



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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General Notices

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

No. 598

2018

STANDARD ISSUED UNDER THE MICROLENDING ACT, 2018

The Namibia Financial Institutions Supervisory Authority has under section 35(5) of the Microlending Act, 2018 (Act No. 7 of 2018), issued the Standard set out in the Schedule.

K.S. MATOMOLA
CHIEF EXECUTIVE OFFICER

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MICROLENDING STANDARD**

ML.S.1

**PART I
INTRODUCTORY PROVISIONS****(1) Citation**

This Standard may be cited as Microlending Standard (ML.S.1).

(2) Interpretation

- (a) In this Standard “the Act” means the Microlending Act, 2018, including the regulations made thereunder, and the standards issued by NAMFISA under the Act; and
- (b) any word or expression to which a meaning has been assigned in the Act bears that meaning, unless the context indicates otherwise.

MICROLENDING ACT, 2018**THE FORM AND MANNER OF ANY APPLICATION REQUIRED TO BE MADE UNDER
THE ACT****ML.S.1**

issued by NAMFISA under section 35(5) of the Microlending Act, 2018

1. Definitions

- (1) In this Standard-
 - (a) “Act” means the Microlending Act, 2018, including the regulations made thereunder, and the Standards issued by NAMFISA under the Act; and
 - (b) “**NAMFISA ERS**” means the Electronic Regulatory System which facilitates communication between NAMFISA and the microlending industry.
- (2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including, without limitation, the following as defined in section 1 of the Act:
 - (a) banking institution;
 - (b) credit bureau;
 - (c) day;
 - (d) Financial Intelligence Act;
 - (e) key responsible person;
 - (f) loan agreement;
 - (g) microlender; and
 - (h) NAMFISA;
 - (i) principal officer.

2. Applicability

This Standard is applicable to any person who conducts, or intends to conduct, business as a microlender in Namibia.

3. Application for registration as a microlender

- (1) Every application, in terms of section 5(1) of the Act, to NAMFISA for registration as a microlender must be made on form ApplML 5(1), as set out under Schedule 1 attached to this Standard.
- (2) The completed ApplML 5(1) form must be submitted to NAMFISA with the following documentation:

- (a) a certified copy of the applicant's Income Tax registration certificate issued by the Ministry of Finance;
 - (b) a certified copy of each key responsible person's certificate of conduct/crime clearance certificate, issued by such person's local police, or the receipt as proof of application thereof, and which was issued no longer than 12 months prior to the date of application to NAMFISA;
 - (c) a certified copy of each key responsible person's identity document;
 - (d) a copy of the updated curriculum vitae of the principal officer, a certified copy of the principal officer's educational qualifications and proof of his or her relevant experience;
 - (e) proof, from a banking institution, of a bank account in the name of the applicant;
 - (f) a copy of the standard written loan agreement pursuant to section 24(2) of the Act;
 - (g) where the applicant is a corporate entity, a certified copy of the memorandum of association and articles, or other instrument constituting or defining the constitution of the corporate entity or other foundation documents of the applicant;
 - (h) proof of source of funds and the amount of start-up capital to finance the microlending business;
 - (i) NAMFISA ERS nominations on the form set out under Schedule 2 attached to this Standard;
 - (j) a certified copy of the appointment letter of the applicant's auditor, accounting officer or bookkeeper. The appointment letter must contain the physical registered business address and the postal address of the concerned auditor, accounting officer or bookkeeper, as well as the telephone number, fax number and e-mail address of such person;
 - (k) a copy of the microlender's anti-money laundering compliance program in accordance with the Financial Intelligence Act; and
 - (l) proof of payment of the non-refundable application fee of N\$2 000.00, payment of which must be made in accordance with the instructions set out under Schedule 3 attached to this Standard.
- (3) Every registered microlender must within 3 months after registration submit to NAMFISA a certified copy of the certificate of fitness and registration issued by the relevant local authority, village council, town council or municipality in respect of the premises from where the microlending business will be conducted.

4. Application for the change of name

- (1) Every application by a registered microlender, in terms of section 18 of the Act, to NAMFISA for the change of the name under which it is registered must be made on a form set out under Schedule 4 attached to this Standard, on the NAMFISA ERS.

- (2) The completed form must be submitted to NAMFISA together with the printed declaration of the NAMFISA ERS form which must be signed by the principal officer or any other key responsible person.
- (3) Where the applicant is a corporate entity, certified copies of the relevant amended memorandum of association and articles, or other amended instrument constituting or defining the constitution of the corporate entity or other amended foundation documents of the applicant evidencing the name change must be submitted to NAMFISA within 30 days of the approval for the change of name by NAMFISA.

5. Application for purchase, amalgamation or transfer of microlending business

- (1) Every application, in terms of section 19 of the Act, to NAMFISA for the purchase, transfer of ownership and/or amalgamation of the microlending business, must be made on a form set out under Schedule 1 attached to this Standard, on the NAMFISA ERS.
- (2) The completed form must be submitted to NAMFISA with the following documentation:
 - (a) a certified copy of the applicant's Income Tax registration certificate issued by the Ministry of Finance;
 - (b) a certified copy of each key responsible person's certificate of conduct/crime clearance certificate, issued by such person's local police, or the receipt as proof of application thereof, and which was issued no longer than 12 months prior to the date of application to NAMFISA;
 - (c) a certified copy of each new key responsible person's identity documents;
 - (d) if a new principal officer is appointed, a copy of the principal officer's updated curriculum vitae, certified copies of the principal officer's educational qualifications and proof of his or her relevant experience;
 - (e) a signed copy of the agreement for the purchase, amalgamation or transfer of the microlending business;
 - (f) proof of source of funds for the purchase of the microlending business;
 - (g) NAMFISA ERS nominations on the form set out under Schedule 2 attached to this Standard; and
 - (h) if any of the microlenders involved in the purchase, amalgamation or transfer is a corporate entity, the new or amended memorandum of association and articles, or other instrument constituting or defining the constitution of the corporate entity or other foundation documents of the corporate entity, as the case may be.

6. Application to conduct other business on licensed premises

- (1) Every application by a registered microlender, in terms of section 20 of the Act, to NAMFISA for conducting other business on licensed premises must be made on a form set out under Schedule 5 attached to this Standard, on the NAMFISA ERS.

- (2) The completed form must be submitted to NAMFISA with the following documentation:
 - (a) a certified copy of the memorandum of association and articles, or other instrument constituting or defining the constitution of a corporate entity or other foundation documents in respect of the separate legal entity established by the registered microlender pursuant to section 20(3) of the Act;
 - (b) a certified copy of the certificate of fitness and registration issued by the relevant local authority, village council, town council or municipality as proof that the premises is fit for the envisaged business activities to be conducted; and
 - (c) a printed declaration of the NAMFISA ERS form which must be signed by the principal officer or any other key responsible person.

