |

|   |   |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
|---|---|-------------------------|--|----------------------------|--|--------------------------|--|----------------------|---|-------------------------|--|-------------------------|--|--------------------------|---|---------------------------|---|
| <b>Interest Period(s)/Interest Payment Date(s):</b> | Such period(s) or date(s) as specified in the Applicable Pricing Supplement.  |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Issue and Transfer Taxes:</b>                    | No stamp duty, marketable securities tax, uncertificated securities tax or any similar tax is payable in respect of the issue or transfer of interest-bearing Notes listed on any stock exchange in the Republic of South Africa or any financial exchange as defined in the Financial Markets Control Act, 1989, as amended.   |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Issue Price:</b>                                 | 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.   |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Listing and Trading:</b>                         | 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.  |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Maturities of Notes:</b>                         | Such maturity(ies) that are acceptable to BESA (or 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) and that are specified in the Applicable Pricing Supplement. The Notes are not subject to any maximum or minimum maturity.   |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Notes:</b>                                       | Notes may comprise: <table border="0" style="margin-left: 20px;"> <tr> <td style="vertical-align: top;"><b>Fixed Rate Notes</b></td> <td>which will bear interest at a fixed rate, as indicated in the Applicable Pricing Supplement.</td> </tr> <tr> <td style="vertical-align: top;"><b>Floating Rate Notes</b></td> <td>which will bear interest determined with reference to the rate specified in the Applicable Pricing Supplement.</td> </tr> <tr> <td style="vertical-align: top;"><b>Zero Coupon Notes</b></td> <td>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).</td> </tr> <tr> <td style="vertical-align: top;"><b>Indexed Notes</b></td> <td>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.</td> </tr> <tr> <td style="vertical-align: top;"><b>Mixed Rate Notes</b></td> <td>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.</td> </tr> <tr> <td style="vertical-align: top;"><b>Instalment Notes</b></td> <td>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.</td> </tr> <tr> <td style="vertical-align: top;"><b>Partly Paid Notes</b></td> <td>in respect of which the Issue Price will be payable in two or more instalments as set out in the Applicable Pricing Supplement.</td> </tr> <tr> <td style="vertical-align: top;"><b>Exchangeable Notes</b></td> <td>which may be redeemed by the Issuer in cash or by the delivery of securities as specified in the Applicable Pricing Supplement.</td> </tr> </table> | <b>Fixed Rate Notes</b> | which will bear interest at a fixed rate, as indicated in the Applicable Pricing Supplement. | <b>Floating Rate Notes</b> | which will bear interest determined with reference to the rate specified in the Applicable Pricing Supplement. | <b>Zero Coupon Notes</b> | 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). | <b>Indexed Notes</b> | 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. | <b>Mixed Rate Notes</b> | 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. | <b>Instalment Notes</b> | 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. | <b>Partly Paid Notes</b> | in respect of which the Issue Price will be payable in two or more instalments as set out in the Applicable Pricing Supplement. | <b>Exchangeable Notes</b> | which may be redeemed by the Issuer in cash or by the delivery of securities as specified in the Applicable Pricing Supplement. |
| <b>Fixed Rate Notes</b>                             | which will bear interest at a fixed rate, as indicated in the Applicable Pricing Supplement.  |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Floating Rate Notes</b>                          | which will bear interest determined with reference to the rate specified in the Applicable Pricing Supplement.  |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Zero Coupon Notes</b>                            | 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).  |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Indexed Notes</b>                                | 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.   |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Mixed Rate Notes</b>                             | 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.  |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Instalment Notes</b>                             | 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.  |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Partly Paid Notes</b>                            | in respect of which the Issue Price will be payable in two or more instalments as set out in the Applicable Pricing Supplement.   |                         |  |                            |  |                          |  |                      |   |                         |  |                         |  |                          |   |                           |   |
| <b>Exchangeable Notes</b>                           | 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 “**Status of Senior Notes**” below.

**Subordinated Notes** bearing the characteristics described under “**Status and Characteristics of Subordinated Notes**” 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:** 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, 1990) 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.

If Condition 6.4 is specified in the Applicable Pricing Supplement as being applicable, the Issuer shall be entitled, by notice to the Noteholders, to defer the due date for payment of any principal or interest in respect of such Notes where required or requested by the South African Registrar of Banks to do so and for such period and subject to such conditions as the Registrar of Banks may prescribe.

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.

**Selling Restrictions:** There are restrictions on the sale of Notes and the distribution of offering materials in various jurisdictions. See “**Subscription and Sale**”, and such restrictions as may be imposed in the Applicable Pricing Supplement.

**Size:** Up to ZAR5,000,000,000 may be outstanding at any time. The Issuer may increase the amount of the Programme in accordance with the rules of BESA or its successor, if applicable.

**Status of Senior Notes:** The Senior Notes constitute direct, unconditional, unsubordinated and unsecured obligations of the Issuer ranking *pari passu* amongst themselves and (save for certain debts required to be preferred by law) at least *pari passu* with all other unsecured and unsubordinated obligations of the Issuer.

**Status and Characteristics relating to Subordinated Notes:** The Subordinated Notes constitute direct, unsecured and subordinated obligations of the Issuer and will rank *pari passu* among themselves and will rank at least *pari passu* with all other present and future unsecured and subordinated obligations of the Issuer, save for those that have been accorded by law preferential rights. Notes of which the proceeds rank as secondary capital or tertiary capital under the Banks Act, 1990 shall be Subordinated Notes and shall rank *pari passu* among themselves and among all other Subordinated Notes.

