

**Final Offering Circular dated 30 September 2003**

## **NEDBANK LIMITED**

*(incorporated with limited liability under registration number 1951/000009/06 in the Republic of South Africa)*

**ZAR500,000,000**

### **Unsecured Subordinated Callable Registered Notes due 30 September 2009**

ZAR500,000,000 unsecured subordinated callable registered notes with a denomination of ZAR1,000,000 per note (the “**Notes**”) will be issued by Nedbank Limited (the “**Issuer**”) subject to the terms and conditions contained in Section 4 of this Offering Circular (the “**Terms and Conditions**”).

Interest on the Notes will be payable, in respect of each Interest Period (as defined in the Terms and Conditions), quarterly in arrear on 30 December, 30 March, 30 June and 30 September of each year, commencing on 30 December 2003 until the due date for redemption. The Notes will bear interest at a rate per annum equal to the aggregate of (a) 1.30% plus (b) the JIBAR Rate (as defined in the Terms and Conditions), as determined by the Calculation Agent (as defined in the Terms and Conditions) in accordance with Condition 6 of the Terms and Conditions.

Unless previously redeemed or purchased and cancelled, as more fully described in Condition 5 of the Terms and Conditions, the Notes will be redeemed at their Principal Amount (as defined in the Terms and Conditions) on 30 September 2009.

Payments in respect of the Notes will be made without deduction for or on account of South African taxes, as more fully described in Condition 8 of the Terms and Conditions.

Approval for the Notes to be listed on The Bond Exchange of South Africa (“**BESA**”), under stock code number NED3, was granted with effect from 30 September 2003. The Notes may be traded by or through members of BESA and trading will take place in accordance with the rules and operating procedures for the time being of BESA. The settlement of trades on BESA will take place in accordance with the electronic settlement procedures of BESA and CSD (as defined in the Terms and Conditions).

The Registrar of Banks has approved the issue of the Notes in terms of section 79(1)(b) of the Banks Act, 1990 (the “**Banks Act**”) and for the proceeds thereof to rank as “secondary capital” in terms of paragraph (c) of the definition of “secondary capital” in section 1 of the Banks Act, as read with Regulation 21(7) of the Regulations under the Banks Act. The acquisition of the Notes by a bank as defined in the Banks Act, or by a non-banking subsidiary of that bank, must be regarded as an impairment of the capital of that acquiring bank, in an amount equal to the book value of the Notes, when it calculates its capital adequacy requirements.

**Lead Manager:** JP Morgan Securities South Africa (Proprietary) Limited

**Manager:** Nedbank Corporate, a division of Nedbank Limited

**Legal Adviser to the Issuer:** Edward Nathan & Friedland (Proprietary) Limited

*References in this Offering Circular to the Terms and Conditions are to Section 4 of this Offering Circular headed “**Terms and Conditions of the Notes**”. All capitalised terms used in this Offering Circular are defined in the Terms and Conditions unless separately defined in this Offering Circular.*

## **GENERAL NOTICE**

The Issuer accepts responsibility for the information contained in this Offering Circular. 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 or incorporated in this Offering Circular is correct and does not omit anything likely to affect the import of such information.

The Issuer, having made all reasonable enquiries, confirms that this Offering Circular contains or incorporates all information which is reasonably material in the context of the issue and the offering of the Notes, that the information contained or incorporated in this Offering Circular is true and accurate in all material respects and is not misleading and that there are no other facts the omission of which would make this Offering Circular or any of such information misleading in any material respect.

This Offering Circular must be read in conjunction with all documents which are deemed to be incorporated herein by reference (see “**Documents Incorporated by Reference**” set out in Section 1 of this Offering Circular). This Offering Circular shall be read and construed on the basis that such documents are incorporated into and form part of this Offering Circular.

The Lead Manager and the Manager (collectively, the “**Managers**”) and other professional advisers have not separately verified the information contained or incorporated herein. Accordingly, no representation, warranty or undertaking, express or implied, is made and no responsibility is accepted by the Managers or other professional advisers as to the accuracy or completeness of the information contained or incorporated in this Offering Circular or any other information provided by the Issuer. The Managers and other professional advisers do not accept any liability in relation to the information contained or incorporated in this Offering Circular or any other information provided by the Issuer in connection with the Notes.

No person has been authorised by the Issuer to give any information or to make any representation not contained or incorporated in or not consistent with this Offering Circular or any other information supplied in connection with the Notes and, if given or made, such information or representation must not be relied upon as having been authorised by the Issuer or the Managers.

Neither this Offering Circular nor any other information supplied in connection with the Notes is intended to provide a basis for any credit or other evaluation, or should be considered as a recommendation by the Issuer or the Managers that any recipient of this Offering Circular or any other information supplied in connection with the Notes should purchase any Notes.

Each person contemplating subscribing for or purchasing 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 Offering Circular nor any other information supplied in connection with the Notes constitutes an offer or invitation by or on behalf of the Issuer or the Managers to any person to subscribe for or to purchase any Notes.

The delivery of this Offering Circular does not at any time imply that the information contained or incorporated herein concerning the Issuer is correct at any time subsequent to the date hereof, or that any other financial statement or other information supplied in connection with the Notes is correct as at any time subsequent to the date indicated in the document containing the same. Investors should review, among other things, the audited consolidated annual financial statements of the Issuer for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000, and the audited consolidated annual financial statements of Nedcor Limited for the financial years ended 31 December 2002, 31 December

2001 and 31 December 2000 (incorporated by reference into this Offering Circular in terms of Section 1), when deciding whether or not to purchase any Notes.

This Offering Circular 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 (see “**Subscription and Sale**” set out in Section 10 of this Offering Circular).

Neither the Issuer nor the Lead Manager represents that this Offering Circular 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 or the Lead Manager which would permit a public offering of any Notes or distribution of this Offering Circular in any jurisdiction where action for that purpose is required. Accordingly, no Notes may be offered or sold, directly or indirectly, and neither this Offering Circular 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.

The distribution of this Offering Circular and the offer or sale of Notes may be restricted by law in certain jurisdictions. Persons into whose possession this Offering Circular or any Notes come must inform themselves about, and observe, any such restrictions. In particular, there are restrictions on the distribution of this Offering Circular and the offer or sale of Notes in the United States of America, the United Kingdom and the Republic of South Africa (see “**Subscription and Sale**” set out in Section 10 of this Offering Circular).

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 of America except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. In connection with the issue and distribution of any Notes, the Lead Manager may over-allot or effect transactions which stabilise or maintain the market price of the Notes at a level which might not otherwise prevail. Such stabilising, if commenced, may be discontinued at any time, and shall be carried out in accordance with all applicable laws and regulations.

## TABLE OF CONTENTS

Page

Section 1 :	Documents Incorporated by Reference
Section 2 :	Summary of the Notes
Section 3 :	Form of the Notes
Section 4 :	Terms and Conditions of the Notes
Section 4 :	Annexure “A” – Provisions for Meetings of Noteholders
Section 5 :	Use of Proceeds
Section 6 :	Description of the Issuer
Section 7 :	Financial information on the Issuer and Nedcor Limited
Section 8 :	Report of the independent Auditors
Section 9 :	South African Taxation
Section 10 :	Subscription and Sale
Section 11 :	General Information

## **Section 1**

### **DOCUMENTS INCORPORATED BY REFERENCE**

The (i) audited consolidated annual financial statements of the Issuer for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000 and (ii) the audited consolidated annual financial statements of Nedcor Limited for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000, are hereby incorporated by reference and form part of this Offering Circular, 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 Offering Circular 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). Copies of the aforementioned statements are available free of charge to each person to whom a copy of this Offering Circular has been delivered at the Specified Offices of the Issuer and the Transfer Secretary.

## **Section 2**

### **SUMMARY OF THE NOTES**

*The following summary does not purport to be complete and is taken from, and is qualified by, the remainder of this Offering Circular.*

<b>Aggregate Principal Amount</b>	The issue of Notes will be for an aggregate Principal Amount of ZAR500,000,000.
<b>Blocked Rand</b>	Blocked Rand may be used for the purchase of Notes, subject to South African Exchange Control Regulations.
<b>Calculation Agent</b>	Nedbank Corporate, a division of Nedbank Limited, unless the Issuer elects to appoint another entity as Calculation Agent, as contemplated in the Terms and Conditions.
<b>Clearing System</b>	CSD acting as the approved electronic clearing house, carrying on the role of matching, clearing and facilitation of settlement of all transactions carried out on BESA.
<b>CSD</b>	STRATE Limited (registration number 1998/022242/06), registered as a Central Securities Depository in terms of the Custody and Administration of Securities Act, 1992.
<b>CSD Participants</b>	Depository institutions accepted by CSD as participants in terms of the Custody and Administration of Securities Act, 1992 and which are approved by BESA, in terms of the rules of BESA, as settlement agents to perform electronic settlement of funds and scrip. As at the date of this Offering Circular, the CSD Participants are ABSA Bank Limited, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited and the South African Reserve Bank. Euroclear and Clearstream, Luxembourg will settle offshore transfers through their nominated South African CSD Participant, The Standard Bank of South Africa Limited.
<b>Currency</b>	South African Rand (ZAR).
<b>Denomination of Notes</b>	Each Note will be issued in a denomination of ZAR1,000,000.
<b>Description</b>	Nedbank Limited ZAR500,000,000 Unsecured Subordinated Callable Registered Notes due 30 September 2009.
<b>Early Redemption</b>	The Notes may be redeemed, prior to the Maturity Date, at the option of the Issuer pursuant to Condition 5.2 of the Terms and Conditions, or for taxation reasons pursuant to Condition 5.3 of the Terms and Conditions or, following an Event of Default, pursuant to Condition 11.2 of the Terms and Conditions.

<b>Electronic Settlement</b>	The Notes will be issued, cleared and settled in accordance with the rules of BESA and CSD through the CSD electronic settlement system. Euroclear Bank S.A/N.V. as operator of the Euroclear System (“ <b>Euroclear</b> ”) and Clearstream Banking, société anonyme (“ <b>Clearstream, Luxembourg</b> ”), who settle offshore transfers, access BESA through their nominated South African CSD Participant, The Standard Bank of South Africa Limited. The Notes will be cleared by CSD Participants who will follow the electronic settlement procedures prescribed by BESA and CSD Participants.
<b>Form of the Notes</b>	The Notes will be issued in registered form as more fully described in Section 3 of this Offering Circular headed “ <b>Form of the Notes</b> ”.
<b>Governing Law</b>	The Notes will be governed by, and construed in accordance with, the laws of South Africa.
<b>Interest Payments</b>	Interest on the Notes is payable, in respect of each Interest Period, quarterly in arrear on 30 December, 30 March, 30 June and 30 September of each year, commencing on 30 December 2003.
<b>Interest Rate</b>	The Notes will bear interest at a rate per annum equal to the aggregate of (a) 1.30% plus (b) the JIBAR Rate, as determined by the Calculation Agent in accordance with Condition 6 of the Terms and Conditions.
<b>Issuer</b>	Nedbank Limited.
<b>Issue Date</b>	30 September 2003.
<b>Lead Manager</b>	JP Morgan Securities South Africa (Proprietary) Limited.
<b>Listing</b>	Approval to list the Notes on BESA, under stock code number NED3, was granted with effect from 30 September 2003.
<b>Manager</b>	Nedbank Corporate, a division of Nedbank Limited.
<b>Maturity Date</b>	Unless previously redeemed or purchased and cancelled, the Notes will mature on 30 September 2009.
<b>Redemption Amount</b>	100% of the Principal Amount of the Notes.
<b>Register</b>	The Register shall be closed at 17h00 (South African time) 3 days prior to each Interest Payment Date and 3 days prior to the due date for redemption of the Notes. The Register will list CSD (or its Nominee) and any holder of Individual Certificates. CSD will keep electronic records of the CSD Participants holding Beneficial Interests in Notes held in CSD under the Global Certificate, and the CSD Participants will keep an electronic sub-register of their clients holding Beneficial Interests in Notes held in CSD under the Global Certificate. Payments of interest and principal in respect of Notes represented by a Certificate will be made to the person named as the registered holder of such Certificate in the Register at 17h00 (South

African time) on the Last Day to Register (whether such is a Business Day or not).

**Selling Restrictions**

There are selling restrictions in relation to the United States, the United Kingdom and the Republic of South Africa (set out in Section 10 of the Offering Circular).

**Stamp Duty  
Uncertificated Securities Tax**

In terms of the Stamp Duties Act, 1968, no stamp duty is payable on the issue or transfer of Notes qualifying as “interest-bearing debentures” if such Notes are listed on any stock exchange licensed in terms of the Stock Exchanges Control Act, 1985 or listed on any financial exchange (including BESA) licensed in terms of the Financial Markets Control Act, 1989. In terms of the Uncertificated Securities Tax Act, 1998, no uncertificated securities tax is payable on the issue or transfer of Beneficial Interests in Notes listed on any stock exchange licensed in terms of the Stock Exchanges Control Act, 1985, or listed on any financial exchange (including BESA) licensed in terms of the Financial Markets Control Act, 1989.