7. Application for the opening of additional microlending branches

- (1) Every application by a registered microlender, in terms of section 21 of the Act, to NAMFISA for the opening of an additional microlending branch must be made on the NAMFISA ERS.
- (2) The application, as referred to under (1) above, with the following information and documentation:
 - (a) proof of source of funds and the amount to be invested in the envisaged additional microlending branch;
 - (b) the city, town or village and the suburb within the city, town or village where the additional microlending branch will be located; and
 - (c) the printed declaration of the NAMFISA ERS form which must be signed by the principal officer or any other key responsible person.
- (3) The microlender must, within three months of the approval of the additional microlending branch, submit to NAMFISA a form set out under Schedule 6 attached to this Standard, on the NAMFISA ERS.
- (4) The completed form, as referred to under (3) above, must be submitted to NAMFISA with the following documentation:
 - (a) a certified copy of the certificate of fitness and registration issued by the relevant local authority, village council, town council or municipality pertaining to the additional outlet;
 - (b) a declaration that the office set-up of the additional microlending branch complies with the basic office infrastructure requirements in terms of the existence of:
 - i) electronic device (s) with subscription to a credit bureau which has been established in terms of the relevant laws;
 - ii) office tables and chairs; and
 - iii) filing system(s);

- (c) a certified copy of the branch manager's identity document;
- (d) a detailed and updated curriculum vitae of the branch manager;
- (e) certified copy of the branch manager's educational qualification (minimum grade 10 certificate with computer literacy and at least two years administrative/business experience or grade 12 certificate with computer literacy and at least one year administrative/business experience or equivalent);
- (f) proof of his or her relevant experience;
- (g) certified copy of the branch manager's certificate of conduct/crime clearance certificate, issued by such person's local police, or the receipt as proof of application thereof, and which was issued no longer than 12 months prior to the date of application to NAMFISA; and
- (h) the completed sections E, F and G of the form prescribed under Schedule 1.

8. Manner of submitting applications

All applications made under this Standard must be submitted to NAMFISA both manually in hard copy as well as electronically on the NAMFISA ERS.

9. Additional information

NAMFISA may require any microlender or applicant that has lodged an application in terms of any provision under this Standard, to furnish such further information and documents which NAMFISA may determine reasonably necessary in order to consider the application.

SUPPORTING SCHEDULES

The following supporting schedules are attached to and form part of this Standard:

- Schedule 1: Application for registration as a microlender/purchase/amalgamation/transfer of ownership form
- Schedule 2: NAMFISA ERS nomination form
- Schedule 3: Application fee payment instructions
- Schedule 4: Application for change of name/use of alternative name/use of shortened form or derivative of the name
- Schedule 5: Application to conduct other business on licensed premises
- Schedule 6: Additional microlending branch post-approval form

Schedule 1**ApplML5 (1) Registration****APPLICATION FOR REGISTRATION AS A MICROLENDER/PURCHASE/
AMALGAMATION/TRANSFER OF MICROLENDING BUSINESS****SECTION A: WHERE THE APPLICANT IS A CORPORATE ENTITY – DETAILS OF THE
CORPORATE ENTITY TO BE PROVIDED**

A.1 Full registered name: _____

A.2 Previously registered name(s): _____

A.3 Trading name(s): _____

A.4 Corporate entity registration No. _____

A.5 Country of Registration: _____

A.6 If not incorporated in Namibia please provide description of the corporate entity _____

A.7 Income Tax Registration No.: _____

A.8 Financial year end: _____

A.9 Nature of business: _____

A.10 Registered address: _____

A.11 Principal place of business: _____

A.12 Contact person: _____

A.13 Postal address: _____

A.14 Telephone number: _____

A.15 Fax number: _____

A.16 Mobile number: _____

A.17 Is the entity subject to financial services regulation in a foreign country or a financial services intermediary?:

A.18 If yes, which jurisdiction: _____

A.19 Name of foreign regulator(s): _____

SECTION B: WHERE THE APPLICANT IS A CORPORATE ENTITY - (HONESTY AND INTEGRITY QUESTIONNAIRE)

to be provided for each shareholder (where the shareholder is a juristic person)

If the answer to any of the questions is yes, provide full details on a separate page and attach certified documents to the form:

		YES	NO
1	Has an adverse finding been made against the corporate entity within a period of ten years preceding the date of application in any civil or criminal proceedings by a court of law (whether in Namibia or elsewhere)?	<input type="checkbox"/>	<input type="checkbox"/>
2	Has the corporate entity within a period of ten years preceding the date of application, been found guilty by any professional or financial services industry body (whether in Namibia or elsewhere), of an act of dishonesty, negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
3	Has the corporate entity within a period of ten years preceding the date of application, been denied membership of any body referred to in question 2 above on account of an act of dishonesty negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
4	Has the corporate entity within a period of ten years preceding the date of application, been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere) or has an authorization to carry on business been refused, suspended or withdrawn by any such body on account of an act of dishonesty, negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
5	Has the corporate entity been the subject of any investigation or disciplinary proceedings by any regulatory authority (whether in Namibia or elsewhere) or exchange, professional body or government body or agency?	<input type="checkbox"/>	<input type="checkbox"/>
6	Has the corporate entity ever been refused authorization to carry on business by any regulatory body (whether in Namibia or elsewhere), or has such authorization ever been suspended or revoked by any such body, because of negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
7	Has the corporate entity ever been placed under judicial management, insolvency processes or any other processes of a similar nature?	<input type="checkbox"/>	<input type="checkbox"/>
8	Has the corporate entity ever been found to be liable under the Financial Intelligence Act, No. 13 of 2012 (FIA), and/or the Prevention of Organized Crime Act, No. 29 of 2004 and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No 4 of 2014) and/or any other similar crime in any country?	<input type="checkbox"/>	<input type="checkbox"/>
9	Do you have any additional information, which should be brought to the NAMFISA's attention, which may have an impact on the evaluation, by the NAMFISA of your good character and integrity?	<input type="checkbox"/>	<input type="checkbox"/>

SECTION C: WHERE THE APPLICANT IS A CORPORATE ENTITY - SOURCE OF FUNDS AND AMOUNT OF START-UP CAPITAL:

C.1 Source of Funds: _____

C.2 Amount of start-up capital: _____

NB: Kindly note that all source of funds must be properly and thoroughly supported with documentary evidence of how the money was earned, i.e. what activities were conducted to generate the funds.

DECLARATION BY APPLICANT WHERE THE APPLICANT IS A CORPORATE ENTITY

I, _____ (full names) in my capacity as _____ of the applicant referred to herein, hereby declare under oath/affirmation as follows:

This statement consists of _____ pages, was completed by me. The contents of this statement are true to the best of my knowledge and belief.