Subject to applicable law, in the event of the dissolution of the Issuer or if the Issuer is placed into liquidation or wound up then and in any such event the claims of the persons entitled to be paid amounts due in respect of the Subordinated Notes shall be subordinated to all other claims in respect of any other indebtedness of the Issuer except for other Subordinated Indebtedness (as defined below), to the extent that, in any such event, and provided as aforesaid, no amount shall be eligible for setting-off or shall be payable to any or all the persons entitled to be paid amounts due in respect of the Subordinated Notes in respect of the obligations of the Issuer thereunder until all other indebtedness of the Issuer which is admissible in any such dissolution, liquidation or winding-up (other than Subordinated Indebtedness) has been paid or discharged in full. The term “**Subordinated Indebtedness**” means any indebtedness of the Issuer, including any guarantee by the Issuer, under which the right of payment of the person(s) entitled thereto is, or is expressed to be, or is required by any present or future agreement of the Issuer to be, subordinated to the rights of all unsubordinated creditors of the Issuer in the event of the dissolution of the Issuer or if the Issuer is wound up or placed in liquidation.

**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, Rand Merchant Bank, a division of FirstRand Bank Limited, 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 and banking 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 11. 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.

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## FORM OF THE NOTES

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Notes may be issued in Registered, Bearer or Order form, as specified in the Applicable Pricing Supplement.

The Notes may be listed on the Bond Exchange of South Africa, a licensed financial exchange in terms of the Financial Markets Control Act, 1989 (“**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 (the “**Terms and Conditions**”) in the form of a single certificate, without interest coupons (the “**Global Certificate**”), which will be lodged and immobilised in STRATE Limited (Registration number 1998/022242/06), or its nominee, operating in terms of the Custody and Administration of Securities Act, 1992 (or any successor Act thereto) (the “**Central Depository**”), which forms part of the settlement system of BESA. This will entail that the Notes, represented by the Global Certificate, will be deposited with and registered in the name of, and for the account of, the Central Depository.

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

### Listed Registered Notes

Beneficial interests in Notes which are lodged in the form of the Global Certificate in the Central Depository (“**Beneficial Interests**”) may, in terms of existing law and practice, be transferred through the Central Depository by way of book entry in the securities accounts of the participants in the Central Depository (“**Participants**”), 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.

Beneficial Interests in Notes may be exchanged, without charge by the Issuer, for Individual Certificates in accordance with the provisions of Condition 12 of the Terms and 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 “**Register**”). The Issuer shall regard the Register as the conclusive record of title to the Notes. The Central Depository 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

Notes issued in bearer form (“**Bearer Notes**”) or in order form (“**Order Notes**”) and which are interest bearing shall, if indicated in the Applicable Pricing Supplement, have interest coupons (“**Coupons**”) and, if indicated in the Applicable Pricing Supplement, talons for further Coupons (“**Talons**”) attached on issue. Notes repayable in instalments shall have receipts (“**Receipts**”) for the payment of the instalments of principal (other than the final instalment) attached on issue. Title to Bearer Notes and/or Receipts, Coupons and Talons 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, Coupons and Talons 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).

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## PRO FORMA PRICING SUPPLEMENT

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

**FirstRand Bank Limited**  
(Registration number 1929/001225/06)  
(Incorporated with limited liability in the Republic of South Africa)  
**Issue of [Aggregate Nominal Amount of Tranche] [Title of Notes]**  
**Under its ZAR5,000,000,000 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 set forth in the Programme Memorandum dated [...] 20 [...]. The Notes described in this Pricing Supplement are subject to the Terms and Conditions 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

|  |   |
|--|---|
| Issuer   | FirstRand Bank Limited  |
| Whether the Notes are Senior Notes or Subordinated   | [...]   |
| Qualification of Notes of which the proceeds rank as Secondary Capital under the Banks Act, 1990 | [Yes/No]  |
| Qualification of Notes of which the proceeds rank as Tertiary Capital under the Banks Act, 1990  | [Yes/No]  |
| Series No.   | [...]   |
| Tranche No.  | [...]   |
| Aggregate Nominal Amount   | [...]   |
| Interest/Payment Basis   | [Fixed Rate/Floating Rate/Zero Coupon/Indexed Notes/Partly Paid Notes/Instalment Notes/other] |
| Automatic/Optional Conversion from one Interest/Payment Basis to another                         | [insert details including date for conversion]  |
| Form of Notes  | [Registered/Bearer/Order] Notes   |
| Issue Date   | [...]   |
| Business Centre  | [...]   |
| Additional Business Centre   | [...]   |
| Nominal Amount per Note  | [...]   |
| Specified Denomination   | [...]   |
| Issue Price  | [...]   |
| Interest Commencement Date   | [...]   |

|                                    |   |
|------------------------------------|---|
| Maturity Date                      | [...]   |
| Specified Currency                 | [...]   |
| 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] |
| Final Redemption Amount            | [...]   |
| Interest Payment Dates             | [...]   |
| Last Date to Register              | [...]   |
| Books Closed Period(s)             | The Register will be closed from [...] to [...] and from [...] to [...] (all dates inclusive) in each year until the Maturity Date  |
| Default Rate                       | [...]   |
| Yield                              | [...]   |

#### **FIXED RATE NOTES**

|   |                           |
|---|---------------------------|
| (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**

|  |  |
|--|--|
| (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) | [...]  |
| Manner in which the Rate of Interest is to be determined   | [ISDA Determination/Screen Rate Determination/other – insert details]                      |
| Margin   | [...] basis points to be added to/subtracted from the relevant (ISDA Rate/Reference Rate)] |
| If ISDA Determination  |  |
| (a) Floating Rate  | [...]  |
| (b) Floating Rate Option   | [...]  |
| (c) Designated Maturity  | [...]  |
| (d) Reset Date(s)  | [...]  |
| (e) ISDA Definitions to apply  | [...]  |

#### 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 [...]

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 [...]

Calculation Agent, responsible for calculating amount of principal and interest [...]

#### **ZERO COUPON NOTES**

(a) Implied Yield [...]

(b) Reference Price [...]

(c) Any other formula or basis for determining amount(s) payable [...]

