



## Republic of South Africa

### COMPANIES ACT 1973

#### ARTICLES OF ASSOCIATION OF A COMPANY NOT HAVING A SHARE CAPITAL

##### **AFRICAN MICROFINANCE TRANSPARENCY (AMT)** **(Association incorporated under Section 21)**

- A. The Articles of Table A contained in Schedule 1 to the Companies Act, 1972, as amended, shall not apply to the Company.
- B. The articles of the Company are as follows:

#### 1. DEFINITIONS

In these Articles, unless the context otherwise indicates-

‘The Act’ shall mean the Companies Act No 62 of 1973, as amended from time to time.

‘The Board’ shall mean the Board of Directors of **African Microfinance Transparency (AMT) (Association incorporated under Section 21)** – established by Article 9.

‘The Company’ shall mean the **African Microfinance Transparency (AMT) (Association incorporated under Section 21)**.

‘Director’ shall mean a member of the Board of Directors of the **African Microfinance Transparency (AMT)**

**(Association incorporated under Section 21)** established by Article 9.

'Members' shall mean the subscribers to the Memorandum of Association and such other persons as the directors shall admit to membership in accordance with these Articles.

'Memorandum' shall mean the Memorandum of Association for the **African Microfinance Transparency (AMT) (Association incorporated under Section 21)**

'These present' shall mean the Memorandum and Articles of Association and bylaws of the **African Microfinance Transparency (AMT) (Association incorporated under Section 21)**

Words importing the masculine gender include females.

When a provision of the Act is referred to, the reference is to such a provision as amended by statute.

Words in the singular included the plural and words in the plural include the singular.

## **2. MEMBERSHIP**

2.1 The subscribers of the Memorandum of Association shall be members of the Company.

2.2 The Board may by resolution in its sole discretion:

2.2.1 elect any person as a member,

2.2.2 refuse to admit (or exclude) any person as a member;

2.3 The Company shall retain at its registered office a Register of Members of the Company as provided in Section 105 of the Act. The Register of Members shall be open to inspection as provided in Section 113 of the Act.

2.4 No person elected in terms of Article 2.2.1 above shall become a member unless and until his name has been entered in the Register of Members.

2.5 Should a member wish to withdraw from the Company he shall give written notice to the Company at its registered office of his intention to do so, and he shall cease to be a member thirty days after receipt by the Company of such notice. He shall, nevertheless, for a period after he ceases to be a member, remain liable in terms of the undertaking set out in clause IX of the Memorandum of Association.

2.6 The rights of a member shall be personal, i.e. shall not be transferable, and shall terminate -

- *In the case of an individual*

2.6.1 on his death;

2.6.2 on his becoming of **unsound mind**

- In the case of another organization or company

2.6.3 On dissolution of the member organization or company

- In all events

2.6.4 On his suspension; or

2.6.5 on his ceasing to be a member in terms of Article 2.5.

### **3. GENERAL MEETINGS**

3.1 A meeting of the Company shall be either the Annual General Meeting or a Special General Meeting.

3.2 The Annual General Meeting shall be held:

3.2.1 in the case of the first such meeting, within a period of 18 (eighteen) months after the date of incorporation of the Company;

3.2.2 thereafter within not more that nine months after the end of every ensuing financial year of the Company; and

3.2.3 within not more than 15 months after the date of the last meeting preceding such meeting of the Company.

3.3 A Special General Meeting may be held at any time and may be called by two or more members representing not less than 25% (twenty five percent) in number of the members.

#### **4. NOTICE OF GENERAL MEETINGS**

4.1 An annual General Meeting, and a General Meeting called for by the passing of a Special Resolution, shall be called by not less than 21 (twenty one) clear days notice in writing. Any other General Meeting shall be called by 14 (fourteen) clear days notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and on the day for which it is given, and shall specify the place, the day and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Company in General Meeting, to all such persons as are, under these Articles entitled to receive such notice from the Company; provided that a meeting of the Company shall, notwithstanding the fact that it is called by shorter notice than that specified in these Articles, be deemed to have been duly called if it is to be agreed by a majority of the members having a right to attend and vote at the meeting, being a majority holding not less than 95% (ninety five percent) of the total voting rights of all members.

4.2 The accidental omission to give notice of any meeting to any particular members shall not invalidate any Resolution passed at any such meeting

#### **5. PROCEEDINGS AT GENERAL MEETINGS**

5.1 The Chairman of the Board shall preside at every General Meeting. In the absence of the Chairman, his powers and duties shall devolve upon the vice Chairman. In the event of both the Chairman and the Vice-Chairman being absent from the General Meeting, the members present shall elect a presiding officer from among their number.