I undertake that, as long as I continue to be a _____ of the entity, I will notify NAMFISA of any material changes to, or affecting the completeness or accuracy of, the information supplied to NAMFISA as soon as possible, but in any event no later than 30 days from the day that the changes come to my attention.

I know and understand the content of this declaration. I do not have objections to taking the prescribed oath/affirmation. I consider the prescribed oath/affirmation to be binding on my conscience.

SIGNATURE OF DEPONENT

I hereby declare that the deponent has sworn/affirmed to and signed the declaration in my presence at _____ on the ____ day of _____ 20____ and he/she declared as follows: that the facts herein contained fall within his or her personal knowledge and that he/she understands the contents hereof; that he/she has no objection to taking the oath/affirmation; that he/she regards the oath/affirmation as binding on her conscience.

COMMISSIONER OF OATH

FULL NAMES: _____

CAPACITY: _____

ADDRESS: _____

SECTION D: DETAILS OF EVERY NATURAL PERSON WITH AN OWNERSHIP INTEREST IN THE APPLICANT (INCLUDING SOLE PROPRIETORS AND PARTNERS IN A PARTNERSHIP)

to be provided for each member/ shareholder/partner (natural person)

D.1 Full name(s): _____

D.2 Previous surname(s): _____

D.3 Nationality: _____

D.4 Identification No: _____

D.5 Occupation: _____

D.6 Residential address: _____

D.7 Business address: _____

D.8 E-mail: _____

D.9 Telephone _____

D.10 Cell No: _____

D.11 Fax No: _____

SECTION E: PRINCIPAL OFFICER, BRANCH MANAGER AND DIRECTORS

to be provided for the principal officer and each branch manager and director, unless the details in respect of such a person has already been provided under Section D

E.1 Full name(s): _____

E.2 Previous surname(s): _____

E.3 Nationality: _____

E.4 Identification/ Passport No.: _____

E.5 Occupation: _____

E.6 Date appointed: _____

E.7 Residential address: _____

E.8 Business address: _____

E.9 E-mail: _____

E.10 Telephone: _____

E.11 Cell No: _____

E.12 Telefax: _____

E.13 Qualifications: _____

E.14 Experience in the industry: _____

E.15 Relation to Applicant: _____

SECTION F: NATURAL PERSON'S HONESTY AND INTEGRITY QUESTIONNAIRE

If the answer to any of the questions is yes, provide full details on a separate page and attach certified documents to the form:

		YES	NO
1	Has an adverse finding been made against you within a period of ten years preceding the date of application in any civil or criminal proceedings by a court of law (whether in Namibia or elsewhere), in which you were found to have acted fraudulently, dishonestly, unprofessionally, dishonorably or in breach of a fiduciary duty?	<input type="checkbox"/>	<input type="checkbox"/>
2	Have you within a period of ten years preceding the date of application been found guilty by any professional or financial services industry body (whether in Namibia or elsewhere), of an act of dishonesty, negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
3	Have you within a period of ten years preceding the date of application been denied membership of anybody referred to in question 2 above on account of an act of dishonesty negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
4	Have you within a period of ten years preceding the date of application been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere) or has an authorization to carry on business been refused, suspended or withdrawn by any such body on account of an act of dishonesty, negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
5	Have you at any time prior to the date of application been disqualified or prohibited by any court of law (whether in Namibia or elsewhere) from taking part in the management of any company or other statutorily created, recognized or regulated body, irrespective whether such disqualification has since been lifted or not?	<input type="checkbox"/>	<input type="checkbox"/>
6	Have you been the subject of any investigation or disciplinary proceedings by any regulatory authority (whether in Namibia, or elsewhere) or exchange, professional body or government body or agency?	<input type="checkbox"/>	<input type="checkbox"/>
7	Have you ever been refused authorization to carry on business by any regulatory body (whether in Namibia or elsewhere), or has such authorization ever been suspended or revoked by any such body, because of negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
8	Are you subject to an order of a competent court holding you to be mentally unfit or disordered?	<input type="checkbox"/>	<input type="checkbox"/>
9	Have you within a period of ten years preceding the date of application been removed from office on account of misconduct relating to fraud or the misappropriation of money, whether in the Republic or elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>
10	Have you within a period of ten years preceding the date of application been a director or member of a governing body of an entity at the time that such entity has been de-registered in terms of public regulation?	<input type="checkbox"/>	<input type="checkbox"/>
11	Have you within a period of ten years preceding the date of application received a grant of amnesty or free pardon for any offence?	<input type="checkbox"/>	<input type="checkbox"/>
12	Has your estate ever been sequestrated?	<input type="checkbox"/>	<input type="checkbox"/>
13	Have you ever been convicted of an offence or found to be liable under the Financial Intelligence Act, No. 13 of 2012 (FIA), and/or the Prevention of Organized Crime Act, No. 29 of 2004 and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No 4 of 2014) and/or any other similar crime in any country?	<input type="checkbox"/>	<input type="checkbox"/>
14	Do you have any additional information, which should be brought to NAMFISA's attention, which may have an impact on the evaluation, by NAMFISA of your good character and integrity?	<input type="checkbox"/>	<input type="checkbox"/>
15	Have you ever been adversely listed on a Credit Bureau (whether in Namibia or elsewhere)?	<input type="checkbox"/>	<input type="checkbox"/>
16	Have you been appointed as a Principal Officer previously? If yes, provide more information, i.e. duration, which company, etc.	<input type="checkbox"/>	<input type="checkbox"/>
17	Are you involved in other corporate entities as a Director, Shareholder, Member, Trustee, etc.?	<input type="checkbox"/>	<input type="checkbox"/>

SECTION G: COMPETENCE OF PRINCIPAL OFFICER, BRANCH MANAGER AND DIRECTOR**G.1 Training**

Qualification	Institution	Date obtained

G.2 Experience (complete table below):

Relevant employment history and/or experience in the industry: (To be supported with proof of relevant experience, i.e. written references from employers or from at least two clients confirming that the required period of relevant experience have been completed satisfactorily). Enclose detailed Curriculum Vitae (CV) of the Principal Officer, each Branch Manager and Director.

Position held	Employer	Contact Details	Period

DECLARATION

I, _____ (full names) hereby declare the following:

This statement consists of _____ pages, each initialed by me. The content of this statement is true and correct to the best of my knowledge and belief.

I undertake that, as long as I continue to be _____ (state designation) of the institution, I will notify the Registrar of any material changes to, or affecting the completeness or accuracy of, the information supplied to the Registrar in this statement as soon as possible, but in any event no later than 30 days from the day that the changes come to my attention.

I know and understand the content of this declaration. I do not have objections to taking the prescribed oath/affirmation.

I consider the prescribed oath/affirmation to be binding on my conscience.

