

Attachment to XacBank Shareholders Resolution SR-2023-22  
dated: 15 September 2023



CHARTER  
OF  
XACBANK  
OPEN JOINT STOCK COMPANY (JSC)

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Dated: 15 September 2023

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CHARTER

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## CHARTER OF XACBANK JSC

### ARTICLE ONE. GENERAL PROVISIONS

- 1.1. This Charter shall establish and govern XacBank JSC (the “**Bank**”) with regard to its management structure, organization, activities, rights and duties, liabilities, supervision, and any restructuring and dissolving of the Bank.
- 1.2. The Bank is a private institution in terms of paid-in capital ownership, is a joint-stock company by its form of establishment, and is a commercial bank licensed to conduct banking activities under the Banking Law.
- 1.3. The Bank’s activities shall be regulated and comply with the Civil Code, the Banking Law, the Company Law, the Deposit, Loan and Banking Transaction Law, the Securities Market Law, and all other relevant rules and regulations of Mongolia including those approved by the Bank of Mongolia (“**BoM**”), Financial Regulatory Commission (“**FRC**”), and Mongolian Stock Exchange (“**MSE**”) and this Charter, as amended from time to time respectively.
- 1.4. The headquarters of the Bank shall be located in Ulaanbaatar, Mongolia.
- 1.5. For the purposes of this Charter, the following capitalized terms shall have the meanings set out below:
  - 1.5.1 “**Accounting Law of Mongolia**” shall mean the Law of Mongolia on Accounting, enacted on 19 June 2015, as amended from time to time;
  - 1.5.2 “**Authority**” or “**Authorities**” shall mean the Government of Mongolia, or any political subdivision thereof, whether state, regional or local, and any agency authority, branch, department, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government or any subdivision, and all officials, agents, and representatives of each of the foregoing;
  - 1.5.3 “**Authorizations**” shall mean any license or approval, registration, filing, certificate, permit or exemption from, by or with any Authority, and all corporate, creditors' and shareholders' approvals or consents;
  - 1.5.4 “**Applicable Law**” shall mean international treaties ratified or acceded to by Mongolia, as well as the laws, regulations, rules, parliamentary resolutions, presidential decrees, cabinet resolutions, minister orders, procedures, rules, regulations, acts and norms of the Authorities, governor's ordinances and other (national or local) legislative, executive or judicial normative acts in Mongolia which are valid and in effect at the time;
  - 1.5.5 “**Banking Law**” shall mean the Law of Mongolia on Banking, enacted on 28 January 2010, as amended from time to time;
  - 1.5.6 “**Big Four Audit Firms**” shall mean the largest 4 (four) internationally recognized audit firms;
  - 1.5.7 “**BoD**” or “**Board**” means the Board of Directors of the Bank;
  - 1.5.8 “**Chief Executive Employment Contract**” shall mean the contract between a Chief Executive Officer of the Bank and the Bank which includes the rights and duties

of the Chief Executive Officer, the scope of his/her responsibilities, circumstances warranting release from any such responsibilities, and the salaries and bonuses and other incentive compensation;