#### **PARTLY PAID NOTES**

(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 instalments [...]%

#### **INSTALMENT NOTES**

Instalment Dates [...]

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

#### **MIXED RATE NOTES**

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 [...]

The interest rate and other pertinent details are set out under the headings relating to the applicable forms of Notes.

#### **INDEXED NOTES**

|  |  |
|--|--|
| (a) Type of Indexed Notes  | [Indexed Interest Notes/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**

|   |          |
|---|----------|
| (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**

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

#### **PROVISIONS REGARDING REDEMPTION/MATURITY**

|  |          |
|--|----------|
| Prior consent of Registrar of Banks required for any redemption prior to Maturity Date | [Yes/No] |
| 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 10.3)                        | [...]    |
| (d) If redeemable in part:   | [...]    |
| Minimum Redemption Amount(s)   | [...]    |
| Higher Redemption Amount(s)  | [...]    |
| (e) Other terms applicable on Redemption   |          |

|   |          |
|---|----------|
| 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 10.4)   | [...]    |
| (d) If redeemable in part:  | [...]    |
| Minimum Redemption Amount(s)  | [...]    |
| Higher Redemption Amount(s)   | [...]    |
| (e) Other terms applicable on Redemption  | [...]    |
| (f) Attach <i>pro forma</i> put notice(s)   |          |
| Early Redemption Amount(s) payable on redemption for taxation reasons or on Event of Default (if required)  | [Yes/No] |
| (a) Amount payable; or  | [...]    |
| (b) Method of calculation of amount payable   | [...]    |
| <b>GENERAL</b>  |          |
| Exchange  | [...]    |
| Calculation Agent   | [...]    |
| Paying Agent  | [...]    |
| Specified office of the Paying Agent  | [...]    |
| Transfer Secretary  | [...]    |
| Provisions relating to stabilisation  | [...]    |
| Condition 6.4 to apply (deferral of interest and principal payments)? In the event that Condition 6.4 applies, where the Registrar of Banks has required or requested a Deferred Payment, subject to such conditions as the Registrar of Banks may prescribe, the Issuer shall be entitled, by giving a Deferral Notice to the Noteholders, to defer the due date for payment of any principal or interest in respect of such Notes | [Yes/No] |
| Additional selling restrictions   | [...]    |
| ISIN  | [...]    |
| Stock Code  | [...]    |
| The notice period required for exchanging interests in Global Certificates for Individual Certificates  | [...]    |
| Method of distribution  | [...]    |



|   |   |
|---|---|
| If syndicated, names of Managers  | [...]   |
| Credit Rating assigned to Notes (if any)                                      | [...]   |
| Receipts attached?  | [Yes/No]  |
| If yes, number of Receipts attached   | [...]   |
| Coupons attached?   | [Yes/No]  |
| If yes, number of Coupons attached  | [...]   |
| Talons attached?  | [Yes/No]  |
| If yes, number of Talons attached   | [...]   |
| Stripping of Receipts and/or Coupons prohibited as provided in Condition 14.4 | [Yes/No]  |
| Governing law (if the laws of South Africa are not applicable)                | [...]   |
| Other Banking Jurisdiction  | [...]   |
| 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 |
| Pricing Methodology   | [Standard BESA pricing methodology/other – insert details]  |
| Other provisions  | [...]   |

Application is hereby made to list this issue of Notes (as from (date of Issue of Notes)).

Signed at \_\_\_\_\_ on \_\_\_\_\_

For and on behalf of

**FirstRand Bank Limited**

By: \_\_\_\_\_ By: \_\_\_\_\_

Director duly authorised

Director duly authorised

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## TERMS AND CONDITIONS OF THE NOTES

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*The following are the Terms and Conditions of 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, replace or modify the following Terms and Conditions for the purpose of such Tranche of Notes. The Applicable Pricing Supplement will be attached to each Note.*

Before the Issuer issues any Tranche of Notes, the Issuer shall complete, sign and deliver to BESA and the Central Depository 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 Terms and Conditions unless the context otherwise requires or unless otherwise stated.

### 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 (if any) 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 “**Applicable Pricing Supplement**” means the Pricing Supplement relating to each Tranche of Notes;
- 1.3 “**Applicable Procedures**” means the rules and operating procedures for the time being of the Central Depository, Settlement Agents and BESA, as the case may be;
- 1.4 “**Bearer**” means the bearer of a Certificate evidencing a Bearer Note or of a Receipt or Coupon attached to such Certificate on issue;
- 1.5 “**Bearer Note**” means a Note payable to the Bearer thereof, transferable by way of delivery in accordance with Condition 14.2 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;
- 1.6 “**Beneficial Interest**” means the undivided share of a co-owner of the Notes represented by a Global Certificate as provided in section 4 of the Custody and Administration of Securities Act, 1992;
- 1.7 “**BESA**” means the Bond Exchange of South Africa, a licensed financial exchange in terms of the Financial Markets Control Act, 1989 or any exchange which operates as a successor exchange to BESA;
- 1.8 “**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;
- 1.9 “**Business Day**” means a day (other than a Saturday or Sunday or public holiday within the meaning of the Public Holidays Act, 1994) 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;
- 1.10 “**Calculation Agent**” means Rand Merchant Bank, a division of FirstRand Bank Limited, 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;