SIGNATURE OF DEPONENT

I hereby declare that the deponent has sworn/affirmed to and signed this statement in my presence at _____ on the ____ day of _____ 20__ and he/she declared as follows: that the facts herein contained fall within his or her personal knowledge and that he/she understands the contents hereof; that he/she has no objection to taking the oath/affirmation; that he/she regards the oath/affirmation as binding on her conscience.

COMMISSIONER OF OATH

FULL NAMES _____

CAPACITY _____

ADDRESS _____

Initiailling of each page by Commissioner of Oaths and deponent

Schedule 2

NAMFISA ERS Nomination form

Registered name:			
NAMFISA Registration Number:			
List of ERS user nominees:			
	Name of Nominee	Designation (i.e. Principal Officer, Director, Member or Owner/etc.)	E-mail Address
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
Authorised Signature (Chief Executive Officer/Managing Director/Owner/Principal Officer):			
Designation:			
Please print name and sign below:			
	Name (print)		
	Signature		
	Date		

Schedule 3**Application fee payment instructions**

The application fee must be paid into the following bank account:

Name of Bank:	Standard Bank
Account name:	NAMFISA
Account number:	241440351
Branch:	Gustav Voigts
Branch Code:	082772
Reference:	(Name of microlending business)

Schedule 4**Application for change of name/use of alternative name/use of shortened form or derivative of the name**

Registered name:	
NAMFISA Registration Number:	
Proposed name:	
Reason for proposed name:	
Attach amended memorandum of association and articles, or other instrument constituting the founding documents of the applicant	
Attach Original License or, if lost, a sworn declaration to that effect	
Additional file attachments	
<p>By signing this document I guarantee that all the above information is true and accurate and can be relied on and that I will disclose all necessary material information that may be required by NAMFISA. I also confirm that I have completed the form based on NAMFISA standards.</p> <p>SIGNED ON BEHALF OF THE APPLICANT:</p> <p>Name: Capacity: Signature:</p>	

Schedule 5**Application to conduct other business on licensed premises**

Section A	
Registered name:	
NAMFISA Registration Number:	
Description of envisaged business to be conducted:	
Reason for conducting envisaged business on same premises:	
Attach certified copy of Certificate of Fitness and Registration:	
Attach Notification letter:	
Additional file attachments:	
Section B	
<p>By signing this document I guarantee that all the above information is true and accurate and can be relied on and that I will disclose all necessary material information that may be required by NAMFISA. I also confirm that I have completed the form based on NAMFISA standards.</p> <p>SIGNED ON BEHALF OF THE APPLICANT:</p> <p>Name: Capacity: Signature:</p>	

Schedule 6

Additional microlending branch post-approval form

Section A			
Registered name:			
NAMFISA Registration Number:			
This section allows you to add details of the new branch:			
Physical Address of branch	Address line 1:		
	Address line 2:		
	Address line 3:		
	Town/City:		
Postal Address of branch	Address line 1:		
	Address line 2:		
	Address line 3:		
	Town/City:		
Branch Telephone Number			
Branch Fax Number			
Branch e-mail address			
Basic Office Infrastructure information:			If no, kindly add comments
a. Sufficient tables and chairs?	Yes:	No:	
b. Electronic device with subscription to a registered credit bureau?	Yes:	No:	
c. Filing systems?	Yes:	No:	
d. Reasonable degree of confidentiality maintained at office?	Yes:	No:	
1. Attachment: Certificate of Fitness and Registration issued by Local Authority where branch is situated:			
2. Attachment: photos of office set-up:			
Section B			
1. Full names of branch manager:			
2. Identity number:			
2. Personal Postal address:			
3. Personal physical address:			
4. Personal telephone numbers:			
Attachment 1: CV			
Attachment 2: Certified copy of ID			
Attachment 3: Certified copy of educational qualifications (including highest school leaving certificate)			

Attachment 4: Certified copy of Certificate of Conduct	
Attachment 5: Completed Natural Persons FAP statement	
Attachment 6: Proof of relevant experience	
Section C	
By signing this document I guarantee that all the above information is true and accurate and can be relied on and that I will disclose all necessary material information that may be required by NAMFISA. I also confirm that I have completed the form based on NAMFISA standards.	
SIGNED ON BEHALF OF THE APPLICANT:	
Name:	
Capacity:	
Signature:	

NAMIBIA FINANCIAL INSTITUTIONS SUPERVISORY AUTHORITY

No. 599

2018

STANDARDS ISSUED UNDER THE MICROLENDING ACT, 2018

The Namibia Financial Institutions Supervisory Authority has under section 35(5) of the Microlending Act, 2018 (Act No. 7 of 2018), issued the Standards set out in the Schedule.

K.S. MATOMOLA
CHIEF EXECUTIVE OFFICER

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PART I
INTRODUCTORY PROVISIONS

(1) **Citation**

These Standards may be cited as the Microlending Standards.

(2) Interpretation

- (a) In this Standard “the Act” means the Microlending Act, 2018, including the regulations made thereunder, and the standards issued by NAMFISA under the Act; and
- (b) any word or expression to which a meaning has been assigned in the Act bears that meaning, unless the context indicates otherwise.

MICROLENDING ACT, 2018**FIT AND PROPER CRITERIA FOR ANY KEY RESPONSIBLE PERSON****ML.S.2**

issued by NAMFISA under section 35(5) of the Microlending Act, 2018

1. Definitions

- (1) In this Standard, “Act” means the Microlending Act, 2018, including the regulations made thereunder, and the standards issued by NAMFISA under the Act.
- (2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including, without limitation, the following, as defined in section 1 of the Act:
 - (a) branch manager.
 - (b) credit bureau;
 - (c) Financial Intelligence Act
 - (d) key responsible person;
 - (e) microlender;
 - (f) NAMFISA;
 - (g) principal officer; and

2. Applicability

This Standard is applicable to any key responsible person.

3. Fit and proper criteria for a principal officer

- (1) Every microlender registered under the Act is required to appoint a principal officer in terms of section 14(1) of the Act.
- (2) A principal officer appointed in terms of section 14(1) of the Act must –
 - (a) comply with NAMFISA’s fit and proper requirements for key responsible persons in terms of Schedule 1 of the Act;

- (b) be in possession of a Grade 10 certificate or equivalent qualification, be computer literate and have at least four years administrative or business experience; or
 - (c) be in possession of a Grade 12 certificate or equivalent qualification, be computer literate and have at least two years administrative or business experience; and
 - (d) be employed at the microlending business on a full-time basis.
- (3) In the event that a microlender, after its registration as a microlender, appoints a new principal officer, the newly appointed principal officer must -
- (a) comply with the provisions of clause 3(2); and
 - (b) within 30 days of his or her appointment, submit the following documents to NAMFISA pursuant to section 14(6) of the Act -
 - (i) a duly completed fit and proper assessment set out under Schedule 1 attached to this Standard;
 - (ii) a certified copy of his or her Identity Document (ID) or passport;
 - (iii) his or her Curriculum Vitae (CV);
 - (iv) a certified copy of the certificate of conduct/crime clearance certificate, issued by the principal officer's local police, or a certified copy of the receipt as proof of application thereof, and which was issued no longer than 12 months prior to the date of submission to NAMFISA;
 - (v) certified copies of his or her relevant qualification(s); and
 - (vi) proof of his or her relevant experience.