- 1.5.9 “**Company Law**” shall mean the Law of Mongolia on Company, enacted on 6 October 2011, as amended from time to time;
- 1.5.10 “**Dissolution Commission**” shall mean the team appointed by the BoD or by a trustee appointed by the court who is obliged to strictly follow and comply with Applicable Laws to perform the dissolution of the Bank;
- 1.5.11 “**Deposit, Loan and Banking Transaction Law**” shall mean the Law of Mongolia on Deposits, Loans and Banking Transactions of the Bank and Authorized Legal Entity, enacted on 21 May 2021, as amended from time to time;
- 1.5.12 “**Environmental and Social Policy**“ means the Bank’s environmental and social policy amended and restated by the Board resolution R-2018-12 dated 28 March 2018, as amended or updated by the Bank from time to time;
- 1.5.13 “**Holding Company**” shall mean TenGer Financial Group LLC, a company incorporated and existing under the Laws of Mongolia with registration number 2595788 which holds 1,000,000,000 (one billion) Shares of XacBank constituting 94.99 (ninety four and ninety nine hundredths) percent of the total and outstanding shares of the Bank for the period commencing on the date of the adoption of this Charter and ending on the date of the Merger of the Bank and the Holding Company;
- 1.5.14 “**IFRS**” shall mean International Financial Reporting Standards;
- 1.5.15 “**Internal Auditor**” shall mean the auditor appointed by the BoD as an internal auditor of the Bank for the purpose of conducting a regular audit of the activities of the Bank;
- 1.5.16 “**Influential Shareholder**” shall mean an influential shareholder of the Bank as defined under the Banking Law;
- 1.5.17 “**Merger**” shall mean a merger between the Bank and the Holding Company, pursuant to which the Bank would be the surviving entity and the shareholders of the Holding Company would become shareholders of the Bank in fulfilment of the requirement of Article 36.1 of the Banking Law;
- 1.5.18 “**Record Date**” shall mean a date set out by the BoD for the purpose of preparing a list of shareholders who have the right to attend the shareholders’ meeting;
- 1.5.19 “**Related Person**” shall have the meaning given to it under the Banking Law, as below:
- (i) a member of the banking conglomerate;
  - (ii) a natural person, legal entity, its governing persons, their spouses, fathers, mothers, brothers, sisters, younger sisters and brothers, and children, who own 5 (five) or more percent of the shares in a bank or in a member of the banking conglomerate;
  - (iii) a legal entity in which a bank holds 5 (five) or more percent of its shares;

(iv) a legal entity in which a bank's governing persons, their spouses, fathers, mothers, brothers, sisters, younger sisters and brothers, or children, hold 5 (five) or more percent of its shares;

(v) governing persons of a bank or member of the banking conglomerate and their spouses, fathers, mothers, brothers, sisters, younger sisters and brothers, and children;

(vi) affiliated persons who significantly influence the bank's operation and activities;

(vii) a legal entity whose governing person performs functions of the governing person of a bank;

(viii) a legal entity, 10 (ten) or more percent of the shares with voting rights of which are held by a governing person of a bank;

(ix) other persons and legal entities affiliated with the persons mentioned above;

(x) other entities recognized as related persons by the BoM.

1.5.20 "**Sanctionable Practices**" shall mean any Corrupt Practice, Fraudulent Practice, Coercive Practice, and Collusive Practice, each as defined in the Anti-Corruption guidelines of the International Finance Corporation in effect as of the date of this Charter;

1.5.21 "**Securities Market Law**" shall mean the Law of Mongolia on Securities Market, enacted on 24 May 2013, as amended from time to time;

1.5.22 "**Share**" shall mean common shares issued by the Bank, and authorized, registered, and listed with both FRC and MSE under the Applicable Laws, representing and certifying investment made by shareholders in the Bank, rights of shareholders to receive dividends, to vote at the shareholders' meeting, and to receive proceeds from the sale of assets of the Bank following its liquidation and other legal rights entitled to under the Applicable Laws;

1.5.23 "**Share Capital**" shall mean the total amount of the par value of issued and outstanding preferred and common Shares owned by shareholders, excluding authorized, but not issued, and treasury shares of the Bank;

1.5.24 "**Simple Majority**" shall mean 50 (fifty) percent plus 1 (one) of the total number of votes, voting rights, shares, or shareholders where applicable as the context may require;

1.5.25 "**Super Majority**" shall mean no less than 66.67 (sixty six and sixty seven hundredths) percent of the total number of votes, voting rights, shares, or shareholders where applicable as the context may require;

1.5.26 "**Ultra Majority**" shall mean no less than 75 (seventy five) percent of the total number of votes, voting rights, shares, or shareholders where applicable as the context may require;

1.5.27 "**UBO**" or "**Ultimate Beneficial Owner**" shall have the meaning given to such term under the Law of Mongolia on Anti-Money Laundering and Combating Financing Terrorism, enacted on 31 May 2013.

- 1.6. The Bank may establish branches, settlement centers, deposit and currency exchange units, and representative offices per the BoD’s decision in accordance with the Applicable Laws.