**Status of Notes**

The Notes constitute direct, unconditional, unsecured and subordinated obligations of the Issuer and rank *pari passu* amongst themselves and *pari passu* with all other present and future unsecured and subordinated obligations of the Issuer, save for those that have been accorded preferential rights by law, as set out more fully in Condition 4 of the Terms and Conditions.

**Taxation**

All payments in respect of the Notes will be made without withholding or deduction for or on account of taxes levied in South Africa. In the event that withholding tax or such other deduction is required by South African law then, subject to certain exceptions provided in Condition 8 of the Terms and Conditions, 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 in the absence of such withholding or deduction. In the event that any such additional taxes are levied, the Issuer may, as set out more fully in Condition 5.3 of the Terms and Conditions, redeem all of the Notes.

**Transfer Secretary**

Computershare Limited (trading through its division Investor Services) unless the Issuer elects to appoint another entity as Transfer Secretary, as contemplated in the Terms and Conditions.



## **Section 3**

### **FORM OF THE NOTES**

#### **Global Certificate**

The Notes will initially be represented by a single Global Certificate in registered form without interest coupons. The Global Certificate will be lodged and immobilised in CSD. CSD will hold the Notes represented by the Global Certificate subject to the Custody and Administration of Securities Act, 1992 and the rules of CSD.

The Global Certificate will be registered in the name of CSD or its Nominee. While all of the Notes are held in CSD under the Global Certificate, CSD or its Nominee will be named in the Register as the sole Noteholder of Notes represented by the Global Certificate.

Accordingly, and except where the contrary is provided in this Offering Circular, all amounts to be paid and all rights to be exercised in respect of the Notes held in CSD will be paid to and may be exercised only by CSD or its Nominee for the holders of Beneficial Interests in such Notes.

CSD maintains accounts only for CSD Participants. As at the date of this Offering Circular, the CSD Participants are ABSA Bank Limited, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited and the South African Reserve Bank.

Beneficial Interests which are held by CSD Participants may be held directly through CSD, and CSD will hold such Beneficial Interests on behalf of such CSD Participants through such CSD Participants' securities accounts.

Beneficial Interests which are not held by CSD Participants may be held by clients of CSD Participants indirectly through such CSD Participants. CSD Participants are in turn required to maintain securities accounts for their clients. The clients of CSD Participants may include the holders of Beneficial Interests or their custodians.

The clients of CSD Participants, as the holders of Beneficial Interests or as custodians for such holders, may exercise their rights in respect of the Notes held by them in CSD only through their CSD Participants. Euroclear and Clearstream, Luxembourg may hold Notes through their CSD Participant, which is currently The Standard Bank of South Africa Limited.

#### **Individual Certificates**

Beneficial Interests can only be exchanged for Individual Certificates in accordance with Condition 10.1 of the Terms and Conditions.

Individual Certificates will not be issued in bearer form. Individual Certificates will be registered in the Register in the names of the individual Noteholders.

## **Section 4**

### **TERMS AND CONDITIONS OF THE NOTES**

*The following is the text of the terms and conditions of the Notes, which are incorporated by reference into the Global Certificate and each Individual Certificate. In addition, the Global Certificate and each Individual Certificate will be endorsed with the following wording: "The Registrar of Banks has approved the issue of the Notes in terms of section 79(1)(b) of the Banks Act, 1990 (the "Banks Act") and for the proceeds thereof to rank as "secondary capital" in terms of paragraph (c) of the definition of "secondary capital" in section 1 of the Banks Act, as read with Regulation 21(7) of the Regulations under the Banks Act. The acquisition of the Notes by a bank as defined in the Banks Act, or by a non-banking subsidiary of that bank, must be regarded as an impairment of the capital of that acquiring bank, in an amount equal to the book value of the Notes, when it calculates its capital adequacy requirements."*

#### **1. DEFINITIONS**

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

**"Applicable Procedures"** means the rules and operating procedures for the time being of CSD, CSD Participants and BESA;

**"Banks Act"** means the Banks Act, 1990;

**"Beneficial Interest"** means the beneficial ownership interest in Notes represented by the Global Certificate, as contemplated in section 4 of the Custody and Administration of Securities Act, 1992;

**"BESA"** means The Bond Exchange of South Africa, a financial exchange established in terms of the Financial Markets Control Act, 1989, and any reference to "BESA" shall, whenever the context permits, be deemed to include any successor exchange operating in terms of the Financial Markets Control Act, 1989;

**"Business Day"** means a day (other than a Saturday, Sunday or public holiday in South Africa) on which commercial banks settle payments in Rand in South Africa;

**"Calculation Agent"** means Nedbank Corporate, a division of Nedbank Limited, unless the Issuer elects to appoint another entity as Calculation Agent, in which event that other entity, on execution of an appropriate agreement, shall serve as Calculation Agent in respect of the Notes;

**"Certificate"** means a Global Certificate or Individual Certificate;

**"CSD"** means STRATE Limited (registration number 1998/022242/06), a central securities depository forming part of the settlement system of BESA operating in terms of the Custody and Administration of Securities Act, 1992, and any reference to "CSD" shall, whenever the context permits, be deemed to include a reference to its successor operating in terms of the Custody and Administration of Securities Act, 1992, and any additional or alternate depository approved by the Issuer;

**"CSD Participants"** means depository institutions accepted by CSD as participants in terms of the Custody and Administration of Securities Act, 1992 and which are approved by BESA, in terms of the rules of BESA, as settlement agents to perform electronic settlement of funds and scrip, and any

references in these Terms and Conditions to the relevant CSD Participant shall, in respect of a Beneficial Interest, be a reference to the CSD Participant appointed to act as such by the holder of such Beneficial Interest;

“**Early Redemption Date**” means the date, prior to the Maturity Date, of early redemption of Notes in accordance with Condition 5.2 or Condition 5.3 or Condition 11.2, as the case may be;

“**Event of Default**” means an event of default as set out in Condition 11.1;

“**Extraordinary Resolution**” means a resolution passed at a meeting of Noteholders (duly convened) by a majority consisting of not less than 75% 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 75% of the votes given on such poll;

“**Global Certificate**” means the single global certificate in definitive registered form without interest coupons, lodged and immobilised in CSD, representing Notes listed on BESA (other than those Notes (if any) represented by Individual Certificates);

“**Group Company**” means any company within the Nedcor Group;

“**Individual Certificate**” means a Note in the definitive registered form of a single certificate issued in exchange for a Beneficial Interest in accordance with Condition 10.1;

“**Interest Determination Date**” means, in respect of each Interest Period, the day falling on the first day of such Interest Period or, if such day is not a Business Day, the first following day that is a Business Day, being the day upon which the Interest Rate in respect of such Interest Period shall be determined by the Calculation Agent in accordance with Condition 6;

“**Interest Payment Date**” means, in respect of each Interest Period, quarterly in arrear on 30 December, 30 March, 30 June and 30 September of each year commencing on 30 December 2003;

“**Interest Period**” means each successive three-month period commencing on and including an Interest Payment Date and ending on but excluding the following Interest Payment Date; provided that the first Interest Period shall commence on and include the Issue Date and the last Interest Period shall end on but exclude the Redemption Date;

“**Issue Date**” means 30 September 2003;

“**Issuer**” means Nedbank Limited, incorporated in South Africa under registration number 1951/000009/06;

“**JIBAR Rate**” means, in respect of each Interest Period, the rate per annum, expressed as a percentage, determined by the Calculation Agent, on each Interest Determination Date, in accordance with Condition 6.2;

“**Last Day to Register**” means 17h00 (South African time) on the third day preceding each Interest Payment Date and the Redemption Date being, in each instance, the last date on which the Transfer Secretary will accept Transfer Forms and record in the Register the transfer of Notes represented by Certificates;

“**Lead Manager**” means JP Morgan Securities South Africa (Proprietary) Limited;

“**Manager**” means Nedbank Corporate, a division of Nedbank Limited;

“**Maturity Date**” means 30 September 2009;

“**Nedcor Group**” means Nedcor Limited (incorporated in South Africa under registration number 1966/010630/06) and its subsidiaries (as defined in the Companies Act, 1973);

“**Nominee**” means Central Depository Nominees (Proprietary) Limited (registration number 1990/006665/07), a wholly-owned subsidiary of CSD;

“**Noteholders**” means, subject to Condition 3, the holders of the Notes evidenced by Certificates (as recorded in the Register);

“**Notes**” means the Nedbank Limited ZAR500,000,000 Unsecured Subordinated Callable Registered Notes due 30 September 2009, issued by the Issuer on the Terms and Conditions;

“**Offering Circular**” means the document so entitled in respect of the Notes, dated 30 September 2003;

“**Ordinary Resolution**” means a resolution passed at a meeting of Noteholders (duly convened) by a majority consisting of not less than 51% 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 51% of the votes given on such poll;

“**Principal Amount**” means, in respect of each Note, the nominal value of the Note (being the amount of ZAR1,000,000) and, in relation to any number of Notes, such number of Notes multiplied by ZAR1,000,000;

“**Redemption Date**” means, in the circumstances contemplated in Condition 5.1, the Maturity Date or, in the circumstances contemplated in Condition 5.2 or Condition 5.3 or Condition 11.2, as the case may be, the Early Redemption Date;

“**Register**” means the register maintained by the Transfer Secretary in terms of Condition 12;

“**Registrar of Banks**” means the Registrar of Banks, as contemplated in the Banks Act;

“**South Africa**” means the Republic of South Africa;

“**Specified Office**” means, in relation to each of the Issuer, the Calculation Agent and the Transfer Secretary, the address of the office specified in respect of such entity at the end of the Offering Circular, or such other address as is notified by such entity (or, where applicable, a successor to such entity) to the Noteholders in accordance with Condition 14, as the case may be;

“**Terms and Conditions**” means the terms and conditions of the Notes set out in this Section 4 of the Offering Circular;

“**Transfer Secretary**” means Computershare Limited (trading through its division Investor Services) or its successor, which shall serve as the Transfer Secretary, unless the Issuer elects to appoint another entity as Transfer Secretary, in which event that other entity, on execution of an agreement substantially in the form of the Transfer Secretary Agreement, shall serve as Transfer Secretary in respect of the Notes;

“**Transfer Secretary Agreement**” means the agreement so entitled in respect of the Notes concluded between the Issuer and the Transfer Secretary, dated [29<sup>th</sup>](#) September 2003;

“**Transfer Form**” means the written form for the transfer of Notes represented by a Certificate, in the form approved by the Transfer Secretary, and signed by the transferor and transferee;

“**ZAR**” means the lawful currency of South Africa, being South African Rand, or any successor currency.

All references in the Offering Circular to any legislation including, without limiting the generality of the foregoing, any statute, regulation, rule or Applicable Procedure, shall be deemed to include any successor or replacement legislation to such legislation.

## 2. **FORM AND DENOMINATION**

The Notes are unsecured subordinated callable registered notes. Each Note will be issued in a denomination of ZAR1,000,000.

The Issuer will issue Notes for a total amount of ZAR500,000,000.

The Notes will initially be represented by a single Global Certificate. The Global Certificate will be lodged and immobilised in CSD.

Beneficial Interests can only be exchanged for Individual Certificates in accordance with Condition 10.1.

## 3. **TITLE**

The Global Certificate will be registered in the name of CSD or its Nominee. While all of the Notes are held in CSD under the Global Certificate, CSD or its Nominee will be named in the Register as the sole Noteholder of Notes represented by the Global Certificate.

Title to Notes represented by Certificates will pass upon registration of transfer in accordance with Condition 9. The Issuer, the Transfer Secretary and any CSD Participant may deem and treat the holder, named in the Register, of any Note represented by a Certificate 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 but, in the case of the Global Certificate, without prejudice to the provisions set out below. None of the Issuer, the Transfer Secretary or any CSD Participant shall be bound to record any trust in the Register or to take notice of or to accede to the execution of any trust (express, implied or constructive) to which any Note may be subject.

While the Notes are held in CSD under the Global Certificate, each person shown in the records of CSD or the relevant CSD Participant, as the case may be, as the holder of a Beneficial Interest in any number of Notes (in which regard any certificate or other document issued by CSD or the relevant CSD Participant, as the case may be, as to such number of Notes and the Principal Amount thereof standing to the account of such person shall be *prima facie* proof of such Beneficial Interest) shall, subject to these Terms and Conditions, be treated by the Issuer, the Transfer Secretary and the relevant CSD Participant as the holder of such number of Notes in such Principal Amount for all purposes, other than with respect to the payment of principal or interest on the Notes, for which latter purpose the registered holder of the relevant Notes named in the Register shall be treated by the Issuer, the Transfer Secretary and the relevant CSD Participant as the holder of such Notes in accordance with, and subject to, these Terms and Conditions.