- 1.11 **“Central Depository”** means STRATE Limited (Registration number 1998/022242/06), or its nominee, operating in terms of the Custody and Administration of Securities Act, 1992 (or any successor Act thereto), or any additional or alternate depository approved by the Issuer;
- 1.12 **“Certificate”** means a Global Certificate or Individual Certificate;
- 1.13 **“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;
- 1.14 **“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;
- 1.15 **“Early Redemption Amount”** means the amount, as set out in Condition 10.5, at which the Notes will be redeemed by the Issuer pursuant to the provisions of Condition 10.2 and/or Condition 16;
- 1.16 **“Endorsement”** means an “indorsement”, *mutatis mutandis*, within the meaning of the Bills of Exchange Act, 1964;
- 1.17 **“Endorsement in Blank”** means an Endorsement which specifies no named Payee;
- 1.18 **“Event of Default”** means an event of default by the Issuer as set out in Condition 16;
- 1.19 **“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;
- 1.20 **“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;
- 1.21 **“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;
- 1.22 **“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;
- 1.23 **“Extraordinary Resolution”** means a resolution passed at a meeting (duly convened) of the Noteholders by a majority consisting of not less than 66<sup>2</sup>/<sub>3</sub>% (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<sup>2</sup>/<sub>3</sub>% (sixty six and two thirds per cent.) of the votes given on such poll;
- 1.24 **“Final Redemption Amount”** means the amount of principal specified in the Applicable Pricing Supplement payable in respect of each Note upon the Maturity Date;
- 1.25 **“FirstRand Group”** means the Issuer, its holding company and any subsidiaries of its holding company;
- 1.26 **“Fixed Rate Notes”** means Notes which will bear interest at the fixed Interest Rate, as indicated in the Applicable Pricing Supplement;
- 1.27 **“Floating Rate Notes”** means Notes which will bear interest as indicated in the Applicable Pricing Supplement and more fully described in Condition 7.2;
- 1.28 **“Global Certificate”** means the single Certificate, without interest coupons, registered in the name of the Central Depository and representing those Notes issued in terms of the Terms and Conditions which are lodged and immobilised in the Central Depository, other than those Notes represented by the Individual Certificates;
- 1.29 **“Group of Noteholders”** means the holders of a Series of Notes or, where appropriate, the holders of different Series of Notes;
- 1.30 **“Implied Yield”** means the yield accruing on the Issue Price of Zero Coupon Notes, as specified in the Applicable Pricing Supplement;
- 1.31 **“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;

- 1.32 **“Indexed Notes”** means an Indexed Interest Note and/or an Indexed Redemption Amount Note, as applicable;
- 1.33 **“Indexed Redemption Amount Notes”** means Notes in respect of which the Final Redemption Amount is calculated by reference to an index and/or a formula as may be indicated in the Applicable Pricing Supplement;
- 1.34 **“Individual Certificate”** means:
- 1.34.1 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 12 and any further Certificate issued in consequence of a transfer thereof;
- 1.34.2 in respect of Bearer Notes: a Note in the definitive bearer form of a single Certificate together with Coupons and/or Receipts, if applicable;
- 1.34.3 in respect of Order Notes: a Note in the definitive order form of a single Certificate together with Coupons and/or Receipts, if applicable;
- 1.35 **“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;
- 1.36 **“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);
- 1.37 **“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 7.1, 7.2 and 7.4, respectively;
- 1.38 **“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;
- 1.39 **“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 other than Zero Coupon 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 **“Issuer”** means FirstRand Bank Limited (Registration number 1929/001225/06);
- 1.45 **“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;
- 1.46 **“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;
- 1.47 **“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 7.3;
- 1.48 **“NACA”** means nominal annual compounded annually;
- 1.49 **“NACM”** means nominal annual compounded monthly;
- 1.50 **“NACQ”** means nominal annual compounded quarterly;
- 1.51 **“NACS”** means nominal annual compounded semi-annually;

- 1.52 **“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;
- 1.53 **“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;
- 1.54 **“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;
- 1.55 **“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);
- 1.56 **“Order Note”** means a Note payable to the Payee thereon, transferable by way of Endorsement and delivery in accordance with Condition 14.3 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;
- 1.57 **“Outstanding”** means in relation to the Notes, all the Notes issued other than:
- 1.57.1 those which have been redeemed in full;
  - 1.57.2 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;
  - 1.57.3 those which have been purchased and cancelled as provided in Condition 10;
  - 1.57.4 those which have become prescribed under Condition 15;
  - 1.57.5 Notes represented by those mutilated or defaced Certificates which have been surrendered in exchange for replacement Certificates pursuant to Condition 12;
  - 1.57.6 (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:
- 1.57.7 the right to attend and vote at any meeting of the Noteholders; and
  - 1.57.8 the determination of how many and which Notes are for the time being Outstanding for the purposes of Conditions 19 and 20,
- all:
- 1.57.9 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);
  - 1.57.10 Receipts and Coupons,
- shall be deemed not to be Outstanding;
- 1.58 **“Participants”** means depository institutions accepted by the Central Depository as participants in terms of the Custody and Administration of Securities Act, 1992;
- 1.59 **“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);
- 1.60 **“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;
- 1.61 **“Paying Agent”** means Rand Merchant Bank, a division of FirstRand Bank Limited, 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;
- 1.62 **“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;
- 1.63 **“Programme”** means the Domestic Medium Term Note Programme under which the Issuer may from time to time issue Notes;