## **ARTICLE TWO. NAME AND FORM OF THE BANK**

- 2.1 The name of the Bank is “XacBank” JSC in English and “ХасБанк” ХК in Mongolian.
- 2.2 The Bank shall be formed as an open joint-stock company (“open JSC”).
- 2.3 The Bank shall use an abbreviation “open JSC” for all occasions, including the exercise of its power and authority as being a legal entity, conducting of its activities, and conclusion of contracts and agreements.
- 2.4 The address of the registered headquarter of the Bank is:
- XacBank Headquarters  
Sukhbaatar District, 8<sup>th</sup> Khoroo  
Prime Minister Amar’s Street  
Ulaanbaatar, Mongolia
- 2.5 Unless a shareholder otherwise agrees or unless otherwise required by Applicable Laws, the Bank shall not: (i) issue or distribute advertising material to the public containing the use of or reference to such shareholder’s name; or (ii) issue any prospectus in connection with any public issuance of Shares containing any reference to such shareholder as a “majority shareholder” or “promoter” of the Bank or its related parties.

## **ARTICLE THREE. MISSION**

- 3.1. The mission of the Bank is to contribute to the socio-economic development of the country by providing access to comprehensive financial services to all citizens and legal entities, including low-income households and those in the remote rural areas who have limited access to financial services and, to create a profitable and sustainable financial institution while maximizing the value of its shareholders’ investments.

## **ARTICLE FOUR. STAMP OF THE BANK**

- 4.1 The Bank shall have a stamp indicating its name, logo and registration number and shall use a letterhead with its address for official matters.
- 4.2 The stamp shall be used and affixed to affirm official decisions, contracts and internal letters, and other documents as needed.
- 4.3 The stamp shall be kept by an authorized staff member in a safe place.

## **ARTICLE FIVE. ACTIVITIES OF THE BANK**

- 5.1 The Bank shall engage in banking and other financial services activities which are authorized by the Banking Law and licensed by the BoM and FRC, including:
- 5.1.1 deposits;
- 5.1.2 loans;
- 5.1.3 transfers and payments;

- 5.1.4 issuance of guarantees and warranties to third parties;
- 5.1.5 trade, safekeeping and placement of foreign currencies;
- 5.1.6 trade, safekeeping and placement of precious metals and stones;
- 5.1.7 safe custody;
- 5.1.8 international payments and transfers;
- 5.1.9 issuance and trade of securities;
- 5.1.10 financial leasing services;
- 5.1.11 advice and consultation on investments, finance, banking, credit, export and import financing;
- 5.1.12 insurance agent services;
- 5.1.13 other activities not prohibited by Applicable Law and permitted by the BoM.
- 5.2 The Bank may apply for additional permits and licenses to BoM and FRC where applicable that were not initially obtained at the time of founding.
- 5.3 The Bank shall be entitled to all other rights stipulated in the Applicable Laws.
- 5.4 The Bank shall undertake to ensure that:
  - 5.4.1 it shall not enter into any transaction with, or for the benefit of, any individual or entity or involving any goods, works or services that is the subject of, or otherwise prohibited by, any economic, financial or trade restrictive measures or arms embargoes issued by the United Nations Security Council pursuant to Article 41 Chapter VII of the UN Charter, including but not limited to those as made available on the official UN website <https://www.un.org/sc/suborg/en/sanctions/un-sc-consolidated-list>, as amended and supplemented from time to time or on any successor page;
  - 5.4.2 it shall not engage in Sanctionable Practices;
  - 5.4.3 it shall not engage in a Coercive Practice which means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party to influence improperly the actions of a party;
  - 5.4.4 it shall not engage in a Collusive Practice which means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
  - 5.4.5 it shall not engage in a Corrupt Practice which means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - 5.4.6 it shall not engage in a Fraudulent Practice which means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;

- 5.4.7 it shall not engage in a Misuse of Bank Resources or Bank Assets which means improper use of the Bank's Resources or Bank Assets, committed either knowingly or recklessly;
- 5.4.8 it shall not engage in an Obstructive Practice which means any of:
- (1) destroying, falsifying, altering or concealing of evidence material to a Bank investigation, which impedes the Bank's investigation;
  - (2) making false statements to investigators in order to materially impede a Bank investigation into allegations of a Prohibited Practice;
  - (3) failing to comply with requests to provide information, documents or records in connection with a Bank investigation;
  - (4) threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to a Bank investigation or from pursuing the investigation; or
  - (5) materially impeding the exercise of the Bank's contractual rights of audit or inspection or access to information; and
  - (6) theft which means the misappropriation of property belonging to another party.