Beneficial Interests which are held by CSD Participants may be held directly through CSD, and CSD will hold such Beneficial Interests on behalf of such CSD Participants through such CSD Participants' securities accounts.

Beneficial Interests which are not held by CSD Participants may be held by clients of CSD Participants indirectly through such CSD Participants. CSD Participants are in turn required to maintain securities

accounts for their clients. The clients of CSD Participants may include the holders of Beneficial Interests or their custodians.

The clients of CSD Participants, as the holders of Beneficial Interests or as custodians for such holders, may exercise their rights in respect of the Notes held by them in CSD only through their CSD Participants. Euroclear and Clearstream, Luxembourg may hold Notes through their CSD Participant, which is currently The Standard Bank of South Africa Limited.

Title to Beneficial Interests held by CSD Participants will pass on transfer thereof by electronic book entry in the CSD Participants' central securities accounts with CSD, in accordance with the Applicable Procedures. Title to Beneficial Interests held by clients of CSD Participants will pass on transfer thereof by electronic book entry in the securities accounts of the clients maintained by the CSD Participants, in accordance with the Applicable Procedures.

#### 4. STATUS AND SUBORDINATION

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

Subject to applicable law, in the event of the dissolution, winding-up, liquidation, curatorship or judicial management of the Issuer, the claims of Noteholders shall be subordinated to all other claims in respect of any other indebtedness of the Issuer except for other Subordinated Indebtedness. In any such event and provided as aforesaid, no amount shall be payable to any Noteholder entitled to be paid amounts due under the Notes until all other indebtedness of the Issuer which is admissible in any such dissolution, winding-up, liquidation, curatorship or judicial management (other than Subordinated Indebtedness) has been paid or discharged in full.

For purposes of this Condition 4, "**Subordinated Indebtedness**" means any indebtedness of the Issuer, including any guarantee given 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, liquidation, curatorship or judicial management of the Issuer.

#### 5. REDEMPTION AND PURCHASES

##### 5.1. Redemption on the Maturity Date

Unless previously redeemed or purchased and cancelled as specified below, each Note will, subject to these Terms and Conditions, be redeemed by the Issuer at its Principal Amount on the Maturity Date, together with interest accrued to such Maturity Date.

##### 5.2. Early redemption at the option of the Issuer

The Issuer may at its option, but subject to the prior written consent of the Registrar of Banks, having given (i) not less than 15 nor more than 30 days' notice to Noteholders in accordance with Condition 14, and (ii) not less than 7 days before the giving of the notice referred to in (i), notice to the Transfer Secretary, redeem all or some of the Notes, on any Interest Payment Date on or prior to 30 June 2004, at their Principal Amount, together with interest accrued to the relevant Interest Payment Date.

In the case of a partial redemption of Notes pursuant to this Condition 5.2, the Notes to be redeemed will be selected (i) in the case of Notes represented by Individual Certificates, individually by lot, and (ii) in the case of Notes represented by the Global Certificate, in accordance with the Applicable Procedures, and in each of (i) and (ii), not more than 30 days

prior to the Early Redemption Date. A list of the serial numbers of the Individual Certificates representing those Notes selected to be redeemed as aforesaid shall be notified to the Transfer Secretary, and to Noteholders in accordance with Condition 14, not less than 15 days prior to the Early Redemption Date.

**5.3. Early redemption for tax reasons**

All (and not only some) of the Notes may be redeemed at any time at the option of the Issuer (subject to the prior written consent of the Registrar of Banks), on giving not less than 30 days' but not more than 60 days' notice to Noteholders in accordance with Condition 14, if the Issuer, immediately prior to the giving of such notice, is of the reasonable opinion that there is a substantial likelihood that the Issuer will be required to pay additional amounts in accordance with Condition 8 upon the next due date for a payment in respect of the Notes by reason of :

- (a) any actual change, or proposed change which is reasonably imminent, in or amendment to the laws, regulations or rulings of South Africa or any political sub-division or authority thereof or therein having power to tax; or
- (b) any actual change, or proposed change which is reasonably imminent, in the official application or interpretation of such laws, regulations or rulings; or
- (c) any action which shall have been taken by any court of competent jurisdiction of South Africa or any political sub-division or authority thereof or therein having power to tax, whether or not such action was taken or brought with respect to the Issuer; or
- (d) any actual change, or proposed change which is reasonably imminent, in the official application or interpretation of, or any actual or proposed execution of, or amendment to, any treaty or treaties affecting taxation to which South Africa is or is to be a party.

From the date of publication of any notice of redemption pursuant to this Condition 5.3, the Issuer shall make available at its Specified Office, for inspection by any holder of Notes to be so redeemed, a certificate signed by two authorised signatories of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred.

Notes redeemed for tax reasons pursuant to this Condition 5.3 will be redeemed at their Principal Amount together, with interest accrued to the Early Redemption Date.

**5.4. Purchases**

The Issuer (subject to the written prior consent of the Registrar of Banks) and/or any other Group Company may at any time purchase Notes at any price in the open market or otherwise. In the event of the Issuer purchasing Notes, such Notes may (subject to the restrictions of any applicable law) be held, resold or, at the option of the Issuer, cancelled.

**5.5. Cancellation**

All Notes which are redeemed will forthwith be cancelled.

**5.6. Applicable Procedures**

The redemption of Beneficial Interests shall take place in accordance with the Applicable Procedures relating to the redemption of debt securities.

## 6. INTEREST

### 6.1. Interest

Each Note will bear interest on its Principal Amount, from and including the Issue Date to but excluding the Redemption Date, at a rate per annum equal to the aggregate of (a) 1.30% plus (b) the JIBAR Rate. Such rate shall be determined by the Calculation Agent, on each Interest Payment Date, in accordance with Condition 6.2.

Such interest shall fall due for payment in arrear on each Interest Payment Date and on the Redemption Date if the Redemption Date does not fall on an Interest Payment Date.

### 6.2. Calculation of interest rate

The rate of interest applicable to the Notes for each Interest Period shall be that rate per annum equal to the aggregate of (a) 1.30% plus (b) the following JIBAR Rate determined by the Calculation Agent :

- (a) the average mid-market yield rate per annum for three-month ZAR deposits which appears on the Reuters Screen SAFEY page at or about 12h00 (South African time) on the Interest Determination Date; or
- (b) if such rate per annum does not so appear on the Reuters Screen SAFEY page or the Reuters Screen SAFEY page is unavailable, the rate determined on the basis of the average of the mid-market deposit rates quoted by at least two of FirstRand Bank Limited, The Standard Bank of South Africa Limited, ABSA Bank Limited or Investec Bank Limited (the “**Reference Banks**”) at or about 12h00 (South African time) on the Interest Determination Date and, for this purpose, the Calculation Agent shall request the principal Johannesburg office of each of the Reference Banks to provide a quotation of its rate in respect of three-month ZAR deposits; or
- (c) if on any Interest Determination Date in respect of which paragraph (b) applies, fewer than two such quotations are provided by the Reference Banks, the rate shall be determined by the Calculation Agent, acting in good faith and in a commercially reasonable manner, using a representative rate.

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 in such period divided by 365.

### 6.3. Calculation of interest amount

The Calculation Agent will, on each Interest Determination Date, calculate the amount of interest payable, per ZAR1,000,000, on the relevant Interest Payment Date in respect of the relevant Interest Period.

### 6.4. Notification

The Calculation Agent will notify CSD, CSD Participants, the Issuer, the Transfer Secretary and BESA of the rate of interest (calculated in accordance with Condition 6.2) and the amount of interest (calculated in accordance with Condition 6.3) as soon as practicable after the determination thereof, but in any event not later than five Business Days after the Interest Determination Date.



**6.5. Determinations binding**

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purpose of this Condition 6, whether by a primary dealer (or any of them) or the Calculation Agent shall (in the absence of wilful default, negligence, bad faith or manifest error) be binding on the Issuer, the Calculation Agent, the Transfer Secretary, CSD, CSD Participants and the Noteholders and (in such absence as aforesaid) no liability to the Noteholders shall attach to the Issuer, the primary dealers or the Calculation Agent in connection with the exercise or non-exercise by them of their powers, duties and discretions hereunder.

**6.6. Late payment**

Each Note will cease to bear interest from the Redemption Date unless, upon due presentation thereof, payment of principal or interest due and payable on an Interest Payment Date is withheld or refused. In such event, interest will continue to accrue at a rate per annum equal to the aggregate of (a) 1.30% plus (b) the JIBAR Rate, as determined by the Calculation Agent in accordance with this Condition 6, until the earlier of (i) the date on which all amounts due in respect of such Note have been paid, and (ii) the date on which all amounts due in respect of such Note have been received by CSD or its Nominee and notice to that effect has been given to Noteholders in accordance with Condition 14.

**7. PAYMENTS**

Only Noteholders named in the Register at 17h00 (South African time) on the relevant Last Day to Register shall be entitled to payments of principal and interest.

The principal and interest on the Notes shall be paid by the Issuer, in the case of interest, on each Interest Payment Date and, in the case of principal (and interest payable in respect of the last Interest Period), on the Redemption Date; provided that notwithstanding anything to the contrary contained in these Terms and Conditions, if the relevant Interest Payment Date or the Redemption Date, as the case may be, is not a Business Day, Noteholders shall not be entitled to payment until the next Business Day following such Interest Payment Date or Redemption Date, as the case may be, or to any additional interest or other sums in respect of such postponed payment.

Payments will be subject in all cases to any fiscal or other laws and regulations applicable thereto in the place of payment, subject to Condition 8.

**7.1. Notes Represented by Certificates**

Payments of interest and principal in respect of Notes represented by Certificates shall be made by the Issuer in ZAR by electronic funds transfer, to the bank account of the person named as the registered holder of such Certificate in the Register or, in the case of joint registered Noteholders, the bank account of the first one of them named in the Register in respect of the relevant Notes.

In the case of the redemption of any Note, the holder of the Certificate representing such Note shall be required, at least three days prior to the Redemption Date, to surrender the Certificate at the Specified Office of the Transfer Secretary for cancellation.

**7.2. Beneficial Interests**

Payments of interest and principal in respect of Beneficial Interests shall be made by the Issuer in ZAR by electronic funds transfer, to the bank account of CSD, or its Nominee, as the registered holder of the Global Certificate, which will in turn transfer such funds, via the CSD Participants, to the holders of Beneficial Interests.

Each of the persons named in the records of CSD or the relevant CSD Participant, as the case may be, as the holders of Beneficial Interests shall look solely to CSD or the relevant CSD Participant, as the case may be, for such person's share of each payment so made by the Issuer to or for the order of the registered holder of the Global Certificate.

The Issuer will not have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Beneficial Interests, or for maintaining, supervising or reviewing any records relating to Beneficial Interests.

Payments of interest and principal in respect of Beneficial Interests shall be recorded by CSD, or its Nominee, as the registered holder of the Global Certificate, distinguishing between interest and principal, and such record of payments by the registered holder of the Global Certificate shall be *prima facie* proof of such payments.

### 7.3 **Payments by cheque**

If the Issuer is prevented or restricted directly or indirectly from making any payment by electronic funds transfer in accordance with the preceding paragraphs of this Condition 7 (whether by reason of strike, lock-out, fire, explosion, flood, riot, war, accident, act of God, embargo, legislation, shortage of or breakdown in facilities, civil commotion, unrest or other disturbance, 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). All moneys so payable by cheque shall be sent by post, at the risk of that Noteholder, to the address of that Noteholder as set forth in the Register or, in the case of joint Noteholders, the address set forth in the Register of the first one of them named in the Register in respect of that Note.

Each such cheque shall be made payable to the relevant Noteholder or, in the case of joint Noteholders, the first one of them named in the Register. Cheques may be posted by ordinary post, provided that the Issuer shall not be responsible for any loss including, without limitation, any loss due to theft or fraud, 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 7.

Payment by cheque sent in terms of this Condition 7 shall be a complete discharge by the Issuer of the amount of the cheque.

## 8. **TAXATION**

As at the date of the Offering Circular, all payments of principal or interest in respect of the Notes will be made without withholding or deduction for, or on account of, any present or future taxes, duties, assessments or governmental charges of whatever nature ("**Taxes**") imposed or levied by, or on behalf of, South Africa, or any political sub-division or any authority in South Africa having power to tax, unless such withholding or deduction is required by South African law.

The payment of any Taxes by the Issuer as an agent or representative taxpayer for a Noteholder shall not constitute a withholding or deduction for the purposes of this Condition 8.