- 1.64 **“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;
- 1.65 **“Register”** means the register maintained by the Issuer in terms of Condition 13;
- 1.66 **“Registered Note”** means a Note issued in registered form and transferable in accordance with Condition 14.1;
- 1.67 **“Registrar of Banks”** means the Registrar of Banks in accordance with the Banks Act, 1990;
- 1.68 **“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 Central Depository in accordance with these Terms and Conditions, it means the first date on which (i) the full amount of such monies has been received by the Central Depository, (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;
- 1.69 **“Representative”** means a person duly authorised to act on behalf of a Noteholder, who may be regarded by the Issuer, the Transfer Secretary and the Paying Agent (acting in good faith) as being duly authorised based upon the tacit or express representation thereof by such Representative, in the absence of express notice to the contrary from such Noteholder;
- 1.70 **“Senior Notes”** means Notes issued with the status set out in Condition 5;
- 1.71 **“Series”** means a Tranche of Notes together with any further Tranche or Tranches of Notes which are:
- 1.71.1 expressed to be consolidated and form a single series;
  - 1.71.2 identical in all respects (including as to listing) except for their respective Issue Dates, Interest Commencement Dates and/or Issue Prices;
- 1.72 **“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;
- 1.73 **“Subordinated Notes”** means Notes issued with the status and characteristics set out in Condition 6;
- 1.74 **“Talon”** means a talon entitling the holder to receive further Coupons in relation to an interest bearing Bearer Note or Order Note, if indicated in the Applicable Pricing Supplement, attached to the Certificate evidencing such interest bearing Note;
- 1.75 **“Terms and Conditions”** means the terms and conditions incorporated in this section headed “Terms and Conditions of the Notes” and in accordance with which the Notes will be issued;
- 1.76 **“Tranche”** means, in relation to any particular Series, all Notes which are identical in all respects (including as to listing);
- 1.77 **“Transfer Secretary”** means Rand Merchant Bank, a division of FirstRand Bank Limited, unless the Issuer elects to appoint, in relation to a particular Tranche or Series of Notes, another entity as Transfer Secretary in accordance with the Agency Agreement, in which event that other entity shall act as a Transfer Secretary in respect of that Tranche or Series of Notes;
- 1.78 **“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;
- 1.79 **“ZAR”** means the lawful currency of the Republic of South Africa, being South African Rand, or any successor currency;
- 1.80 **“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
- 1.81 **“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 Central Depository. 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 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 Central Depository. 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.

### 3.3 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 and (if indicated in the Applicable Pricing Supplement), Talons 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 Central Depository, 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.

#### 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 14.2. 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 14.3. 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 are direct, unconditional, unsubordinated and unsecured obligations of the Issuer and rank *pari passu* among themselves and, save for certain debts required to be preferred by law, equally with all other unsecured and unsubordinated obligations of the Issuer from time to time outstanding.

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

6.1 Subordinated Notes constitute direct, unconditional, unsecured and subordinated obligations of the Issuer and rank *pari passu* among themselves and at least *pari passu* with all other present and future unsecured and subordinated obligations of the Issuer, save for those that have been accorded by law preferential rights.

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



- 6.3 “**Subordinated Indebtedness**” means any indebtedness of the Issuer, including any guarantee by the Issuer, under which the right of payment of the person(s) entitled thereto is, or is expressed to be, or is required by any present or future agreement of the Issuer to be, subordinated to the rights of all unsubordinated creditors of the Issuer in the event of the dissolution, winding-up or placing into liquidation of the Issuer.
- 6.4 In the case of Subordinated Notes in relation to which this Condition 6.4 is specified in the Applicable Pricing Supplement as being applicable, the Issuer shall be entitled, by notice in writing to the Noteholders (a “**Deferral Notice**”), to defer the due date for payment of any principal or interest in respect of such Notes, and, accordingly, on the giving of such notice, the due date for payment of such principal or interest (the “**Deferred Payment**”) shall be so deferred and the Issuer shall not be obliged to make payment thereof on the date upon which such Deferred Payment would otherwise have become due and payable, and such deferral of payment shall not constitute an Event of Default. The Issuer may not give a Deferral Notice except where the Registrar of Banks has required or requested a Deferred Payment for such period and subject to such conditions as the Registrar of Banks may prescribe. Interest at the Interest Rate will accrue on principal deferred as aforesaid, save that such interest shall only become due and payable at such time as the principal in respect of which it has accrued becomes due and payable as set out hereunder. Promptly upon being satisfied that the Registrar of Banks will not object to the payment of the whole or any part of any Deferred Payment, the Issuer shall give written notice thereof (a “**Payment Notice**”) to the Noteholders and the relevant Deferred Payment (or the appropriate part of it) and any accrued interest as aforesaid shall become due and payable on the fifth Business Day after the date of such Payment Notice. In addition, all Deferred Payments which remain unpaid upon the Issuer being placed into liquidation or being wound-up shall become due and payable upon such occurrence. When more than one Deferred Payment remains unpaid, payment in part thereof shall be made pro rata according to the amounts of such Deferred Payments remaining unpaid and of any accrued interest as aforesaid remaining unpaid.

## 7. INTEREST

### 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.

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 or 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 (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 (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 10 or 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 at 11:00 (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 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 (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 (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 (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 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 subparagraph, **“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 Central Depository 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 Central Depository 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 7.2, 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 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.

### **7.4 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 10 or the Maturity Date, as the case may be, if either such date does not fall on an Interest Payment Date.

### **7.5 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.

### **7.6 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 Central Depository and notice to that effect has been given to Noteholders in accordance with Condition 18.

#### 7.7 **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.

### 8. **PAYMENTS**

#### 8.1 **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 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 Central Depository, 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 Central Depository and the Participants, as the case may be, shall look solely to the Central Depository 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).

#### 8.2 **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 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 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 8.4 only following surrender of the relevant Coupon to the Paying Agent.

Payments of Instalment Amounts in respect of Instalment Notes which are Bearer Notes shall be made by the Issuer in accordance with Condition 8.4 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:

8.2.1 the Relevant Date; and

8.2.2 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.

### 8.3 **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 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 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 8.4 only following surrender of the relevant Coupon to the Paying Agent.

Payments of Instalment Amounts in respect of Instalment Notes which are Order Notes shall be made by the Issuer in accordance with Condition 8.4 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:

8.3.1 the Relevant Date; and

8.3.2 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, 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.

### 8.4 **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:

8.4.1 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;

8.4.2 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 8.2 or 8.3, 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 8.4.

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 11.

#### **8.5 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.

#### **8.6 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:

- 8.6.1 any additional amounts which may be payable with respect to principal under Condition 11;
- 8.6.2 the Final Redemption Amount of the Notes or the Early Redemption Amount of the Notes, as the case may be;
- 8.6.3 the Optional Redemption Amount(s) (if any) of the Notes;
- 8.6.4 in relation to Instalment Notes, the Instalment Amounts;
- 8.6.5 in relation to Zero Coupon Notes, the Amortised Face Amount (as defined in Condition 10.5.3); and
- 8.6.6 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 11.