5.2 The Annual General Meeting shall deal with and dispose of all members prescribed by the Act, including:

- 5.2.1 the receiving and consideration for the Annual Financial Statements;
- 5.2.2 the consideration and approval for the Report of the Board; the appointment and level of remuneration of an auditor;
- 5.2.3 the election of the Directors;
- 5.2.4 the consideration of any other matter, of which due notice has been given.

5.3 A member who intends to bring a motion before a General Meeting shall, not less than 21 (twenty one) days before the day appointed for the said General Meeting, serve upon the Company at its registered office a notice in writing signed by himself and one other member containing the proposed resolution. Upon receipt of such notice, the secretary shall, in any case where the notice is received before the notice of the General Meeting is issued include it in the notice of the General Meeting, and shall in any other case issue as quickly as possible to the members notice that such resolution will be proposed.

5.4 The Chairman may with the consent of any General Meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned, the provisions of section 192(2) of the Act shall apply MUTATIS MUTANDIS to such adjournment.

5.5 No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as herein other wise provided, at least 3 (three) members present in person shall be a quorum provided that a quorum shall never be less than at least 3 (three) persons present in person.

## **6. VOTING AT GENERAL MEETINGS**

6.1 Each member present (in person) at a General Meeting shall be entitled to a vote and shall have 1 (one) vote.

6.2 At a General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll has (before or on the declaration of the result of the show of hands), been demanded by at least three members present in person and entitled to vote, or by a member or members representing not less than one tenth of the total number of members having the right to vote at a General Meeting, and unless a poll is so demanded, by declaration by the Chairman that a Resolution has on a show of hands, been carried, or carried unanimously by a particular majority, or lost, an entry to that effect in the book of proceedings of the Company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favor of or against such resolution. The demand for the poll may be withdrawn.

6.3 If a poll is duly demanded it shall be taken in such a manner as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

6.4 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting shall be entitled to a second or casting vote.

6.5 A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question should be taken at such time as the Chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll is demanded.

## **7. MANAGEMENT OF THE COMPANY**

The business of the Company shall be managed by the Board who may exercise all the powers of the Company not required by the Act to be exercised by the Company at a General Meeting. The Board shall exercise such powers subject to the provisions of the Act.

## **8. BOARD OF DIRECTORS**

- 8.1 The Board shall consist of not less than 2 (two) directors.
- 8.2 Should the number of directors for any reason be reduced below 2 (two), the continuing director(s) may act for the purpose of increasing the number of directors in terms of Article 10.3

## **9. ELECTION OF DIRECTORS**

- 9.1 The election of directors shall be by ballot. However, if the candidates validly nominated for election to the Board are not more in number than 2 (two) the candidates nominated shall be deemed to have been duly elected.
- 9.2 Unless a candidate for election to the Board be a retiring director, a nomination of a member for the election to the Board shall:
- 9.2.1 be made in writing;
  - 9.2.2 be signed by at least 2 (two) members other than the candidates;
  - 9.2.3 be given to the secretary no less than 21 (twenty one) days before the day appointed for the Annual General Meeting at which the election is to take place; and be accompanied by a written statement signed by the candidate indicating his willingness to stand for election.
- 9.3 The Board shall have the power at any time, and from time to time, to appoint a member as a director, either to fill a casual vacancy or as an addition to the Board, subject to the provisions of clause 9.1. A director so appointed shall hold office until the next following Annual General Meeting of the Company and shall then be elected without nomination.

## **10. ALTERNATE DIRECTORS**

The Board may nominate a member to act as alternate director whilst the director is absent or unable for any reason to act as a director. An alternate director shall act subject to the terms, qualifications and conditions applicable to a director.

## **11. ROTATION OF DIRECTORS**

Each director shall retire from office at the Annual General Meeting subsequent to that at which he was elected but shall be eligible for a re-election.

## **12. REMOVAL AND DISQUALIFICATION OF DIRECTORS**

12.1 A director shall cease to be a director if:

- 12.1.1 by notice in writing to the Company he resigns his office;
- 12.1.2 he ceases to be a member;
- 12.1.3 he is absent without the prior or subsequent official leave of the Board from two consecutive meetings notice of which he has been given;
- 12.1.4 he becomes insolvent;
- 12.1.5 he becomes of unsound mind
- 12.1.6 he is directly or indirectly interested in any contract with the Company and fails to declare to the Board the nature of his interest;
- or
- 12.1.7 without the consent of the Board holds an office of profit under the Company.

12.2 The Company may by ordinary resolution remove any director before the expiration of his period of office.

12.3 Subject to the provisions of Section 234 to 241 inclusive of the Act, a director shall not vote in respect of any contract of proposed contract with the Company in which he is interested, or any matter arising there from.

## **13. PROCEEDINGS**

13.1 The Board may meet, adjourn and otherwise regulate its meetings as it shall think fit provided that it shall meet at least twice a year.