In the event of any such withholding or deduction being required by South African law in respect of Taxes imposed or levied on interest or principal payments in respect of the Notes, the Issuer will pay such additional amounts as are necessary in order that the net amounts received by the Noteholders 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 in the absence of such withholding or deduction; provided that no such additional amounts shall be payable:

- (a) to or on behalf of a Noteholder who is subject to such Taxes by reason of his having some connection with South Africa other than the mere holding of such Note; or
- (b) where payment of principal or interest thereon is conditional on presentment or surrender of the relevant Certificate, and the relevant Certificate is presented or surrendered more than 30 days after the Relevant Date except to the extent that the Noteholder would have been entitled to such additional amounts on presenting or surrendering the Certificate on such thirtieth day; or
- (c) to or on behalf of a Noteholder who is eligible to avoid such withholding or deduction whether by making a declaration of non-residence or other similar claim for exemption to the relevant tax authority or otherwise; or
- (d) if such withholding or deduction is in respect of Taxes imposed or levied on interest or principal payments only by virtue of the inclusion of such payments in the Taxable Income or Taxable Gain of any Noteholder; or
- (e) if such withholding or deduction arises through the exercise by revenue authorities of special powers in respect of tax defaulters; or
- (f) any combination of (a) to (e).

For purposes of this Condition 8 :

“**Relevant Date**” means, in respect of any payment, the date on which such payment first becomes due, except that, in relation to moneys payable to CSD or its Nominee in accordance with these Terms and Conditions, it means the first date on which (i) the full amount of such moneys has been received by CSD or its Nominee, (ii) such moneys 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 Condition 14;

“**Taxable Gain**” means any “taxable capital gain” as defined in paragraph 1 of Schedule 8 to the Income Tax Act, 1962;

“**Taxable Income**” means any “taxable income” as defined in section 1 of the Income Tax Act, 1962.

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.

## 9. TRANSFER OF NOTES

### 9.1. Transfer of Beneficial Interests

Transfers of Beneficial Interests among CSD Participants occur by electronic book entry in the CSD Participants’ central securities accounts with CSD. Transfers of Beneficial Interests to and from clients of CSD Participants occur by electronic book entry in the securities accounts of the clients maintained by the CSD Participants.

Beneficial Interests may be transferred only in accordance with these Terms and Conditions and the Applicable Procedures. Transfers of Beneficial Interests will not be recorded in the Register.

**9.2. Transfer of Notes represented by Certificates**

No transfer of Notes represented by a Certificate will be recorded in the Register by the Transfer Secretary unless the transferor of such Notes procures that :

- (a) the transfer of such Notes is embodied in the Transfer Form; and
- (b) the Transfer Form is signed by the registered Noteholder and the transferee, or an authorised representative of that registered Noteholder and/or transferee; and
- (c) the Transfer Form is delivered to the Transfer Secretary at its Specified Office together with the relevant Certificate for cancellation.

Transfers of Notes represented by a Certificate shall only be in respect of a denomination of ZAR1,000,000 or any multiple thereof, and consequently the Issuer will not recognise any fraction of a denomination of ZAR1,000,000. Notes represented by a Certificate may be transferred in whole or in part (in amounts of not less than ZAR1,000,000 or any multiple thereof).

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

Before any transfer of any Notes represented by a Certificate is registered all relevant transfer taxes (if any) must have been paid by the transferor and/or the transferee, as the case may be, and such evidence must be furnished as the Issuer and the Transfer Secretary may reasonably require as to the identity and title of the transferor and the transferee.

Subject to the provisions of this Condition 9.2, the Transfer Secretary will, within five Business Days of receipt by it of a valid Transfer Form (or such longer period as may be required to comply with any applicable fiscal or other laws, regulations or Applicable Procedures), record the transfer of Notes represented by a Certificate in the Register, and authenticate and deliver to the transferee of such Notes (at the risk of the transferee) a new Certificate in respect of such Notes.

Where a Noteholder has transferred part only of his holding of Notes represented by a Certificate, there shall be delivered to him a new Certificate for the balance of the Notes.

No transfer will be registered whilst the Register is closed.

**10. DELIVERY, EXCHANGE AND REPLACEMENT OF NOTES**

**10.1. Exchange of Beneficial Interests**

The Issuer may require that Beneficial Interests be exchanged for Individual Certificates, in accordance with the Applicable Procedures, if any one or more of the following events (each an “**Exchange Event**”) occurs :

- (a) CSD is closed for business for a continuous period of 14 days (other than by reason of holiday, statutory or otherwise) or announces its intention permanently to cease business or has in fact done so or is unable or unwilling to continue as depository or clearing system, as the case may be, and a successor depository or clearing system, as the case may be, satisfactory to the Issuer and BESA is not available; or

- (b) the Issuer has become or will become subject to adverse tax consequences, as contemplated in Condition 5.3, which would not be suffered were Beneficial Interests to be exchanged for Individual Certificates.

If an Exchange Event occurs, the Issuer will promptly give notice, in accordance with Condition 14, of its intention to exchange Beneficial Interests for Individual Certificates to the Transfer Secretary and the Noteholders.

On or after the Exchange Date, the holder of the Global Certificate shall surrender the Global Certificate to or to the order of the Transfer Secretary. In exchange for Beneficial Interests the Issuer will deliver, or procure the delivery of, an Individual Certificate representing the number of Notes to be delivered by the Issuer in exchange for each such Beneficial Interest. The aggregate of the Principal Amount of such Notes represented by such Individual Certificate shall be equivalent to the amount of such Beneficial Interest; provided that if the amount of such Beneficial Interest is equivalent to a fraction of ZAR1,000,000 (or any multiple thereof), the issue, and amount, of the Individual Certificate to be issued in respect of such Beneficial Interest, shall be governed by the Applicable Procedures. Individual Certificates shall be in, or substantially in, the form set out in the Transfer Secretary Agreement.

Upon exchange of Beneficial Interests for Individual Certificates in terms of this Condition 10.1, the Global Certificate shall, in terms of the Applicable Procedures, be presented to the Transfer Secretary at its Specified Office for splitting and a new Global Certificate representing the balance of the Notes (if any) still held by CSD or its Nominee shall be delivered to CSD or its Nominee. The original Global Certificate shall be cancelled and retained by the Transfer Secretary.

“**Exchange Date**” means, for the purposes of this Condition 10.1, the day specified in the notice given by the Issuer requiring exchange pursuant to an Exchange Event being a Business Day falling not less than 30 days after the day on which such notice is given.

10.2. **Replacement of Certificates**

If any Certificate is mutilated, defaced, stolen, destroyed or lost, it may be replaced at the Specified Office of the Transfer Secretary, on payment by the claimant of such costs and expenses as may be incurred in connection therewith, and upon such terms as to evidence of title, security, indemnity and otherwise as the Issuer or the Transfer Secretary may require. Mutilated or defaced Certificates must be surrendered at the Specified Office of the Transfer Secretary before replacements will be issued.

10.3. **Death and Sequestration or Liquidation of Noteholder**

Any person becoming entitled to Notes in consequence of the death or sequestration or liquidation of the holder of such Notes may, upon producing such evidence that he holds the position in respect of which he proposes to act under this Condition 10.3 or of his title as the Issuer, the Transfer Secretary and (if applicable) CSD and the CSD Participant may require, be registered or recorded himself as the holder of such Notes or, subject to the requirements of the Applicable Procedures, Condition 9 and this Condition 10, may transfer such Notes. The Issuer, the Transfer Secretary and (if applicable) CSD and the CSD Participant shall be entitled to retain any amount payable upon the Notes to which any person is so entitled until such person shall be registered as aforesaid or shall duly transfer the Notes.

**10.4. Costs**

Certificates shall be provided (whether by issue, delivery or exchange) by the Issuer without charge, save as otherwise provided in these Terms and Conditions. Separate costs and expenses relating to the provision of Certificates and/or the transfer of Notes may be levied by other persons, such as CSD Participants, 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 all taxes or governmental charge or insurance charges that may be imposed in relation to such mode of delivery shall be borne by the Noteholder.

**11. EVENTS OF DEFAULT**

**11.1. Events of Default**

An Event of Default shall arise if any one or more of the following events or circumstances shall have occurred and be continuing :

- (a) the Issuer fails to pay any amount due and payable under the Notes and the failure to pay has continued for more than 5 Business Days; or
- (b) an application to any competent court is made for the granting of an order for the liquidation, dissolution, winding-up, curatorship or judicial management of the Issuer or such order is granted, whether provisionally (and not dismissed or withdrawn within 30 days thereof) or finally, or the placing of the Issuer under voluntary liquidation; provided that no liquidation, dissolution, winding-up, curatorship or judicial management shall constitute an Event of Default if the liquidation, dissolution, winding-up, curatorship or judicial management is for purposes of effecting a merger, amalgamation, demerger, consolidation, reorganisation or other similar arrangement (i) within the Nedbank Group, or (ii) the terms of which were approved by an Extraordinary Resolution of Noteholders before the date of liquidation, dissolution, winding-up, curatorship or judicial management.

**11.2. Action upon Event of Default**

Upon a Noteholder becoming aware that an Event of Default has occurred and is continuing :

- (a) the Noteholder may, in the case of an Event of Default contemplated in Condition 11.1 (a), by written notice to the Issuer demand payment, forthwith, from the Issuer of all amounts due and payable by the Issuer under the Notes, or
- (b) the Noteholder may, in the case of an Event of Default contemplated in Condition 11.1 (b) or if the Issuer fails to pay all amounts due and payable by the Issuer under the Notes forthwith upon receipt of the notice contemplated in Condition 11.2(a), as the case may be, declare by written notice to the Issuer that the Notes are immediately repayable on the Early Redemption Date stipulated as such in such notice (whereupon the Notes shall, subject to the prior written consent of the Registrar of Banks, become immediately repayable) and, without further notice, demand payment, forthwith, from the Issuer of all amounts due and payable by the Issuer under the Notes.

Where the Notes have not been declared to be immediately repayable, as contemplated in Condition 11.2(a), the amount due and payable by the Issuer shall be equivalent to (i) in the case of default in payment of interest, the interest due and payable under the Notes on the relevant Interest Payment Date, including arrear interest, or (ii) in the case of default in

payment of principal, the principal due and payable under the Notes on the Maturity Date and the interest due and payable in respect of the last Interest Period, including arrear interest, as the case may be.

Where the Notes have been declared to be immediately repayable, as contemplated in Condition 11.2(b) and the Registrar of Banks has consented in writing to such early redemption, the amount due and payable by the Issuer shall be equivalent to the principal and interest due and payable under the Notes on the Early Redemption Date, including arrear interest.

## 12. REGISTER

The Register shall be kept at the Specified Office of the Transfer Secretary. The Register shall contain the name, address, and bank account details of the holders of Notes evidenced by Certificates. The Register shall set out the number of Notes issued to such Noteholder and the Principal Amount thereof, and shall show the date of such issue and the date upon which the Noteholder became registered as such. The Register shall record the number of Notes outstanding and the serial numbers of the Global Certificate and Individual Certificates issued. The Register shall be open for inspection during the normal business hours of the Transfer Secretary to any Noteholder or any person authorised in writing by any Noteholder. The Transfer Secretary shall not be obliged to record any transfer while the Register is closed. The Transfer Secretary shall not be bound to record any trust in the Register or to take notice of or to accede to the execution of any trust (whether express, implied or constructive) to which any Note may be subject.

The Register shall be closed during the 3 days preceding each Interest Payment Date and the Redemption Date from 17h00 (South African time) on the Last Day to Register.

The Transfer Secretary shall alter the Register in respect of any change of name, address or bank account details of any of the Noteholders of which it is notified.

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

## 13. TRANSFER SECRETARY AND CALCULATION AGENT

The Issuer is entitled to vary or terminate the appointment of the Transfer Secretary and/or the Calculation Agent and/or appoint additional or other agents, in which event that other entity, on execution of an appropriate agreement, shall serve in that capacity in respect of the Notes; provided that there will at all times be a Transfer Secretary and a Calculation Agent with a Specified Office in such place as may be required by the Applicable Procedures.

The Transfer Secretary and the Calculation Agent act solely in such capacities as the agents of the Issuer, and do not assume any obligation towards or relationship of agency or trust for or with any Noteholders.

## 14. NOTICES

All notices (including all demands or requests under these Terms and Conditions) to Noteholders shall :

- (a) be sent by registered mail or delivered by hand to the address of such Noteholders appearing in the Register and published in a leading English language daily newspaper of general circulation in South Africa; and
- (b) for so long as the Notes are listed on BESA, be published in a daily newspaper of general circulation in Johannesburg.

Any such notice will be deemed to have been given on the date of first publication or hand delivery or on the seventh day after it is sent by registered mail, as the case may be.