4. Fit and proper criteria for a branch manager

- (1) Every microlender registered under the Act is required to appoint a branch manager in terms of section 21(4) of the Act.
- (2) A branch manager appointed in terms of section 21(4) of the Act must –
 - (a) comply with NAMFISA's fit and proper requirements for key responsible persons in terms of Schedule 1 of the Act;
 - (b) be in possession of a Grade 10 certificate or equivalent qualification, be computer literate and have at least two years administrative or business experience; or
 - (c) be in possession of a Grade 12 certificate or equivalent qualification, be computer literate and have at least one year administrative or business experience.
- (3) Should the microlender be necessitated to, at any time, appoint a new branch manager, the newly appointed branch manager must -

- (a) comply with the provisions of clause 4(2); and
- (b) within 30 days of his or her appointment, submit the following documents to NAMFISA pursuant to section 21(5) of the Act -
 - (i) a duly completed fit and proper assessment set out under Schedule 1 attached to this Standard;
 - (ii) a certified copy of his or her Identity Document (ID) or passport;
 - (iii) his or her Curriculum Vitae (CV);
 - (iv) a certified copy of the certificate of conduct/crime clearance certificate, issued by the branch manager's local police, or the receipt as proof of application thereof, and which was issued no longer than 12 months prior to the date of submission to NAMFISA;
 - (v) certified copies of his or her relevant qualification(s); and
 - (vi) proof of his or her relevant experience.

5. Fit and proper criteria for directors

- (1) A person appointed as a director by a microlender must –
 - (a) comply with NAMFISA's fit and proper requirements for key responsible persons in terms of Schedule 1 of the Act;
 - (b) complete the fit and proper assessment set out in Schedule 1 attached to this Standard;
 - (c) be in possession of a Grade 12 certificate or equivalent qualification and have at least two years business experience;
 - (d) submit a certified copy of his or her Identity Document (ID) or passport;
 - (e) submit his or her Curriculum Vitae (CV);
 - (f) submit a certified copy of the certificate of conduct/crime clearance certificate, issued by the director's local police, or the receipt as proof of application thereof, and which was issued no longer than 12 months prior to the date of submission to NAMFISA;
 - (g) submit certified copies of his or her relevant qualification(s); and
 - (h) submit proof of his or her relevant experience.

6. Fit and proper criteria for shareholder, member, owner, legal or natural person with at least five percent ownership or decision-making role in the microlending business

- (1) Any shareholder, member, owner, legal or natural person with at least five percent ownership or decision-making role in the microlending business must –
 - (a) comply with NAMFISA's fit and proper requirements for key responsible persons in terms of Schedule 1 of the Act;

- (b) complete the fit and proper assessment set out in Schedule 1 attached to this Standard;
- (c) submit a certified copy of his or her Identity Document (ID) or passport;
- (d) submit his or her Curriculum Vitae (CV); and
- (e) submit a certified copy of the certificate of conduct/crime clearance certificate, issued by such person's local police, or the receipt as proof of application thereof, and which was issued no longer than 12 months prior to the date of submission to NAMFISA.

SUPPORTING SCHEDULES

The following supporting schedule is attached to and form part of this Standard:

Schedule 1: Fit and proper assessment for a key responsible person

Schedule 1**FIT AND PROPER ASSESSMENT FOR A KEY RESPONSIBLE PERSON****SECTION A: PERSONAL INFORMATION**

A.1 Full names: _____

A.2 Previous names: _____

A.3 Current Nationality: _____

A.4 Previous Nationality: _____

A.5 Identification number (national identification or Passport number): _____

A.6 Date of Birth: _____

A.7 Place of Birth: _____

A.8 Residential address: _____

A.9 Postal address: _____

A.10 Telephone number: _____

A.11 Fax number: _____

A.12 E-mail address: _____

A.13 Mobile number: _____

A.14 Occupation: _____

A.15 Nature and location of business (*where applicable*): _____**SECTION B: HONESTY AND INTEGRITY**

If the answer to any of the questions is yes, provide full details on a separate page and attach certified documents to the form:

		YES	NO
1	Has an adverse finding been made against you within a period of ten years preceding the date of application in any civil or criminal proceedings by a court of law (whether in Namibia or elsewhere), in which you were found to have acted fraudulently, dishonestly, unprofessionally, dishonorably or in breach of a fiduciary duty?	<input type="checkbox"/>	<input type="checkbox"/>
2	Have you within a period of ten years preceding the date of application been found guilty by any professional or financial services industry body (whether in Namibia or elsewhere), of an act of dishonesty, negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
3	Have you within a period of ten years preceding the date of application been denied membership of any body referred to in question 2 above on account of an act of dishonesty negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>

4	Have you within a period of ten years preceding the date of application been found guilty by any regulatory or supervisory body (whether in Namibia or elsewhere) or has an authorization to carry on business been refused, suspended or withdrawn by any such body on account of an act of dishonesty, negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
5	Have you at any time prior to the date of application been disqualified or prohibited by any court of law (whether in Namibia or elsewhere) from taking part in the management of any corporate entity or other statutorily created, recognized or regulated body, irrespective whether such disqualification has since been lifted or not?	<input type="checkbox"/>	<input type="checkbox"/>
6	Have you been the subject of any investigation or disciplinary proceedings by any regulatory authority (whether in Namibia, or elsewhere) or exchange, professional body or government body or agency?	<input type="checkbox"/>	<input type="checkbox"/>
7	Have you ever been refused authorization to carry on business by any regulatory body (whether in Namibia or elsewhere), or has such authorization ever been suspended or revoked by any such body, because of negligence, incompetence or mismanagement?	<input type="checkbox"/>	<input type="checkbox"/>
8	Are you subject to an order of a competent court holding you to be mentally unfit or disordered?	<input type="checkbox"/>	<input type="checkbox"/>
9	Have you within a period of ten years preceding the date of application been removed from office on account of misconduct relating to fraud or the misappropriation of money, whether in Namibia or elsewhere?	<input type="checkbox"/>	<input type="checkbox"/>
10	Have you within a period of ten years preceding the date of application been a director or member of a governing body of an entity at the time that such entity has been de-registered in terms of public regulation?	<input type="checkbox"/>	<input type="checkbox"/>
11	Have you within a period of ten years preceding the date of application received a grant of amnesty or free pardon for any offence?	<input type="checkbox"/>	<input type="checkbox"/>
12	Has your estate ever been sequestrated?	<input type="checkbox"/>	<input type="checkbox"/>
13	Have you ever been convicted of an offence or found to be liable under the Financial Intelligence Act, No. 13 of 2012 (FIA), and/or the Prevention of Organized Crime Act, No. 29 of 2004 and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No 4 of 2014)and/or any other similar crime in any country?	<input type="checkbox"/>	<input type="checkbox"/>
14	Do you have any additional information, which should be brought to NAMFISA's attention, which may have an impact on the evaluation, by the Registrar of your good character and integrity?	<input type="checkbox"/>	<input type="checkbox"/>
15	Have you ever been adversely listed on a Credit Bureau (whether in Namibia or elsewhere)?	<input type="checkbox"/>	<input type="checkbox"/>
16	Have you been appointed as a Principal Officer previously? If yes, provide more information, i.e. duration, which company, etc.	<input type="checkbox"/>	<input type="checkbox"/>
17	Are you involved in other corporate entities as a Director, Shareholder, Member, Trustee, etc.?	<input type="checkbox"/>	<input type="checkbox"/>
18	Has any entity in respect of which you were a member, shareholder, director or officer and/or the Prevention of Organized Crime Act, No. 29 of 2004 and/or the Prevention and Combating of Terrorist and Proliferation Activities Act, 2014 (Act No. 4 of 2014)and/or any other similar crime in any country?	<input type="checkbox"/>	<input type="checkbox"/>