### **9. EXCHANGE OF TALONS**

On or after the Interest Payment Date on which the final Coupon (comprising the Coupon attached to the relevant Certificate relating to the latest Interest Payment Date in respect of that Series of Coupons) matures, but not later than the date for prescription (in accordance with Condition 15) of the Talons which may be exchanged for the respective Coupons, the Talon (if any) attached to the relevant Certificate upon issue, may be surrendered at the specified office of the Issuer in exchange for further Coupons, including (if such further Coupons do not include Coupons to, and including, the final date for the payment of interest due in respect of the Notes to which they pertain) a further Talon, subject to the provisions of Condition 15. Each Talon shall, for the purposes of these Terms and Conditions, be deemed to mature on the Interest Payment Date on which the final Coupon issued relative to such Talon matures.

### **10. REDEMPTION AND PURCHASE**

#### **10.1 At Maturity**

Unless previously redeemed or purchased and cancelled as specified below, each Note 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.

#### **10.2 Redemption for Tax Reasons**

Notes may be redeemed at the option of the Issuer, subject to the consent of the Registrar of Banks, to the extent required, at any time (in the case of Notes other than Floating Rate Notes or Indexed Notes or Mixed Rate Notes having an Interest Rate then determined on a floating or indexed basis) or on any Interest Payment Date (in the case of Floating Rate Notes, Indexed Notes or Mixed Rate Notes), on giving not less than 30 nor more than 60 days' notice to the Noteholders prior to such redemption, in accordance with Condition 18 (which notice shall be irrevocable), if the Issuer, immediately prior to the giving of such notice, is of the reasonable opinion that:

10.2.1 as a result of any change in, or amendment to, the laws or regulations of the Republic of South Africa or any political sub-division of, or any authority in, or of, the Republic of South Africa having power to tax, or any change or amendment which becomes effective after the relevant Issue Date, the Issuer is or would be required to pay additional amounts as provided or referred to in Condition 11; and

10.2.2 the requirement cannot be avoided by the Issuer taking reasonable measures available to it, provided that no such notice of redemption shall be given earlier than 90 days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts were a payment in respect of the Notes then due. Notes may be redeemed by the Issuer in accordance with this Condition 10.2 in whole or in part. A redemption in part may be effected by the Issuer:

10.2.3 notwithstanding that such partial redemption may not entirely avoid such obligation to pay additional amounts as provided for or referred to in Condition 11; and

10.2.4 *mutatis mutandis* in the manner described in Condition 10.3, provided that the references to the giving of notice therein and to the Minimum Redemption Amount and the Higher Redemption Amount therein shall be disregarded for such purposes.

Notes redeemed for tax reasons pursuant to this Condition 10.2 will be redeemed at their Early Redemption Amount referred to in Condition 10.5, together (if appropriate) with interest accrued from (and including) the immediately preceding Interest Payment Date to (but excluding) the date of redemption or as specified in the Applicable Pricing Supplement.

### 10.3 Redemption at the Option of the Issuer

If the Issuer is specified in the Applicable Pricing Supplement as having an option to redeem, the Issuer may, subject to the consent of the Registrar of Banks, to the extent required, 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 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 Central Depository, 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 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.

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.



#### 10.4 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, subject to the consent of the Registrar of Banks, to the extent required, exercise such option in respect of such Notes represented by Individual Certificates by delivering to the Transfer Secretary, in accordance with Condition 18, 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 16.

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.

#### 10.5 Early Redemption Amounts

For the purpose of the Condition 10.2 and Condition 16, the Notes will be redeemed at the Early Redemption Amount calculated as follows:

- 10.5.1 in the case of Notes with a Final Redemption Amount equal to the Issue Price, at the Final Redemption Amount thereof; or
- 10.5.2 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 Applicable Pricing Supplement, at their Nominal Amount; or
- 10.5.3 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.

#### 10.6 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 10.2 or 16, the Early Redemption Amount will be determined pursuant to Condition 10.5.

## 10.7 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 10 and the Applicable Pricing Supplement. In the case of early redemption in accordance with Conditions 10.2 or 16, the Early Redemption Amount will be determined pursuant to Condition 10.5.

## 10.8 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.

## 10.9 Purchases

The Issuer may at any time purchase Notes (including all unmatured Coupons and Receipts) at any price in the open market or otherwise. Such Notes may, subject to applicable law, be held, resold, or, at the option of the Issuer surrendered to the Transfer Secretary for cancellation.

## 10.10 Cancellation

All Notes which have been redeemed will forthwith be cancelled. All Notes so cancelled shall be forwarded to the Issuer and cannot be re-issued or resold. Where only a portion of Notes represented by a Certificate are cancelled, the Transfer Secretary shall deliver a Certificate to such Noteholder in respect of the balance of the Notes.

## 10.11 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 10 or upon its becoming due and repayable as provided in Condition 16 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 10.5.3 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 Central Depository, and notice to that effect has been given to the Noteholder in accordance with Condition 18.

## 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 Central Depository. The Central Depository or its 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 Central Depository or its nominee to the holder of such Beneficial Interest. If only part of the Notes represented by a Global Certificate are 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, 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.
- 12.5 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.
- 12.6 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.
- 12.7 Certificates, Receipts and Coupons to be provided by the Issuer to Noteholders shall be collected by the Noteholders from the Transfer Secretary.
- 12.8 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.

### 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 whether the Notes are Registered Notes, Bearer Notes or Order 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 Central Depository 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 10.4, 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 10.4, to register the transfer of any Note, or part of a Note, called for partial redemption.