For so long as the Notes are held in their entirety by CSD or its Nominee as the registered holder of the Global Certificate, there may be substituted for the publications contemplated above the delivery of the relevant notice to CSD or its Nominee, the CSD Participants and BESA, for communication by them to the holders of Beneficial Interests.

Notices (including all demands or requests under these Terms and Conditions) to be given by any Noteholder shall be in writing and shall be sent by registered mail or delivered by hand, together with a certified copy of the relevant Certificate, to the Issuer (or, as applicable, the Transfer Secretary) at their respective Specified Offices. Such notice shall be deemed to have been received by the Issuer or the Transfer Secretary, as the case may be, if the relevant notice is delivered by hand, on the date of delivery, or on the seventh day after the relevant notice is sent by registered mail, as the case may be.

While any Note is represented by the Global Certificate, notice may be given by any holder of a Beneficial Interest to the Issuer (or, as applicable, the Transfer Secretary) through such holder's CSD Participant in accordance with the Applicable Procedures and in such manner as the Issuer and the CSD Participant may approve for this purpose.

#### 15. **AMENDMENT**

The Issuer may effect, without the consent of the Noteholders, any amendment of these Terms and Conditions which is of a formal, minor or technical nature or is made to correct a manifest error, or is necessary to comply with mandatory provisions of the law of South Africa (including, without limitation, the Applicable Procedures); provided that such amendment does not prejudice the interests of, or have any adverse effect on, the Noteholders.

Any such amendment shall be binding on the Noteholders, and the Issuer shall notify the Noteholders of such amendment as soon as practicable thereafter in accordance with Condition 14. For the avoidance of doubt, the exercise by the Issuer of its rights under Condition 13 shall not constitute an amendment of these Terms and Conditions.

Save as provided in the preceding two paragraphs of this Condition 15, no amendment of these Terms and Conditions may be effected unless in writing and signed by or on behalf of the Issuer and:

- (a) signed by or on behalf of the Noteholders holding not less than 75% of the aggregate Principal Amount of the Notes; or
- (b) sanctioned by an Extraordinary Resolution.

#### 16. **MEETINGS OF NOTEHOLDERS**

Annexure "A" to these Terms and Conditions contains provisions for convening meetings of Noteholders to consider any matter affecting their interests, including the sanctioning by an Extraordinary Resolution of any amendment of these Terms and Conditions, if proposed by the Issuer.

The Issuer may at any time convene a meeting of Noteholders. The Issuer shall, upon a requisition in writing of any Noteholders holding not less than the majority of the aggregate Principal Amount of the Notes, convene a meeting of Noteholders.

The quorum at any such meeting for passing an Extraordinary Resolution will be Noteholder(s) holding or representing not less than a clear majority of the aggregate Principal Amount of the Notes or, at any



adjourned meeting, Noteholder(s) holding or representing not less than one-third of the aggregate Principal Amount of the Notes. At a meeting where the business includes the amendment of these Terms and Conditions, the necessary quorum for passing an Extraordinary Resolution will be Noteholder(s) holding or representing not less than two-thirds of the aggregate Principal Amount of the Notes or, at any adjourned such meeting, Noteholder(s) holding or representing not less than one-third of the aggregate Principal Amount of the Notes.

Any resolution passed at a meeting of Noteholders duly convened and held in accordance with the provisions of Annexure "A" to these Terms and Conditions shall be binding upon all the Noteholders whether present or not present at such meeting and whether or not voting, and all the Noteholders shall be bound to give effect thereto accordingly.

**17. LISTING**

Approval for the listing of the Notes on BESA, under stock code number NED3, was granted with effect from 30 September 2003.

**18. GOVERNING LAW**

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

**19. PRESCRIPTION**

The Notes will become void unless presented for payment of principal and interest within a period of 3 years after the Redemption Date; provided that if the full amount of the moneys payable has not been received by CSD or its Nominee on or prior to the Redemption Date, the Notes will become void 3 years after the date on which notice is given to the Noteholders in accordance with Condition 14 that the full amount of such moneys has been received by CSD or its Nominee.

## Annexure “A” to Section 4

### MEETINGS OF NOTEHOLDERS

*All capitalised terms in this Annexure “A” to Section 4 “Meetings of Noteholders” are defined in the Terms and Conditions unless separately defined in this Annexure A.*

1. (a) A Noteholder may by an instrument in writing (a “**Form of Proxy**”) signed by the Noteholder or, in the case of a juristic person, signed on its behalf by a duly authorised officer of the juristic person, appoint any person (a “**Proxy**” or “**Proxies**”) to act on his or its behalf in connection with any meeting or proposed meeting of Noteholders.
- (b) A Noteholder which is a juristic person may by resolution of its directors or other governing body authorise any person to act as its representative (a “**Delegate**”) in connection with any meeting or proposed meeting of Noteholders.
- (c) Any Proxy appointed pursuant to sub-paragraph (a) or any Delegate appointed pursuant to sub-paragraph (b) shall, so long as their appointment remains in force, be deemed for all purposes in connection with any meeting or proposed meeting of Noteholders specified in the appointment, to be the holder of the Notes to which the appointment relates and the actual beneficial holder of the Notes shall be deemed for such purposes not to be the Noteholder.
2. Proxies and Delegates need not be Noteholders.
3. Each Form of Proxy (or certified copy thereof) shall be deposited at such place as the Issuer shall approve not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the Proxies named in the Form of Proxy propose to vote and the Form of Proxy shall be treated as valid unless the Chairperson of the meeting decides otherwise before such meeting or adjourned meeting proceeds to business. The Issuer shall not thereby be obliged to investigate or be concerned with the validity of or the authority of the Proxies named in any such Form of Proxy.
4. Any vote given in accordance with the terms of a Proxy shall be valid notwithstanding the previous revocation or amendment of the Form of Proxy or of any of the Noteholders' instructions pursuant to which it was executed, provided that no intimation in writing of such revocation or amendment shall have been received by the Issuer at its Specified Office (or such other place as may have been approved by the Issuer for the purpose) by the time being 24 hours before the time appointed for holding the meeting or adjourned meeting at which the Form of Proxy is to be used.
5. The Issuer may at any time convene a meeting of Noteholders. The Issuer shall, upon a requisition in writing of any Noteholder(s) holding not less than the majority of the aggregate Principal Amount of the Notes, convene a meeting of Noteholders. If the Issuer defaults for a period of 14 days from receipt of such requisition in convening such a meeting the same may be convened by the requisitionists. Whenever any Noteholder(s) are about to so convene any such meeting, they shall forthwith give notice in writing to the Issuer, of the day, time and place thereof and of the nature of the business to be transacted thereat. Every such meeting shall be held at such time and place as the Issuer may approve.

6. At least 21 Business Days' notice (exclusive of the day on which the notice is given and the day on which the meeting is held) specifying the place, day and hour of meeting shall be given to the Noteholders (and to the Issuer if the meeting is convened by any Noteholder(s)) prior to any meeting of the Noteholders in the manner provided in the Terms and Conditions. Such notice shall state generally the date, place and time of the meeting, the nature of the business to be transacted, and the terms of any resolution to be proposed at the meeting thereby convened. Such notice shall include a statement to the effect that Proxy Forms may be deposited with the Issuer for the purpose of appointing Proxies not less than 24 hours before the time fixed for the meeting.

7. Some person (who may but need not be a Noteholder) nominated in writing by the Issuer shall be entitled to take the chair at every such meeting but if no such nomination is made, or if at any meeting the person nominated is not present within 30 minutes after the time fixed for holding the meeting, the Noteholders present shall choose any Noteholder to be Chairperson.
8. Unless otherwise specified, resolutions of Noteholders will require an Ordinary Resolution to be passed.
9. The quorum at any meeting for passing an Ordinary Resolution will be Noteholder(s) holding or representing not less than one-third of the aggregate Principal Amount of the Notes or, at any adjourned meeting, Noteholder(s) holding or representing not less than one-quarter of the aggregate Principal Amount of the Notes, and no business (other than the choosing of a Chairperson) shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.
10. Subject to paragraph 11, the quorum at any meeting for passing an Extraordinary Resolution will be Noteholder(s) holding or representing not less than a clear majority of the aggregate Principal Amount of the Notes or, at any adjourned meeting, Noteholder(s) holding or representing not less than one-third of the aggregate Principal Amount of the Notes, and no business (other than the choosing of a Chairperson) shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.
11. At a meeting where the business includes the matters specified in paragraph 12, the necessary quorum for passing an Extraordinary Resolution will be Noteholder(s) holding or representing not less than two-thirds of the aggregate Principal Amount of the Notes or, at any adjourned such meeting, Noteholder(s) holding or representing not less than one-third of the aggregate Principal Amount of the Notes, and no business (other than the choosing of a Chairperson) shall be transacted at any meeting unless the requisite quorum is present at the commencement of business.
12. At any meeting, business including any of the following matters shall only be capable of being effected after having been approved by an Extraordinary Resolution and the quorum at any meeting for passing such Extraordinary Resolution shall be that set out in paragraph 11 :
  - (a) subject to Condition 15 of the Terms and Conditions, any amendment of the Terms and Conditions; and/or
  - (b) any modification of the majority required to pass an Extraordinary Resolution; and/or
  - (c) any alteration of this paragraph 12.
13. An Extraordinary Resolution passed at any meeting of Noteholders will be binding on all Noteholders, whether or not they are present at the meeting. No amendment to or modification of the Terms and Conditions may be effected without the written agreement of the Issuer.

14. If within 30 minutes after the time appointed for any such meeting a quorum is not present, the meeting shall, if convened upon the requisition of Noteholders, be dissolved. In any other case it shall stand adjourned to such date and time not being less than 14 days nor more than 21 days thereafter and at the same time and place, except in the case of a meeting at which an Extraordinary Resolution is to be proposed in which case it shall stand adjourned for such period being not less than 14 days nor more than 21 days, and at such place as may be appointed by the Chairperson and approved by the Issuer. At such adjourned meeting, subject to the requisite quorum for an adjourned meeting stipulated in paragraphs 9, 10 or 11, as the case may be, Noteholders present or represented by Proxies or Delegates shall have power to pass any Extraordinary Resolution or other resolution and to decide upon all matters which could properly have been dealt with at the original meeting had the requisite quorum been present.
15. Notice of any adjourned meeting at which an Ordinary Resolution is to be submitted shall be given in the same manner as notice of an original meeting but as if 14 were substituted for 21 in paragraph 6 and such notice shall state the requisite quorum stipulated in paragraph 9. Notice of any adjourned meeting at which an Extraordinary Resolution is to be submitted shall be given in the same manner as notice of an original meeting but as if 14 were substituted for 21 in paragraph 6 and such notice shall state the requisite quorum stipulated in paragraph 10 or paragraph 11, as the case may be.
16. Except where otherwise provided, every resolution proposed to be passed at a meeting shall be decided, in the first instance by a show of hands and, in case of equality of votes the Chairperson shall, both on a show of hands and on a poll as contemplated in paragraph 18, have a casting vote in addition to the vote or votes (if any) to which he may be entitled as a Noteholder or as a Proxy or as a Delegate.