SECTION C: COMPETENCE

C.1 Training

Qualification	Institution	Date obtained

C.2 Experience (complete table below):

Relevant employment history and/or experience in the industry: to be supported with written references from employers or from at least two clients confirming that the required period of relevant experience have been completed satisfactorily. Enclose detailed Curriculum Vitae (CV) of the key responsible person.

Position held	Employer	Contact Details	Period

DECLARATION BY THE KEY RESPONSIBLE PERSON

I, _____ (full names) hereby declare the following:

This statement consists of _____ pages, each initialed by me. The content of this statement is true and correct to the best of my knowledge and belief.

I undertake that, as long as I continue to be a key responsible person of _____ (name of microlender), I will notify the Registrar of any material changes to, or affecting the completeness or accuracy of, the information supplied to the Registrar in this statement as soon as possible, but in any event no later than 30 days from the day that the changes come to my attention.

I know and understand the content of this declaration. I do not have objections to taking the prescribed oath/affirmation. I consider the prescribed oath/affirmation to be binding on my conscience.

SIGNATURE OF DEPONENT

I hereby declare that the deponent has sworn to and signed this statement in my presence at _____ on the ____ day of _____ 20 ____ and he/she declared as follows: that the facts herein contained fall within his/her personal knowledge and that he/she understands the contents hereof; that he/she has no objection to taking the oath/affirmation; that he/she regards the oath/affirmation as binding on his/her conscience.

COMMISSIONER OF OATHS

FULLNAMES _____

CAPACITY _____

ADDRESS _____

MICROLENDING ACT, 2018**THE SUBMISSION OF RETURNS, STATEMENTS AND REPORTS****ML.S.3**

issued by NAMFISA under subsection 35(5) of the Microlending Act, 2018

1. Definitions

- (1) In this Standard-
- (a) “Act” means the Microlending Act, 2018, including the regulations made thereunder, and the standards issued by NAMFISA under the Act; and
 - (b) “**NAMFISA ERS**” means the Electronic Regulatory System which facilitates communication between NAMFISA and the microlending industry.
- (2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including, without limitation, the following, as defined in section 1 of the Act:
- (a) borrower;
 - (b) key responsible person;
 - (c) licensed premises;
 - (d) loan agreement;
 - (e) loan amount;
 - (f) microlender;
 - (g) microlending transaction;
 - (h) NAMFISA; and
 - (i) principal officer.

2. Applicability

This Standard is applicable to every registered microlender.

- 3.** (1) A microlender must submit the following periodical and other returns, statements and reports to NAMFISA -
- (a) a MLR-1 return, in the form set out under Schedule 1 attached to this Standard, which is the Certification of Compliance by the registered microlenders’ principal officer, within 6 months after the microlender’s financial year-end;

- (b) the MLR-1 return referred to in paragraph (a) must be accompanied by the audited annual financial statements in respect of a microlender incorporated as a company, financial statements certified by an accounting officer in respect of a microlender incorporated as any other corporate entity and unaudited financial statements for sole proprietors and partnerships;
 - (c) a MLR-2 return, in the form set out under Schedule 2 attached to this Standard, which is the Quarterly Financial and Statistical Return, within 21 calendar days after the last day of each quarter; and
 - (d) the MLR-2 return referred to in paragraph (c) must be accompanied by the summarized monthly management reports.
- (2) The quarters for submission of the Quarterly Returns for every calendar year are as follows:
- (a) January until March (Quarter 1);
 - (b) April until June (Quarter 2);
 - (c) July until September (Quarter 3); and
 - (d) October until December (Quarter 4).
- (3) The returns referred to in sub-clause (1) must be submitted to NAMFISA electronically on NAMFISA ERS.
- (4) A microlender must submit a hard copy of the signed ERS declaration, in respect of the returns referred to in sub-clause (1), to NAMFISA within the same periods they are required to submit the returns referred to in sub-clause (1).
- (5) A microlender is required to confirm specifically that the following requirements have been complied with in full and that appropriate procedures have been implemented to ensure on-going compliance in the following areas to NAMFISA on the MLR-1 return referred to in sub-clause (1)(a):
- (a) The microlender's registration certificates are displayed prominently at all licensed premises;
 - (b) Written loan agreements are entered into and signed by the microlender and borrower in respect of each microlending transaction;
 - (c) All required information is disclosed in all loan agreements issued by the microlender;
 - (d) The essential terms of the loan agreement are explained to the borrower by the microlender so as to ensure that the meaning and consequences of the agreement are understood;
 - (e) The stipulation with regard to the non-disclosure of confidential information has been complied with;
 - (f) Complete and accurate accounting records are maintained, reflecting all loans issued, all monies advanced, interest, fees and other charges raised, all repayment received and amounts outstanding;

- (g) Neither the microlender nor any key responsible person, employee or person connected to the microlender have made use or retained personal information such as pin codes and bank cards for security or collection purposes; and
 - (h) The microlender must disclose specific areas of non-compliance and in respect of those areas of non-compliance, the steps taken by the microlender to rectify such non-compliance.
- (6) A microlender is required to submit the following information to NAMFISA on a quarterly basis via the MLR-2 return:
- (a) the microlender should complete the particulars of transactions relating to lending activities during the reporting period (the quarter under review);
 - (b) the microlender should complete the details of the income statement from the management accounts of the business for the reporting period;
 - (c) the microlender should complete loans disbursement breakdown by length of repayment period (as at reporting date) and loans disbursement breakdown by loan size (as at reporting date);
 - (d) the microlender should categorize the loan book at the end of the reporting period in the different age analysis categories;
 - (e) the microlender should complete the breakdown of borrowers by gender, the purpose of borrowing and the percentage of secured and unsecured loans during the period under review; and
 - (f) the microlender should disclose involvement in any other business activities other than microlending and also the number of active branches that the microlender have.
- (7) A microlender must ensure that processes and controls are in place to support the submission of accurate and reliable information to NAMFISA within the time periods specified in this Standard.
- (8) All information submitted to NAMFISA pursuant to this Standard must be duly authorised and signed by the principal officer.