#### 14.2 **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.

#### 14.3 **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.

#### 14.4 **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.

### 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**

#### 16.1 **Senior Notes**

If any one or more of the following events (each an “**Event of Default**”) shall have occurred and be continuing:

- 16.1.1 default is made for more than 7 Business Days in the payment of interest or principal in respect of any Senior Notes following the service on the Issuer of a written notice requiring that breach to be remedied; or
- 16.1.2 the Issuer fails to perform or observe any of its obligations under any Senior Notes other than those referred to in Condition 16.1.1 and such failure has continued for the period of 30 days following the service on the Issuer of written notice requiring the same to be remedied; or
- 16.1.3 the Issuer fails to obtain any consent, license, approval or authorisation now or hereafter necessary to enable the Issuer to comply with its obligations under the Programme or any such consent, license, approval or authorisation ceases to remain in full force and effect, resulting in the Issuer being unable to perform any of its obligations under the Notes or the Programme, and such failure or cessation continues for more than 10 Business Days after the Issuer becomes aware of such event; or
- 16.1.4 the granting of an order by any competent court or authority for the liquidation, winding-up, dissolution or judicial management of the Issuer, whether provisionally (and not dismissed or withdrawn within 30 days thereof) or finally, or the placing of the Issuer under voluntary liquidation or curatorship, provided that no liquidation, curatorship, winding-up, dissolution or judicial management shall constitute an event of default if (i) the liquidation, winding-up, dissolution or judicial management is for purposes of effecting an amalgamation, merger, demerger, consolidation, reorganisation or other similar arrangement within the FirstRand Group; or (ii) the liquidation, winding-up, dissolution or judicial management is for purposes of effecting an amalgamation, merger, demerger, consolidation, reorganisation or other similar arrangement, the terms of which were approved by Extraordinary Resolution of Noteholders before the date of the liquidation, winding-up, dissolution or judicial management,

then any Senior Noteholder may, by written notice to the Issuer at the registered office of the Issuer, effective upon the date of receipt thereof by the Issuer, declare the Senior Note held by the holder to be forthwith due and payable whereupon the same shall become forthwith due and payable at the Early Redemption Amount (as described in Condition 10.5), together with accrued interest (if any) to the date of repayment, or as specified in the Applicable Pricing Supplement, provided that no such action may be taken by a holder of Senior Notes if the Issuer withholds or refuses to make any such payment in order to comply with any law or regulation of the Republic of South Africa or to comply with any order of a court of competent jurisdiction.

## **16.2 Subordinated Notes**

Subject to Condition 6.4, if applicable, if a default is made by the Issuer in relation to Subordinated Notes in the payment of any amount payable in respect of such Notes, and such default continues for 7 Business Days, or if an Event of Default as contemplated in Condition 16.1.4 occurs, any holder of a Subordinated Note may, subject as provided below, at its discretion and without notice, institute such proceedings against the Issuer as it may think fit to enforce the obligations of the Issuer under such Subordinated Notes, provided that the Issuer shall not be obliged, save in the case of the institution of liquidation or winding up proceedings, to pay any sum or sums sooner than the same would otherwise have been payable by it.

In the event of the winding-up or liquidation, whether finally or provisionally, of the Issuer, otherwise than for the purposes of an amalgamation, merger, consolidation or re-organisation not involving liquidation, winding-up or bankruptcy, then any holder of Subordinated Notes issued by FirstRand may by written notice to the registered office of FirstRand, require that the Subordinated Notes are immediately due and repayable at their Early Redemption Amount together with the accrued interest to the date of payment.

## **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 agent 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, 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 Central Depository 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. 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. For the avoidance of doubt, the exercise by the Issuer of its rights under Condition 17 shall not constitute a modification of these Terms and Conditions.
- 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<sup>2</sup>/<sub>3</sub>% (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.



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## **USE OF PROCEEDS**

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

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## SETTLEMENT, CLEARING AND TRANSFER OF NOTES WHILE IN GLOBAL FORM

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### GLOBAL CERTIFICATES

Notes in Registered Form (“**Registered Notes**”) and listed on the Bond Exchange of South Africa, a licensed financial exchange in terms of the Financial Markets Control Act, 1989 (“**BESA**”) will initially be issued in the form of a single Global Certificate (the “**Global Certificate**”) which will be lodged and immobilised in STRATE Limited, a company registered as a central securities depository in terms of the Custody and Administration of Securities Act, 1992, or its nominee (the “**Central Depository**”), which forms part of the settlement system of BESA. The Central Depository will be the sole Noteholder in respect of the Global Certificate.

The Central Depository holds Notes subject to the Custody and Administration of Securities Act, 1992 and the Rules of the Central Depository. The Rules of the Central Depository as at the date of this Programme Memorandum are as published by the Registrar of Financial Markets in Government Gazette No. 17637 of 6 December 1996.

While the Notes are held in the Central Depository under the Global Certificate, the Central Depository will be reflected as the Noteholder in the register maintained by the Transfer Secretary (the “**Register**”). 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 Central Depository, will be paid to and may be exercised only by the Central Depository, for the holders of beneficial interests in the Notes held by the Central Depository under the Global Certificate (“**Beneficial Interests**”).

The Central Depository maintains accounts only for the custodial members of the Central Depository (“**Participants**”). The Participants are also approved settlement agents of BESA (“**BESA Settlement Agents**”). 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. 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 Central Depository 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 BESA Settlement Agent.

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

Transfers between Participants in the Central Depository will be effected in the ordinary way in accordance with the applicable rules and operating procedures of the Central Depository, the Participants, the BESA Settlement Agents and BESA, as the case may be (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 14 from the Central Depository or its nominee to the holder of such Beneficial Interest.

### INDIVIDUAL CERTIFICATES

All Notes not represented by a Global Certificate, including Bearer Notes and Order Notes, (each as defined below) shall be issued in definitive form (“**Individual Certificates**”). Notes issued in bearer form (“**Bearer Notes**”) or order (“**Order Notes**”), and which are interest bearing, have interest coupons (“**Coupons**”) and, if indicated in the Applicable Pricing Supplement, talons (“**Talons**”) attached on issue. Notes repayable in instalments have receipts (“**Receipts**”) for the payment of the instalments of principal (other than the final instalment) attached on issue.