17. At any meeting, unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairperson, the Issuer or one or more Noteholders present or represented by Proxies or Delegates (whatever the aggregate Principal Amount of the Notes so held by them), a declaration by the Chairperson that a resolution has been carried or carried by a particular majority or not carried by a particular majority shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.
18. Subject to paragraph 20, if at any such meeting a poll is so demanded it shall be taken in such manner and subject as hereinafter provided either at once or after an adjournment as the Chairperson directs and the result of such poll shall be deemed to be the resolution of the meeting at which the poll was demanded as at the date of the taking of the poll. The demand for a poll shall not prevent the continuance of the meeting for the transaction of any business other than the motion on which the poll has been demanded.
19. The Chairperson may with the consent of (and shall if directed by) any such meeting adjourn the same from time to time and from place to place but no business shall be transacted at any adjourned meeting except business which might lawfully (but for lack of required quorum) have been transacted at the meeting from which the adjournment took place.
20. Any poll demanded at any such meeting on the election of a Chairperson or on any question of adjournment shall be taken at the meeting without adjournment.
21. Any officer of the Issuer and/or any other Group Company, and/or their nominated representative and/or their lawyers, may attend and speak at any meeting. Save as aforesaid, no person shall be entitled to attend and speak nor shall any person be entitled to vote at any meeting of the Noteholders or join with others in requisitioning the convening of such a meeting unless he either produces proof acceptable to the Issuer that he is the Noteholder or is a Proxy or a Delegate. No person shall be entitled to vote at any meeting in respect of Notes held by it for the benefit of any other person unless duly authorised as contemplated herein. Nothing herein contained shall prevent any of the Proxies named in any Form of Proxy or any Delegate from being a director, an officer or representative of or otherwise connected with the Issuer and/or any other Group Company.
22. Save as provided in paragraph 16, at any meeting, on a show of hands or pursuant to a poll, every Noteholder who is present in person and produces proof acceptable to the Issuer that he is a Noteholder or is a Proxy or a Delegate shall have one vote per ZAR1,000,000 in Principal Amount of the Note(s) which he holds or which the person which he represents or for whom he acts as Proxy or Delegate, holds.
23. Notwithstanding any other provision contained in this Annexure "A", the registered holder of the Global Certificate shall vote on behalf of holders of Beneficial Interests represented by the Global Certificate on any resolution proposed to be passed at a meeting, in accordance with the Applicable Procedures.
24. Without prejudice to the obligations of the Proxies or Delegates, any person entitled to more than one vote need not use all his votes or cast all the votes to which he is entitled in the same way.
25. A meeting of Noteholders shall, in addition to the powers given in this Annexure "A", have the following powers exercisable by Extraordinary Resolution only (subject to the provisions relating to quorum contained in paragraphs 10 and 11 and subject to the provisions of any applicable statute), namely :

- (a) power to give instructions to the Issuer in respect of any matter not covered by the Terms and Conditions or this Annexure "A" (but without derogating from powers or discretions expressly conferred upon the Issuer by the Terms and Conditions or this Annexure "A", or imposing obligations on the Issuer not imposed or contemplated by the Terms and Conditions or this Annexure "A" or otherwise conflicting with or inconsistent with the Terms and Conditions or this Annexure "A"); and/or
  - (b) power to sanction any compromise or arrangement proposed to be made between the Issuer and the Noteholders or any of them; and/or
  - (c) power to sanction any abrogation, modification, compromise or arrangement proposed by the Issuer in respect of the rights of Noteholders against the Issuer or against any of its property; and/or
  - (d) power to assent to any modification of the provisions contained in the Terms and Conditions or this Annexure "A", which shall be proposed by the Issuer; and/or
  - (e) power to give any authority or sanction which under the provisions of the Terms and Conditions or this Annexure "A" is required to be given by Extraordinary Resolution; and/or
  - (f) power to appoint any persons (whether Noteholders or not) as a committee or committees to represent the interests of Noteholders and to confer upon such committee or committees any powers or discretions which the Noteholders could themselves exercise by Extraordinary Resolution.
26. Any resolution passed at a meeting of Noteholders duly convened and held in accordance with the provisions hereof shall be binding upon all the Noteholders whether present or not present at such meeting and whether or not voting, and all the Noteholders shall be bound to give effect thereto accordingly. Notice of the result of the voting on any resolution duly considered by the Noteholders shall be given in accordance with the Terms and Conditions by the Issuer within 14 days of such result being known, provided that the non-publication of such notice shall not invalidate such resolution.
27. Minutes of all resolutions and proceedings at every such meeting as aforesaid shall be recorded and maintained by the Issuer and duly entered into books for this purpose. Any such minutes, if purporting to be signed by the Chairperson of such meeting shall be conclusive evidence of the matters therein contained. Until the contrary is proved every such meeting in respect of the proceedings of which minutes have been made shall be deemed to have been duly held and convened and all resolutions passed or proceedings implemented at such meeting to have been duly passed or implemented.

## **Section 5**

### **USE OF PROCEEDS**

The net proceeds from the issue of the Notes will qualify as “secondary capital” for purposes of the Banks Act, and will be applied by the Issuer for its general banking purposes.



## **Section 6**

### **DESCRIPTION OF THE ISSUER**

#### **1. ANNUAL REPORTS**

Further information on the Issuer is included in the annual reports relating to (i) the audited consolidated annual financial statements of the Issuer for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000, and (ii) the audited consolidated annual financial statements of Nedcor Limited for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000, which are incorporated by reference into this Offering Circular in terms of Section 1.

Copies of the aforementioned annual reports are available free of charge to each person to whom a copy of this Offering Circular has been delivered at the Specified Offices of the Issuer and the Transfer Secretary. In addition, ~~certain of~~ the aforementioned annual reports may be accessed at [Nedcor Limited](http://www.nedcor.co.za) the Issuer's website at [www.nedcor.co.za](http://www.nedcor.co.za) ~~[confirm]~~.

#### **2. HISTORY**

- 1831** The oldest bank in South Africa, Cape of Good Hope Bank, is established in St George's Street, Cape Town.
- 1834** The South African Association for the Administration and Settlement of Estates was founded in Cape Town and later absolved into Syfrets which was formed in 1951 by E J M Syfret.
- 1888** Nederlandsche Bank en Creditvereeniging (NBCV) was founded under royal charter in Amsterdam. A branch was opened in Pretoria.
- 1903** The first branch of NBCV outside the Transvaal is opened in Cape Town. The name of the bank is changed to Nederlandsche Bank voor Zuid-Afrika (NBZA).
- 1925** NBZA merges with Transvaalsche Bank en Handelsvereeniging, which was founded in 1892.
- 1940** During the war, all NBZA assets were transferred from the Netherlands to South Africa.
- 1951** NBZA is established as a South African Banking company known as the Netherlands Bank of South Africa (NBSA).
- 1955** Union Acceptances Limited (UAL) is established as South Africa's first merchant bank.
- 1964** NBSA introduces the first computerised banking services.
- 1970** Finansbank is established.
- 1971** NBSA changes its name to Nedbank Limited.
- 1972** UAL is listed on the JSE Securities Exchange South Africa.
- 1973** Nedbank merges with Syfrets and UAL.
- 1980** Cape of Good Hope Bank is acquired by Finansbank.
- 1986** Nedbank acquires Finansbank (and Cape of Good Hope Bank).
- 1988** Nedbank merges with South African Permanent Building Society.
- 1989** Nedbank Group Limited changes its name to Nedcor Limited.
- 1990** The Namibian Banking Corporation Limited is established.
- 1991** NedEnterprise (focused on small to medium term enterprises) becomes operational.
- 1992** Nedfin, Perm and Nedbank become known as Nedcor Bank Limited ("**Nedcor Bank**"). Finansbank is acquired by Nedcor Bank.
- 1995** Perm splits its operations into two separate banks: Permanent Bank and Peoples Bank.
- 1997** Syfrets, UAL and Nedbank Investment Bank Division are merged to form Nedcor Investment Bank Limited ("**NIB**").
- 1999** Nedcor Investment Bank is listed on the JSE. Nedbank Private Bank and Syfrets Private Bank are merged to create the largest private bank in South Africa. Old Mutual (Old Mutual plc and

its subsidiaries, as the context may require), Nedcor's holding company is demutualised and listed on the London Stock Exchange and the JSE.

**2000** Nedcor Bank acquires FBC Fidelity Bank Limited and 50,1% of Imperial Bank Limited.

**2001** Empowerment partners are introduced into Peoples Bank.

**2002** Nedcor acquires 100% of BoE Bank Limited. Nedcor acquires NIB minority interests and NIB's listing on the JSE is terminated.

**2003** Nedcor Bank, NIB, Cape of Good Hope Bank and BoE are merged. Nedcor Bank's name is changed to Nedbank Limited.

### 3. BOARD OF DIRECTORS OF THE ISSUER

The full names, ages, nationalities (if not South African), addresses, occupations and profiles of the directors of Nedbank Limited are set out below :

3.1 **Christo Ferro Liebenberg** (68) (non-executive chairman) (reappointed 1996)

3.2

3.3 Business address: Nedcor Sandton, 135 Rivonia Road, Sandown 2196

3.4 Qualifications: CAIB(SA), FIBSA, AMP(Harvard), DCom(hc)

3.5 Occupation: Chairman, Nedcor

3.6

3.7 Chris is the former Minister of Finance in the South African Government of National Unity and past Chief Executive of Nedcor. He is also Chairman of Nedcor, as well as a director of Old Mutual plc, Old Mutual Life Assurance Company (SA) Limited, Mutual & Federal Insurance Company Limited and Macsteel Holdings (Proprietary) Limited.

3.8

3.2 **Warren Alexander Morten Clewlow** (67) (Deputy Chairman) (non-executive) (appointed 2000)

3.10

3.11 Business address: Barlow Park, Katherine Street, Sandton 2199

3.12 Qualifications: OMSG, CA(SA), DEcon(hc)

3.13 Occupation: Chairman, Barloworld

3.14

3.15 Warren is a Deputy Chairman of Nedcor. He is also non-executive Director and Chairman of the Compliance Committee of Old Mutual plc. He has been Chairman of Barloworld since 1991. He was previously Chairman of the State President's Economic Advisory Council and Chief Executive of Barloworld and has managed many of its diverse divisions. He is also Non-executive Director of Sasol Limited, Rustenberg Wines (Pty) Limited, Chairman of Pretoria Portland Cement and Deputy Chairman of Old Mutual Life Assurance Company (SA) Limited.

3.16

3.3 **Prof Michael Mervyn Katz** (58) (Executive Vice-chairman) (appointed 1984)

3.18

3.19 Business address: Edward Nathan & Friedland (Proprietary) Limited, 4<sup>th</sup> Floor The Forum, 2 Maude Street, Sandown 2196

3.20 Qualifications: BCom, LLB, LLM, LLD(hc)

3.21 Occupation: Corporate Law Adviser and Consultant

3.22

3.23 Michael is Executive Vice-chairman of Nedcor and the Chairman of Edward Nathan & Friedland (Proprietary) Limited. He is also Chairman of the Commission of Inquiry into the Tax System of South Africa and the Tax Advisory Committee, as well as an Honorary Professor of Company Law at the University of the Witwatersrand.

- 3.24
- 3.4 **Richard Charles Montague Laubscher** (52) (Chief executive) (appointed 1990)
- 3.26
- 3.27 Business address: Nedcor Sandton, 135 Rivonia Road, Sandown 2196
- 3.28 Qualifications: BCom(Hons), AMP(Harvard), FIBSA
- 3.29 Occupation: Chief Executive, Nedcor
- 3.30
- 3.31 Richard is Chief Executive of Nedcor and a Director of Old Mutual plc and Old Mutual Life Assurance Company (SA) Limited. On 15 September 2003, Richard gave notice of his intention to stand down as Chief Executive and as a director by 31 December 2003. Richard will remain with the Nedcor Group until a suitable candidate has been appointed and will ensure that a smooth handover occurs.
- 3.32
- 3.5 **Christopher John Watkins Ball** (63) (independent non-executive) (appointed 2002)
- 3.34
- 3.35 Business address: 4 Gardenia Lane, Constantia 7800
- 3.36 Qualifications: Dip Iuris, MA
- 3.37 Occupation: Director of companies
- 3.38
- 3.39 Chris was previously a director of BoE and BoE Management, and is a Director of Canal Walk Limited, Century City Limited, PG Bison Holdings (Pty) Limited, PG Bison Limited and Premier Foods Limited.
- 3.40
- 3.6 **Dr Izak Johannes Botha** (54) (executive) (appointed 2002)
- 3.42
- 3.43 Business address: Nedcor Sandton, 135 Rivonia Road, Sandown 2196
- 3.44 Qualifications: Dcom
- 3.45 Occupation: Executive director of Group Capital Management
- 3.46
- 3.47 Izak is a Director of Nedcor and various subsidiary companies.
- 3.48
- 3.7 **Thomas Andrew Boardman** (53) (executive) (appointed 2002)
- 3.50
- 3.51 Business address: Clock Tower Precinct, V&A Waterfront, Cape Town 8001
- 3.52 Qualifications: BCom, CA(SA)
- 3.53 Occupation: Chief Executive of Retail and Wealth Management
- 3.54
- 3.55 Tom is Chief Executive of Retail and Wealth Management and a director of Nedcor. He was formerly Chief Executive of BoE. Previous directorships include the Banking Council, Boardmans and Sam Newman Limited.
- 3.56
- 3.8 **Richard Gray Cottrell** (67) (independent non-executive) (appointed 2002)
- 3.58
- 3.59 Business address: 23A North Road, Dunkeld West, Johannesburg 2196
- 3.60 Qualifications: CA(SA), FCA, SEP(Stanford)
- 3.61 Occupation: Director of companies
- 3.62
- 3.63 Rick is a director of African Oxygen Limited, Afrox Healthcare Limited, Glenrand M·I·B Limited, Imperial Bank Limited and Iscor Limited. He was previously Executive Officer of the Financial Services Board, Deputy-Chairman and managing partner of Coopers & Lybrand and member of the then Policy Board for Financial Services and Regulation. He was also past president of the South African Institute of Chartered Accountants.
- 3.64