SUPPORTING SCHEDULES

The following supporting schedule is attached to and form part of this Standard:

- Schedule 1: MLR-1 - Certification of compliance
- Schedule 2: MLR-2 - Quarterly return

Schedule 1

MLR-1: CERTIFICATION OF COMPLIANCE

On behalf of the Board of Directors/Members/Trustees of(name of microlender) I, the undersigned, (full names), in my capacity as principal officer, do hereby declare that (name of microlender), has complied with the requirements of the Act.

I am not aware of any substantial non-compliance with these requirements for the period to

I confirm that all the requirements of the Act have been complied with in full and that appropriate procedures have been implemented to ensure on-going compliance.

I hereby disclose the following areas of non- compliance with the provisions of the Act and in respect of those areas of non-compliance, the steps taken by the microlender to rectify such non-compliance: *(please provide detailed explanation)*

Signed on behalf of the board of Directors / Members / Trustees of:

_____ (name of microlender)

Date: _____

Name: _____

Signature: _____

Capacity: _____

Schedule 2

MLR-2 - QUARTERLY RETURN

PART 1: REPORTING PERIOD ANALYSIS

	As at end of period
(a) Total Namibia dollar value of loans disbursed during the period	
(b) Total number of Loans disbursed during the period	
(c) Total value of Debtors balance/Accounts Receivable at end of period	
(d) Total number of borrowers in book at last day of reporting period	
(e) Total number of employees on last day of period	

PART 2: FINANCIAL ANALYSIS INCOME STATEMENT

Income	
(a) Interest Income from Loans disbursed for the quarter only	
(b) Income from Administration Fee for the quarter	
(c) Commissions for the quarter	
(d) Other loan related income for the quarter (specify) (may include default interest charged on overdue accounts)	
(E) Gross income from microlending (a+ b + c + d)	
(f) Bad debts (the amount of provision for bad debt for the quarter and not actual written off)	
(g) Interest paid (cost of funding)	
(H) Net income from microlending operations (E -f – g)	
(I) Total expenses Related to microlending transactions	
(J) Net profit before tax (H - I)	
(K) Less tax Paid	
(L) Net profit after tax (J – K)	

PART 3: LOANS ANALYSIS

3.1 Loans disbursement breakdown by length of repayment period (As at reporting date.)

	1 to 5 months	6 months	12 months	24 months	36 months	48 months	60 months	Total
Number of Loans								
N\$ dollar value								

3.2 Loans disbursement breakdown by loan size (as at reporting date)

	N\$1-10 000	+N\$10 000-20 000	+N\$20 000-30 000	+N\$30 000 – 40 000	+N\$40 000 – 50 000	+N\$50 000 – 100 000	Total
Number of Loans							
N\$ Value							

PART 4: LOAN DEBTORS RISK ANALYSIS**4.1 Age analysis of Debtor balances including finance charges**

Current (Running balances of all active loans)	30-60 days (Arrears)	60-90 days (Arrears)	90-120 days (Arrears)	+120 days (Arrears)	Total

4.2 Age analysis of Debtor balances excluding finance charges

Current (Running balances of all active loans)	30-60 days (Arrears)	60-90 days (Arrears)	90-120 days (Arrears)	+120 days (Arrears)	Total

4.3 Age analysis by number of debtors as per the Debtors balances at end of reporting period

Current (Running balances of all active loans)	30-60 days (Arrears)	60-90 days (Arrears)	90-120 days (Arrears)	+120 days (Arrears)	Total

4.4 Method on collection of funds based on number of loans disbursed as at reporting date in percentage %

Payroll deduction %	Debit Orders %	Cash collection %	Other methods %

4.5 Analysis of loans written off and rescheduled

Number of Loans written off as bad debt during the period (Actual for quarter)	Namibia Dollar value of bad debts written off during the period (Actual for quarter)	Number of Loans rescheduled during the period	Namibia Dollar value of loan rescheduled during the period

PART 5: BORROWER INFORMATION**5.1 Breakdown of borrowers by gender (as per loan disbursements of quarter)**

	Number of Loans	Namibia Dollar Value of Loans
Disbursements to female borrowers		
Disbursement to male borrowers		

5.2 Loan breakdown by purpose of borrowing during the period (as per loan disbursements of quarter)

	Business	Housing	Education	Furniture	Consumption	Other uses	Total
Number							
N\$ Value							

5.3 Indicate % of loans secured and unsecured. (as per loan disbursements of quarter)

	Percentage of total	N\$ value of loans
Secured loans		
Unsecured loans		

PART 6: MICROLENDER'S OTHER BUSINESS INTEREST**6.1 Indicate microlender's involvement in any other type of business**

Sale of Furniture	Cash converting	Insurance	Debt collection	Other (specify)

6.2 Indicate microlender's number of registered branches/ offices including main office/ head office as at reporting period

Signed on behalf of the board of Directors / Members / Trustees of:

Date: _____

Name: _____

Signature: _____

Capacity: _____

MICROLENDING ACT, 2018**THE FORM AND CONTENT OF THE AFFORDABILITY ASSESSMENT****ML.S.4**

issued by NAMFISA under section 35(5) of the Microlending Act, 2018

1. Definitions

- (1) In this Standard, “Act” means the Microlending Act, 2018, including the regulations made thereunder, and the standards issued by NAMFISA under the Act.
- (2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including, without limitation, the following as defined in section 1 of the Act:
 - (a) borrower;
 - (b) finance charges;
 - (c) loan amount;
 - (d) microlender; and
 - (e) microlending transaction.

2. Applicability

This Standard is applicable to all microlenders registered under the Act and to every microlending transaction concluded.

3. Requirement for affordability assessment

- (1) No microlender may enter into a microlending transaction with any borrower or provide a loan to any borrower unless an affordability assessment, based on and containing at least the detail of the form set out under Schedule 1 attached to this Standard, clearly demonstrates the borrower’s ability to repay the loan and the finance charges, taking into consideration the borrower’s income and all other existing financial obligations.
- (2) No microlender may enter into a microlending transaction with any borrower or provide a loan where, in terms of the affordability assessment, the amount of the repayment of the loan exceeds 50 percent of the borrower’s net monthly salary or $\frac{1}{3}$ (one-third) of the borrower’s gross salary, whichever is the lesser amount.