Title to Bearer Notes and/or Receipts, Coupons and Talons 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, Coupons and Talons 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 8 of the Terms and Conditions.

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## SUBSCRIPTION AND SALE

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The Dealer has agreed with the Issuer a basis upon which it may from time to time agree to subscribe for Notes or procure the subscription of Notes.

### **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, 1990, and regulations issued thereunder.

### **United States**

The Notes have not been and will not be registered under the United States Securities Act of 1933 (“**the Securities Act**”) and may not be offered or sold within the United States 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 Dealer has represented and agreed and each additional Dealer appointed under the Programme will be required to represent and agree that, except as permitted by the Programme Agreement, it will not offer, sell or deliver Notes within the United States or to, or for the account or benefit of U.S. persons.

### **United Kingdom**

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

- (a) in relation to Notes which have a maturity of one year or more, it has not offered or sold and, prior to the expiry of a period of six months from the Issue Date, will not offer or sell any such Notes to persons in the United Kingdom prior to the admission of such Notes to listing in accordance with Part VI of the Financial Services and Markets Act, 2000 (“**FSMA**”), except to persons whose ordinary activities involve them in acquiring, holding, managing or disposing of investments (as principal or agent) for the purposes of their businesses or otherwise in circumstances which have not resulted and will not result in an offer to the public in the United Kingdom within the meaning of the Public Offers of Securities Regulations 1995;
- (b) 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;
- (c) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Notes in, from or otherwise involving the United Kingdom.

### **General**

The Dealer has 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 Dealer represents that Notes may at any time lawfully be sold in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder or assumes any responsibility for facilitating such sale.

With regard to each Tranche, the relevant Dealer will be required to comply with such other or additional restrictions as the Issuer and the relevant Dealer shall agree and as shall be set out in the Applicable Pricing Supplement.

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## SOUTH AFRICAN TAXATION

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*The information contained below is intended to be a general guide to the relevant tax laws of the Republic 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 on Creation and Transfer of Notes**

No stamp duty is payable on the issue or transfer of interest-bearing Notes under current law, unless convertible into shares or similar equity interest or eligible to participate in dividends.

### **General**

In general interest received on the bonds will be subject to income tax in South Africa. 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 Income Tax Act 58 of 1962 as amended (“**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)(hA) of the Act.

### **Noteholders who are not Residents of the Common Monetary Area**

In terms of section 10(1)(hA) of the Act, interest received by or accruing to the Noteholder shall be exempt from tax if such interest is received by or accrued to a person who is not a resident, provided that –

- (a) the exemption under this paragraph shall not apply to any interest received by or accrued to a company which is not a resident, if such interest is effectively connected with the business carried on by that company in the Republic; and
- (b) the exemption under this section shall not apply to any natural person –
  - who was at any time a resident if such person has during the year of assessment carried on business in the Republic; or
  - unless such person was physically absent from the Republic for a period or periods of at least 183 days in aggregate during the year of assessment in which such interest was received or accrued.

For purposes of the above exemption, any person who is a resident of any country which has been included in the common monetary area, i.e. the Republic of Namibia and the Kingdoms of Swaziland and Lesotho, is deemed to be a resident of the Republic.

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 constitutes the asset of a permanent establishment of that person through which a trade is carried on in South Africa during the relevant year of assessment.

### **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 will have been taxed or allowed as a deduction for income tax

and it is anticipated that it will therefore 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.

Noteholders are advised to consult their tax advisers in relation to Capital Gains Tax on any Notes held as at 1 October 2001, the date on which Capital Gains Tax was introduced as, in principle, only capital gains in relation to the value of the Notes held at that date or acquired subsequently are to be subject to Capital Gains Tax.

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## GENERAL INFORMATION

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### 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 Programme Agreement and 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 of FirstRand, incorporating the audited annual financial statements, and notes thereto;
- (b) a copy of this Programme Memorandum;
- (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 Central Depository, 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.

### 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 Central Depository. Notes will be settled through BESA-recognised Settlement Agents who will comply with the electronic settlement procedures. The Central Depository, or its nominee, will be the registered holder of a Global Certificate and will maintain securities accounts for the custodial members of the Central Depository (“**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 Central Depository and the South African Reserve Bank. Individual Certificates will only be issued to Noteholders in terms of the procedures set out in Condition 12. Transfer of Notes shall be undertaken in accordance with the rules of the Central Depository 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 14. The Central Depository, its 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 FirstRand and no material adverse change in the prospects of FirstRand since 30 June 2003.

## **Litigation**

Save as disclosed herein, FirstRand 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 FirstRand, nor is it aware of any such proceedings being threatened or pending.

## **Auditors**

PricewaterhouseCoopers and Deloitte & Touche have acted as the auditors to FirstRand for the financial years ended 30 June 2001, 30 June 2002 and 30 June 2003 and, in respect of these years, have issued unqualified audit reports in respect of FirstRand's financial statements.

## **Non-South African Resident Noteholders and Emigrants from the Common Monetary Area**

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

Blocked Rand may be used for the purchase of Notes. Any amounts payable by the Issuer in respect of the Notes purchased with Blocked Rand may not, in terms of the Exchange Control Regulations, 1961, be remitted out of South Africa or paid into any non-South African bank account. For the purposes of this clause, Blocked Rand is defined as funds which may not be remitted out of South Africa or paid into a non-South African resident's bank account.

## **Emigrants from the Common Monetary Area**

Any Individual Certificates issued to emigrant Noteholders, or where the emigrant holds Notes through the Central Depository, the securities accounts maintained for such emigrants by the Settlement Agents, will be restrictively endorsed and shall be deposited with an authorised foreign exchange dealer controlling such emigrant's blocked assets.

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

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

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

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

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