- 3.9 **Barry Erskin Davison** (58) (independent non-executive) (appointed 2002)
- 3.66
- 3.67 Business address: 14<sup>th</sup> Floor, 55 Marshall Street, Johannesburg 2001
- 3.68 Qualifications: BA (Law and Economics)
- 3.69 Occupation: Executive Chairman of Anglo American Platinum Corporation Limited
- 3.70
- 3.71 Barry is Non-Executive Chairman of Anglo American Platinum Corporation Limited, Director of Anglo American Corporation of SA Limited and President of the SA Chamber of Mines.
- 3.72
- 3.10 **Nicholas Dennis** (56) (British) (independent non-executive) (appointed 2002)
- 3.74
- 3.75 Business address: 85 Bute Lane, Sandton, 2146
- 3.76 Qualifications: BCom(Hons)
- 3.77 Occupation: Chief Executive Officer, Tiger Brands Limited
- 3.78
- 3.79 Nick is the Chief Executive Officer of Tiger Brands Limited.
- 3.80
- 3.11 **Prof Brian de Lacy Figaji** (59) (independent non-executive) (appointed 2002)
- 3.82
- 3.83 Business address: Peninsula Technikon, Symphony Way, Off Modderdam Road, Bellville 7530
- 3.84 Qualifications: BSc(Eng), Dip Tertiary Educ, Med, Ded (Coventry University (UK), D Litt (California State University, Hayward, USA)
- 3.85 Occupation: Vice-chancellor of the Peninsula Technikon
- 3.86
- 3.87 Brian is Principal and Vice-Chancellor of the Peninsula Technikon and member of the Council on Higher Education.
- 3.88
- 3.12 **Barry John Stuart Hore** (42) (executive) (appointed 1999)
- 3.90
- 3.91 Business address: 105 West Street, Sandown 2196
- 3.92 Qualifications: BCom, AMP(Harvard)
- 3.93 Occupation: Chief Executive, T&O
- 3.94
- 3.95 Barry is Chief Executive of T&O and a director of Nedcor. Other directorships include Internet Solutions (Proprietary) Limited, Visa International CEMEA Region and Net1 Applied Technology Holdings Limited.
- 3.96
- 3.13 **Michael John Levett** (64) (non-executive) (appointed 1987)
- 3.98
- 3.99 Business address: Lansdowne House, 57 Berkeley Square, London W1J 6ER
- 3.100 Qualifications: DEconSc(hc), BCom, FFA, FIA
- 3.101 Occupation: Chairman, Old Mutual plc
- 3.102
- 3.103 Mike is a director of Nedcor. He is Chairman of Old Mutual plc and Deputy Chairman of Mutual & Federal Insurance Company Limited. He is also a Director of Barloworld Limited, Old Mutual South African Trust plc and SAB Miller plc.

- 3.104
- 3.14 **Johannes Bhekumuzi Magwaza** (61) (independent non-executive) (appointed 2000)
- 3.106
- 3.107 Business address: 6<sup>th</sup> Floor, Corporate Place, Gardiner Street, Durban 4001
- 3.108 Qualifications: BA, MA (Warwick UK)
- 3.109 Occupation: Director of companies
- 3.110
- 3.111 JB is a director of Nedcor and Non-executive Chairman of Peoples Bank Limited. He also serves as a Non-executive Director of Dorbyl Limited and is on the boards of the Development Bank of Southern Africa and Ithala Development Finance Corporation Limited.
- 3.112
- 3.15 **Mafika Edmund Mkwanzazi** (49) (independent non-executive) (appointed 2000)
- 3.114
- 3.115 Business address: 49<sup>th</sup> Floor, Carlton Centre, 150 Commissioner Street, Johannesburg 2001
- 3.116 Qualifications: BSc(Maths), BSc(Elec Eng)
- 3.117 Occupation: Group Chief Executive, Transnet Limited
- 3.118
- 3.119 Mafika is a director of Nedcor and Group Chief Executive of Transnet Limited. Directorships include Freight Logistics International Inc, Transnet Limited and SAA.
- 3.120
- 3.16 **Stuart Grant Morris** (57) (executive) (appointed 1999)
- 3.122
- 3.123 Business address: Nedcor Sandton, 135 Rivonia Road, Sandown 2196
- 3.124 Qualifications: BCom, CA(SA)
- 3.125 Occupation: Group Financial Director
- 3.126
- 3.127 Stuart is the Group Financial Director of Nedcor. He is also a director of Peoples Bank Limited and Imperial Bank Limited.
- 3.128
- 3.17 **Derek Geoffrey Sidney Muller** (51) (executive) (appointed 1999)
- 3.130
- 3.131 Business address: Nedcor Sandton, 135 Rivonia Road, Sandown 2196
- 3.132 Qualifications: BCom, CA (SA), AMP(Harvard)
- 3.133 Occupation: Chief Executive of Nedbank Corporate
- 3.134
- 3.135 Derek is a director of Nedcor and Net1 Applied Technology Holdings Limited.
- 3.136
- 3.18 **Maduke Lot Ndlovu** (51) (executive) (appointed 2001)
- 3.138
- 3.139 Business address: 100 Main Street, Johannesburg 2001
- 3.140 Qualifications: DipLR(Unisa), MAP(Wits), EDP(North Western USA), AMP(Harvard Business School)
- 3.141 Occupation: Chief Executive Officer, Peoples Bank Limited
- 3.142
- 3.143 Lot is a Director of Nedcor and Chief Executive Officer of Peoples Bank Limited. He is Non-executive Chairman of Africa Milestone Investments Limited, Lafarge South Africa (Proprietary) Limited, Nest Life Assurance Corporation Limited, Nest Life Funeral Administrators (Proprietary) Limited and the Environmental & Infrastructure Development Trust. He is a director (Non-executive) of Nampak Limited, the South African National Roads Agency and the Community Growth Management Company Limited. He is the Deputy-Chairman of the Council of the Technikon Witwatersrand. He

is a Member/Trustee of the Business Trust (Job Creation), the He'Atid Leadership Programme, the Multicultural Development Programme (Deloitte & Touche), the National Engagement for Ethics Development and St Anthony's Adult Education Centre. He is a member of the advisory board of the Otis Elevator Company and serves as a Commissioner for the Office of the Banking Adjudicator.

3.144

3.19 **Phuthuma Freedom Nhleko** (43) (non-executive) (appointed 2002)

3.146

3.147 Business address: 3 Alice Lane, Sandton 2196

3.148 Qualifications: BSc, MBA

3.149 Occupation: Group Chief Executive Officer, MTN Group Limited

3.150

3.151 Phuthuma is the Group Chief Executive Officer of MTN Group Limited, a director of Johnnic Holdings Limited and former executive Chairman and founding member of Worldwide African Investment Holdings Limited.

3.152

3.20 **Thembalihle Hixonia Nyasulu** (48) (independent non-executive) (appointed 2002)

3.154

3.155 Business address: 8 Queen Mary Avenue, Umbilo 4001

3.156 Qualifications: BA, EDP

3.157 Occupation: Strategic marketer

3.158

3.159 Hixonia is the Sole Proprietor of TH Nyasulu & Associates, a marketing and research company. She is Chairman of DBSA Development Fund and Director of AECI Limited, Anglovaal Industries Limited, Development Bank of Southern Africa, Sheer Quality (Pty) Limited, Tongaat-Hulett Group Limited, Tongaat-Hulett Sugar Limited, Turner Logistics (Proprietary) Limited and immediate past Chairman of the board of Ithala Development Finance Corporation.

3.160

3.21 **Julian Victor Frow Roberts** (46) (British) (non-executive) (appointed 2001)

3.162

3.163 Business address: 3<sup>rd</sup> Floor, Lansdowne House, 57 Berkeley Square, London W1J 6ER

3.164 Qualifications: BA(Hons)(Stirling), FCA

3.165 Occupation: Group Financial Director, Old Mutual plc

3.166

3.167 Julian is the Group Financial Director of Old Mutual plc. He is also a Fellow of the Institute of Chartered Accountants of England and a member of the Association of Corporate Treasurers. Other directorships include Mutual & Federal Insurance Company Limited, Old Mutual (US) Holdings and King & Shaxton. He was previously the Group Finance Director of Sun Life and Provincial Holdings plc.

3.168

3.22 **Anthony Adrian Routledge** (55) (executive) (appointed 1998)

3.170

3.171 Business address: Nedcor Sandton, 135 Rivonia Road, Sandown 2196

3.172 Qualifications: BCom, CA(SA)

3.173 Occupation: Executive Director: Strategic and Corporate Activities

3.174

3.175 Tony is a director of Nedcor. He is also a Non-executive Director of Murray & Roberts Holdings Limited.

3.176

3.23 **Cedric Michael Langton Savage** (64) (independent non-executive) (appointed 2002)

- 3.178
- 3.179 Business address: Amanzimnyama Hill, Tongaat 4400
- 3.180 Qualifications: BSc(Eng), MBA, ISMP (Harvard)
- 3.181 Occupation: Chairman, Tongaat-Hulett Group Limited
- 3.182
- 3.183 Cedric is Non-executive Chairman of the Tongaat-Hulett Group Limited and a director of AECI Limited, African Rainbow Minerals Gold Limited, Delta Motor Corporation (Proprietary) Limited, Datatec Limited, Hulett Aluminium (Proprietary) Limited and Kumba Resources Limited.
- 3.184
- 3.24 **James Harry Sutcliffe** (47) (British) (non-executive) (appointed 2001)
- 3.186
- 3.187 Business address: 5th Floor, Old Mutual Place, 2 Lambeth Hill, London, EC4V 4GG, United Kingdom
- 3.188 Qualifications: BSc
- 3.189 Occupation: Chief Executive, Old Mutual plc
- 3.190
- 3.191 Jim is a Fellow of the Institute of Actuaries. He is also Chief Executive of Old Mutual plc. Previously Deputy Chairman of Liberty International Property and Financial Services and Chief Executive of Prudential UK.
- 3.192
- 4.

## **Section 7**

### **FINANCIAL INFORMATION ON THE ISSUER AND NEDCOR LIMITED**

The (i) audited consolidated annual financial statements of the Issuer for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000, and (ii) the audited consolidated annual financial statements of Nedcor Limited for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000 are incorporated by reference into this Offering Circular in terms of Section 1.

Copies of the aforementioned statements are available free of charge to each person to whom a copy of this Offering Circular has been delivered at the Specified Offices of the Issuer and the Transfer Secretary. In addition, ~~certain of~~ the aforementioned statements may be accessed at [Nedcor Limited](http://www.nedcor.co.za)~~the Issuer~~'s website at [www.nedcor.co.za](http://www.nedcor.co.za) ~~[confirm]~~.



## **Section 8**

### **REPORT OF THE INDEPENDENT AUDITORS**

The reports of the independent auditors of the Issuer are included with the audited consolidated annual financial statements of the Issuer for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000, which are incorporated by reference into this Offering Circular in terms of Section 1.

## **Section 9**

### **SOUTH AFRICAN TAXATION**

*All capitalised terms in this Section 9 “**South African Taxation**” are defined in the Terms and Conditions unless separately defined in this Section 9.*

**The comments below are intended as a general guide to the current position under the law of South Africa. The contents of this Section 9 “South African Taxation” do not constitute tax advice and persons who are in any doubt as to their tax position should consult their professional advisers.**

For purposes of this Section 9 a “**Resident**” means a person who or which is a “resident” as defined in section 1 of the Income Tax Act, 1962.

#### **INTEREST**

##### **Persons liable for tax in South Africa**

The South African income tax system has in the past primarily been a source-based system. With effect from years of assessment commencing on or after 1 January 2001, however, Residents are, subject to certain exemptions, taxed on their worldwide income. Any interest in respect of the Notes will be liable to taxes (“**Taxes**”) imposed or assessed by the Commissioner of the South African Revenue Service (“**SARS**”) if such interest is received by or accrues to any person who is a Resident irrespective of his domicile. In addition, a person other than a Resident is taxed on income from a source within or deemed to be within South Africa unless that person is exempt from tax in South Africa as set out below.

(i) *Natural Persons who are residents of South Africa*

A natural person is a Resident if he or she is ordinarily resident in South Africa. In addition, a natural person who was not at any time during the year of assessment in question ordinarily resident in South Africa will nonetheless, in the absence of a double taxation agreement between South Africa and the foreign jurisdiction in question, be a Resident for tax purposes if such person was physically present in South Africa for at least 91 days in that year and was, during the 3 preceding years, present in South Africa for at least 91 days in each year and for 549 days in aggregate during such 3 preceding years.

(ii) *Persons other than natural persons who are residents of South Africa*

A person other than a natural person is a Resident if it is incorporated, established or formed in South Africa or has its place of effective management in South Africa (as defined in the Income Tax Act, 1962 (the “**Income Tax Act**”)).

If a person other than a natural person is incorporated, established or formed outside South Africa and has its place of effective management outside South Africa (a “**Foreign Company**”), but Residents hold more than 50% of the participation rights, of the Foreign Company (a “**Controlled Foreign Company**”), a proportionate amount of the net income of the Controlled Foreign Company will also be included in the income of such Residents subject to certain exclusions.