4. Form and content of the affordability assessment

The form and content of the affordability assessment to be performed by a microlender in respect of each microlending transaction, is set out under Schedule 1 attached to this Standard.

SUPPORTING SCHEDULES

The following supporting schedule is attached to and form part of this Standard:

Schedule 1: Affordability assessment form and content

Schedule 1**AFFORDABILITY ASSESSMENT FORM AND CONTENT****PART 1: PERSONAL INFORMATION OF THE LOAN APPLICANT / BORROWER**

Full names and surname: _____

Identity number: _____

Physical Address: _____

Postal Address: _____

Telephone Number (work): _____

Telephone Number (home): _____

Cell phone Number: _____

E-mail address (if any): _____

Name of Employer: _____

Address of Employer: _____

PART 2: INCOME

(Please attached copy of payslip and 3 months bank statements)

Gross Salary

Deductions

Tax

Medical Aid

Pension

Other Deductions (specify)

Total Deductions

Other Income (specify the source)

PART 3: OTHER MONTHLY COMMITMENTS

(Please list all monthly commitments other than outstanding debt, i.e. school fees, travelling costs, medical expenses, etc.).

PART 4: DECLARATION BY LOAN APPLICANT / BORROWER

1. I undertake to comply with all requests for information or documentation from the microlender to assist him/her to evaluate my state of indebtedness.
2. I hereby consent to the submission of my information to registered credit bureaus by the microlender.
3. I also consent that the microlender may obtain my credit record from any/all registered credit bureaus and any other person.
4. I confirm that the information disclosed to the microlender for purposes of the affordability assessment is, to the best of my knowledge, true and correct.

Signed at _____ [*name of place*] _____ on this _____ [*date*] _____ day of _____ [*month and year*].

Loan applicant / Borrower's signature

On behalf of the microlender

Capacity/Position/Job Title

MICROLENDING ACT, 2018**THE TERMS AND CONDITIONS OF THE STANDARD LOAN AGREEMENT****ML.S.5**

issued by NAMFISA under section 35(5) of the Microlending Act, 2018

1. Definitions

- (1) In this Standard, “Act” means the Microlending Act, 2018, including the regulations made thereunder, and the standards issued by NAMFISA under the Act.
- (2) Words and phrases defined in the Act have the same meaning in this Standard, unless the context indicates otherwise, including, without limitation, the following, as defined in section 1 of the Act:
 - (a) borrower;
 - (b) finance charges;
 - (c) loan agreement;
 - (d) loan amount;
 - (e) microlender; and
 - (f) microlending transactions.
 - (g) NAMFISA;

2. Applicability

This Standard is applicable to all microlenders registered under the Act.

3. Terms of standard loan agreement

- (1) The standard written loan agreement to be used in respect of every microlending transaction must, at a minimum, provide –
 - (a) the principal debt in Namibia Dollars and cents;
 - (b) the total amount repayable in Namibia Dollars and cents at the then current interest rate, over the repayment period;
 - (c) the amount of finance charges in Namibia Dollars and cents at the applicable rate, over the repayment period and the elements comprising the finance charges;
 - (d) the finance charge rate, whether this is fixed or variable and, if variable, how it may vary;

- (e) the nature and amount of any insurance, if required, including the name of the insurer and the amount of the premiums payable;
- (f) the penalty interest and any additional costs that would become payable to the microlender in the case of default by the loan applicant / borrower and how that would be calculated;
- (g) the instalment amount in Namibia Dollars and cents, at the then current interest rate, and the number of instalments;
- (h) the period of the microlending transaction;
- (i) any other costs and expenses;
- (j) that the microlender may not, without the express consent of the loan applicant / borrower and apart from disclosing relevant information to a registered credit bureau, disclose any confidential information obtained in the course of a microlending transaction other than if it is required by a court order from a court with competent jurisdiction;
- (k) that the microlender may not, without the express written consent of the loan applicant / borrower, obtain from or to disclose to a third party, other than a registered credit bureau, the loan applicant / borrower's credit record and payment history;
- (l) that the microlender may not collect or attempt to collect legal costs in excess of costs allowed on a party and party scale in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944) or the High Court Act, 1990 (Act No. 16 of 1990);
- (m) that any consent to judgment forms or emolument attachment orders obtained prior to the borrower defaulting, is considered void and not enforceable;
- (n) that complaints which cannot be resolved between the microlender and the borrower should be referred to the Financial Services Adjudicator or NAMFISA;
- (o) that the borrower may cancel the microlending transaction within three (3) business days after signing of the loan agreement, provided that the loan amount and pro rata finance charges in terms of section 26(2) at the rate applicable to that microlending transaction, be repaid simultaneously;
- (p) that the borrower may make additional payments or settle the outstanding balance early in one or more payments without any penalties being levied for early settlement and that the microlender may, in such event, only stipulate for demand or receive from the borrower pro rata finance charges at the rate applicable to that microlending transaction;
- (q) that no addition to or variation of the agreement shall be of any force and effect unless the change reduces the borrower's liabilities under the agreement or the change is recorded in writing and signed by both parties; and
- (r) that the agreement shall be governed in all respects by the laws of the Republic of Namibia.

- (2) The standard loan agreement referred to in sub clause (1) above must be drafted in plain language.

4. Prohibited terms

A standard written loan agreement must not contain any provision –

- (a) that waives or renounces any common law rights or remedies that are available to the borrower, including, exception errorē calculi, exception non numerate pecuniae, exception non causa debiti;
- (b) that directly or indirectly purports to avoid a microlenders' obligations in terms of the Act; or
- (c) that is in conflict with any provision of the Act.

5. Plain language requirement

- (1) To comply with the plain language requirement, a standard loan agreement must:
 - (a) be aimed at the specific borrower;
 - (b) use everyday, ordinary words;
 - (c) not contain jargon or abbreviations without proper explanations;
 - (d) have short sentences and paragraphs;
 - (e) use active verbs;
 - (f) use a friendly tone, i.e. be in the first person;
 - (g) have headings to guide borrowers (where appropriate);
 - (h) use at least a 12-point font or typeface;
 - (i) be short and to the point; and
 - (j) not contain complicated words or terms.
 - (2) In ensuring that the loan agreement meets the plain language requirements, a microlender must:
 - (a) read the loan agreement before making it available to borrowers;
 - (b) ask outside persons to read the agreement to check that it complies with the requirements;
 - (c) test the readability of the agreement, using Flesch Reading Ease or Flesch-Kinkaid Grade Level scales;
 - (d) include a glossary of terms (where appropriate); and
 - (e) use clear and simple design (including space, left-aligned body text, clever colour use, photos to illustrate text, where necessary or appropriate).
-