- 13.2 A meeting of the Board shall be convened at any reasonable time upon request by a director and such meeting shall be held within 21 (twenty one) days of the date of request.
- 13.3 The quorum for a meeting of the Board shall be 50 (fifty) percent of the directors present and entitled to vote. The Board shall transact no business unless a quorum of members is present at the time when the meeting proceeds to business.
- 13.4 At the meeting of the Board following the Annual General meeting, the directors shall elect from amongst their number a Chairman, Vice Chairman, a secretary and a treasurer. A vacancy in any of such offices before the term of office has expired may be filled by the Board from amongst its numbers and such appointment shall hold good until the following Annual General Meeting.
- 13.5 The Chairman of the Board shall preside at every Board meeting. In the absence of the Chairman his powers and duties shall devolve upon the Vice Chairman. In the event of both the Chairman and the Vice Chairman being absent from a Board meeting, the directors present shall elect a presiding officer from among their number.
- 13.6 Each director present at a meeting of the Board shall be entitled to vote and shall have one vote.
- 13.7 Questions arising at a meeting of the Board shall be decided by a majority of the votes recorded. In a case of an equality of votes the Chairman of the meeting shall have a second (or casting) vote.

#### **14. COMMITTEES**

- 14.1. The Board may appoint committees from among the members and may fix quorum thereof, and delegate any of its powers to any such committees and make any rules for regulating the proceedings of the committees. The Chairman of his nominee from time to time shall be ex officio a member of all committees.

- 14.2. Subject to the approval of the Board, each such committee shall have the right to co-opt such person as it may think fit to be a member of such committee.

## **15. SECRETARY**

The Board may appoint an executive officer of the Company who shall be a secretary of the Company and who shall act as secretary on the Board.

## **16. GENERAL PROVISIONS**

- 16.1 All acts done by the Board, or any person acting as a director shall, notwithstanding that it afterwards be discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid or that they or any of them are disqualified, be as valid as if every such person had been duly appointed and were qualified to be a director.
- 16.2 Subject to the provisions of the Act, the members of the Board, auditors, secretary and other officers for the time being of the Company, and every of them and every of their executors and administrators, shall be indemnified and secured harmless out of the assets of the Company from and against all actions, costs, charges, losses, damages and expenses which they or any of them, their or any of their executors or administrators shall or may incur or sustain by or by reason of any act done, concurred in or admitted in or about the execution of their duty, in their respective offices, except such (if any) as they shall incur or sustain by or through their own willful neglect or default respectively, and subject to as aforesaid, none of them shall be answerable to the acts, receipts, neglects or defaults of the other or others of them, or for joining in any receipt for the sake of conformity, or for any bankers or other persons which whom any monies or effects belonging to the Company shall or may be lodged or deposited for safe custody or for insufficiency or deficiency of any security upon which any monies of or belonging to the Company shall be place out or invested, or for any loss, misfortune or damage which may happen in execution of their respect offices or in reaction thereto, unless the same shall happen by or through their own willful neglect or default respectively.

## **17. ACCOUNTING RECORDS**

- 17.1 The financial year of the Company shall be the last day of December.
- 17.2 The Company shall keep such accounting records as are necessary fairly to present the state of affairs and business of the Company and to explain the transactions and financial position of the Company including:
- 17.2.1 records showing the assets and liabilities of the Company;
  - 17.2.2 a register of fixed assets showing the respective dates of acquisition and the cost thereof, depreciation, if any, the respective dates of any disposals and the considerations received in respect thereof; and
  - 17.2.3 records containing entries from day to day in sufficient detail of all cash received and paid out of the matters in respect of which receipts and payments take place.
- 17.3 The books of account shall be kept at the registered office of the Company or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.
- 17.4 The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of members, not being directors, and no member (not being a director) shall have the right of inspecting any account or document of the Company except as conferred by statute or authorized by the directors or by the Company in a General Meeting.
- 17.5 The directors shall in respect of every financial year of the Company cause to be made out Annual Financial Statements in accordance with Section 286 of the Act and shall lay them before the Annual General Meeting of the Company in respect of that year.
- 17.6 A copy of the Annual Financial Statements which are to be laid before the Company in a Annual General Meeting, shall not be less than 21 (twenty one) days before the date of the meeting, be sent to every member of the

Company. Provided that this Article shall not require a copy of those documents to be sent to any person, the address of whom the Company is not aware.

## **18. AUDIT**

An auditor shall be appointed in accordance with the Act.

## **19. NOTICES**

19.1 A notice may be given by the Company to any member personally or by sending it by post to him at his registered address, or (if he has no registered address, with the Republic of South Africa) to the address, if any, within the Republic of South Africa supplied by him to the Company for the giving of notices to him.

19.2 A notice by post shall be deemed to have been served at the time when the letter containing the notice was posted.

## **20. MINUTES**

Minutes shall be made of all resolutions and proceedings of General Meetings of the Company, and of meetings of the Board and committee.