(iii) *Non-residents*

Non-Residents of South Africa presently enjoy the benefit of an exemption from South African tax on their interest income, unless one of the disqualifications set out in “Persons who will be exempt from tax in South Africa” below applies.

### **Persons who will be exempt from tax in South Africa**

Any person who is not a Resident will be exempt from any Taxes imposed by SARS on any interest paid or accrued in respect of the Notes. (A person who is a resident of the Common Monetary Area (as defined in Section 11) is deemed to be a Resident for the purposes of this exemption.) However this exemption will **not** apply where:

- (i) the person, who is a natural person, was a Resident at any time and has during the relevant year of assessment carried on business in South Africa; or
- (ii) any person who is a natural person was not physically absent from South Africa for a period or periods of at least 183 days in aggregate during the year of assessment in question; or
- (iii) the interest is received by or accrues to any person which is a non-resident company and that interest is effectively connected with the business carried on by that company in South Africa.

A natural person is not considered to be a Resident where that person is physically absent from South Africa for a continuous period of 330 days. Such person is deemed not to have been a Resident from the day on which such person ceases to be physically present in South Africa.

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

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

### **CAPITAL GAINS TAX**

The capital gains tax was introduced in South Africa with effect from 1 October 2001. The capital gains tax applies to any capital gain earned on the disposal or deemed disposal of an asset by Residents, as well as to any capital gain resulting from the disposal or deemed disposal of certain assets of non-residents which are situated in South Africa (such as immovable property and assets of a permanent establishment, (such as a branch or agency) of that non-resident in South Africa). In the case of natural persons, 25% of the taxable capital gain will be taxed at the applicable marginal rate (the effective rate will range from 0% to 10%). In the case of companies, 50% of the taxable capital gain will be liable to tax at the corporate flat rate of 30%, and hence the effective rate will amount to 15%.

### **STAMP DUTY AND UNCERTIFICATED SECURITIES TAX**

In terms of the Stamp Duties Act, 1968, no stamp duty is payable on the issue or transfer of Notes qualifying as "interest-bearing debentures" if such Notes are listed on any stock exchange licensed in terms of the Stock Exchanges Control Act, 1985 or listed on any financial exchange (including BESA) licensed in terms of the Financial Markets Control Act, 1989. In terms of the Uncertificated Securities Tax Act, 1998, no uncertificated securities tax is payable on the issue or transfer of Beneficial Interests in Notes listed on any stock exchange licensed in terms of the Stock Exchanges Control Act, 1985, or listed on any financial exchange (including BESA) licensed in terms of the Financial Markets Control Act, 1989.

## **Section 10**

### **SUBSCRIPTION AND SALE**

*All capitalised terms in this Section 10 “**Subscription and Sale**” are defined in the Terms and Conditions unless separately defined in this Section 10.*

JP Morgan Securities South Africa (Proprietary) Limited (the “**Lead Manager**”) has, pursuant to a subscription agreement concluded with the Issuer, dated 23 September 2003 (the “**Subscription Agreement**”), agreed to subscribe and pay for the Notes on 30 September 2003 (the “**Issue Date**”) and to hold the Notes in accordance with the Subscription Agreement. The Lead Manager is entitled to terminate the Subscription Agreement in certain circumstances prior to the issue of the Notes. The Issuer has agreed to indemnify the Lead Manager against certain liabilities in connection with the offer and sale of the Notes.

In accordance with the terms of the Subscription Agreement, the Notes will be delivered to the Lead Manager on the Issue Date through the settlement system of BESA.

#### **Republic of South Africa**

The Lead Manager has represented and agreed that it will not offer any Notes for subscription or sale in contravention of the Companies Act, 1973.

#### **United States of America**

The Lead Manager has understood that the Notes have not been and will not be registered under the United States Securities Act of 1933, as amended (the “**Securities Act**”), and may not be offered or sold within the United States except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act. The Lead Manager represents and agrees that it has not offered or sold, and agrees that it will not offer or sell, any Notes constituting part of its allotment within the United States except in accordance with Rule 903 of Regulation S under the Securities Act. Accordingly, neither the Lead Manager nor its affiliates nor any persons acting on its or their behalf have engaged or will engage in any directed selling efforts with respect to the Notes. Terms used in this paragraph have the meanings given to them by Regulation S.

#### **United Kingdom**

The Lead Manager has represented, warranted and agreed that (1) it has not offered or sold and, prior to the expiry of six months from the Issue Date of the Notes, will not offer or sell any Notes to persons in the United Kingdom 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, and (2) 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 Financial Services and Markets Act, 2000 (“**FSMA**”)) received by it in connection with the issue or sale of any Notes in circumstances in which section 21(1) of the FSMA does not apply to the Issuer, and (3) 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 Lead Manager has agreed 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 procures the subscription for, or sale of,

Notes or possesses or distributes this Offering Circular, and will obtain any consent, approval or permission required by it to procure the subscription for, or sale of, the Notes under the laws and regulations in force in any jurisdiction to which it is subject or in which it procures the subscription for, or sale of, the Notes.

Neither the Issuer nor the Lead Manager represents that Notes may at any time lawfully be subscribed for in compliance with any applicable registration or other requirements in any jurisdiction, or pursuant to any exemption available thereunder or assume any responsibility for facilitating such subscription or sale.

## **Section 11**

### **GENERAL INFORMATION**

*All capitalised terms in this Section 11 “General Information” are defined in the Terms and Conditions unless separately defined in this Section 11.*

#### **AUTHORISATION**

All consents, approvals, authorisations or other orders of all regulatory authorities required by the Issuer under the laws of South Africa have been given for the issue of Notes pursuant to this Offering Circular and for the Issuer to undertake and perform its obligations under the Subscription Agreement, the Transfer Secretary Agreement and the Terms and Conditions.

#### **LISTING**

Approval to list the Notes on BESA, under stock code number NED3, was granted with effect from 30 September 2003.

#### **CLEARING SYSTEMS**

The Notes will be cleared through CSD which, as the operator of an electronic clearing system, has been appointed by BESA to match, clear and facilitate the settlement of transactions concluded on BESA. Notes may also be accepted for clearance through any additional clearing system as may be agreed between the Issuer and the Lead Manager.

#### **CSD PARTICIPANTS**

As at the date of this Offering Circular, the CSD Participants which are approved by BESA, in terms of the rules of BESA, as settlement agents to perform electronic settlement of funds and scrip are ABSA Bank Limited, FirstRand Bank Limited, Nedbank Limited, The Standard Bank of South Africa Limited and the South African Reserve Bank. Euroclear and Clearstream, Luxembourg will settle offshore transfers through their South African CSD Participant.

#### **SETTLEMENT, TRANSFER AND CLEARING**

Notes will be issued, cleared and transferred in accordance with the Applicable Procedures and the procedures set out in the Terms and Conditions. Notes will be settled through CSD Participants who will comply with the electronic settlement procedures prescribed by BESA and CSD Participants. CSD, or its Nominee, will be the registered holder of the Global Certificate and will maintain securities accounts for the CSD Participants, who in turn will maintain securities accounts for the holders of Beneficial Interests.

The CSD Participants will be responsible for the settlement of scrip and payment transfers through CSD, BESA and the South African Reserve Bank. Individual Certificates will only be issued to holders of Beneficial Interests in accordance with the Terms and Conditions. Transfers of Beneficial Interests will be undertaken in accordance with the Applicable Procedures and the Terms and Conditions. Transfers of Notes represented by Individual Certificates will be undertaken in accordance with the Terms and Conditions. CSD or its Nominee, and any individual holder of Notes represented by Individual Certificates, will be entered in the Register as the registered holders of Notes.

The Issuer, the Transfer Secretary and any CSD Participant may deem and treat the holder of any Note named in the Register 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. None of the Issuer, the Transfer Secretary or any CSD Participant shall be bound to record any trust in the Register or to

take notice of or to accede to the execution of any trust (express, implied or constructive) to which any Note may be subject.

No transfer of Notes represented by Individual Certificates will be recorded in the Register unless the duly completed Transfer Form and the Individual Certificate has been properly lodged with the Transfer Secretary.

### **SIGNIFICANT CHANGE**

Save as disclosed in this Offering Circular, there has been no significant change in the financial or trading position of the Issuer since 31 December 2002.

### **LITIGATION**

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

The Issuer received a summons from Securefin Limited wherein it claims R309 million relating to an alleged fraud perpetrated by David and Lynne Alexander in consequence of the alleged non-compliance with cheque signatory mandates supplied to the Issuer, which is currently being investigated by the Issuer's legal and other advisers and its insurance underwriters. The action is being defended by the Issuer. The matter will in all likelihood only come to court in approximately two years time. The criminal trial against the Alexanders commences in October 2003. The Issuer will, if required by the Applicable Procedures, provide more information as and when it becomes available.

### **AUDITORS**

KPMG Inc. and Deloitte & Touche have acted as auditors of the consolidated annual financial statements of the Issuer for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000 and, in respect of these years, issued an unqualified audit report. KPMG Inc. and Deloitte & Touche have acted as auditors of the consolidated annual financial statements of Nedcor Limited for the financial years ended 31 December 2002, 31 December 2001 and 31 December 2000 and, in respect of these years, issued an unqualified audit report.

### **EXCHANGE CONTROL**

#### **Non-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-residents or emigrants from the Common Monetary Area are urged to seek further professional advice in regard to the purchase of Notes. For the purposes of these paragraphs, the Common Monetary Area includes the Republics of South Africa and Namibia and the Kingdoms of Lesotho and Swaziland.

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 promulgated pursuant to the Currency and Exchanges Act, 1933 (the "**Exchange Control Regulations**"), be remitted out of South Africa or paid into any non-South African bank account. For the purposes of this paragraph, Blocked Rand are funds which may not be remitted out of South Africa or paid into a non-resident's bank account.

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

Any Individual Certificates issued to an emigrant Noteholder, or where the emigrant holds Beneficial Interests in Notes held through CSD, the securities accounts maintained for such emigrant by the CSD Participant, will be restrictively endorsed and will be deposited with an authorised dealer (foreign exchange), as contemplated in the Exchange Control Regulations, controlling such emigrant's blocked assets.

Subject to the Exchange Control Regulations, any payments of principal or interest (where such interest is not remittable in terms of B.6(B)(i) of the Rulings under the Exchange Control Regulations) due to an emigrant Noteholder will be deposited into such emigrant's Blocked Rand account, as maintained by an authorised dealer (foreign exchange). However, where such payments are fully remittable, in terms of the Exchange Control Regulations, such payments will be deposited into the emigrant's non-resident account conducted by the authorised dealer (foreign exchange) maintaining his blocked assets.

**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". If Beneficial Interests are held by a non-resident of the Common Monetary Area in dematerialised form through CSD, the securities account of such Noteholder will be designated by the CSD Participant as a "non-resident" account.



**THE ISSUER**

**Nedbank Limited**  
135 Rivonia Road  
Sandown  
Sandton, 2196  
Republic of South Africa  
Contact : Mr M Divett

**AUDITORS TO THE ISSUER**

**KPMG Inc.**  
KPMG Crescent  
85 Empire Road  
Parktown, 2193  
Republic of South Africa  
[Contact : Mr J Louw/Ms H Bruce](#)

and

**Deloitte & Touche**  
20 Woodlands Drive  
The Woodlands  
Woodmead, 2146  
Republic of South Africa  
[Contact : Mr C Troskie/Mr R Dunne](#)

**LEAD MANAGER**

**JP Morgan Securities South Africa (Proprietary) Limited**  
1 Fricker Road  
Illovo 2196  
Republic of South Africa  
Contact : Mr M Hussey

**MANAGER**

**Nedbank Corporate, a division of Nedbank Limited**  
135 Rivonia Road  
Sandown  
Sandton, 2196  
Republic of South Africa

**CALCULATION AGENT**

**Nedbank Corporate, a division of Nedbank Limited**  
135 Rivonia Road  
Sandown  
Sandton, 2196  
Republic of South Africa

**TRANSFER SECRETARY**

**Computershare Limited (trading through its division Investor Services)**

Ground Floor  
70 Marshall Street  
Johannesburg, 2001  
Republic of South Africa  
Contact: Mr C Lourens

**LEGAL ADVISER TO THE ISSUER**  
**Edward Nathan & Friedland (Proprietary) Limited**  
4<sup>th</sup> Floor, The Forum  
2 Maude Street, Sandown 2196  
Republic of South Africa  
Contact : Ms JP King

**LEGAL ADVISER TO THE LEAD MANAGER**  
**Webber Wentzel Bowens**  
10 Fricker Road  
Illovo, 2196  
Republic of South Africa  
Contact : Mr B Cleaver

**SPONSOR**  
**Nedbank Corporate, a division of Nedbank Limited**  
135 Rivonia Road  
Sandown  
Sandton, 2196  
Republic of South Africa