#### **ARTICLE SIX. SHAREHOLDERS OF THE BANK**

- 6.1 Citizens and legal entities of Mongolia and foreign countries and stateless persons who have invested in the Share Capital of the Bank by purchasing or holding Shares of the Bank in accordance with the Applicable Laws will become shareholders of the Bank. Any shareholder of the Bank, at any time after the completion of Merger, may not directly or indirectly hold, individually or together with its related persons, more than 20 (twenty) percent of the total issued and outstanding Shares of the Bank.
- 6.2 Any shareholder as being registered at the Record Date set out by the BoD's decision to convene a shareholders' meeting or undertake a ballot voting in lieu of shareholders' meeting shall be entitled to one vote for each shares held on all matters to which eligible holders of Shares are entitled to vote, except as otherwise provided in the Applicable Laws or this Charter.
- 6.3 Any shareholder holding more than 10 (ten) percent of the total issued and outstanding Shares in the Bank shall have a right to demand an extraordinary audit that can be performed only by one of the Big Four Audit Firms on financial activities of the Bank at any time by providing a request with specific justification. The shareholder, who put forward the request, shall be responsible for the expenses of the auditor who performed the inspection as requested.
- 6.4 Any shareholder holding 5 (five) or more percent of the total issued and outstanding Shares in the Bank, including the Influential Shareholders, shall be entitled to, within 60 (sixty) days from the end of the preceding financial year, provide for additional agendas, nominate candidates to the position of members of BoD, and a tabulation committee for inclusion in an annual shareholders' meeting agenda to the BoD or the Chief Executive Officer of the Bank. In such case, shareholder's proposal must meet the conditions specified in Article 66.3 of the Company Law.



- 6.5 Shareholders shall be entitled to receive dividends as resolved by the BoD and approved by the shareholders' meeting, only provided that the Bank complies with certain requirements under the Applicable Laws and requirements set forth by the BoM and FRC and international standard practices after the dividend distribution.
- 6.6 The shareholders shall be entitled to receive proceeds from the sale of the Bank's remaining assets in proportion to the Shares held following the liquidation of the Bank pursuant to Article 28 of the Company Law.
- 6.7 The shareholder shall provide the Bank with relevant information and documentation as deemed necessary by the Bank to keep and maintain the record of the shareholders' registration and as required by the Applicable Laws.
- 6.8 Save for the Section 6.7 above, the shareholders shall be obliged to promptly notify any change of its name, address of residence to the person who keeps and maintains the shareholders' register of the Bank, including the relevant brokers or securities depository, where applicable.
- 6.9 Shareholders shall not be liable for the obligations of the Bank and shall bear risks of loss to the extent of the amount of their investment in the form of Shares in the Bank.

#### **Merger of the Bank**

- 6.10 To ensure timely compliance with Article 36.1 of the Banking Law, the Bank shall cause the commencement of the merger between the Bank and the Holding Company immediately after the initial public offering of the Bank undertaken for the fulfilment of Article 4.2 of the Banking law (the "IPO"). The Bank shall be the surviving entity after the Merger and the shareholders of the Holding Company shall become the direct shareholders of the Bank.
- 6.11 Following the IPO, the Merger shall complete as soon as reasonably practicable and not later than the legal deadline under Article 5 of the Law on Implementation of the Amendments to the Banking Law, being 31 December 2023. Regardless of the legal deadline being extended, suspended, postponed, or revoked by any competent state authority or by operation of law, the aim remains to complete the Merger by 31 December 2023, or as soon as reasonably possible.
- 6.12 Each shareholder, the Board and the Chief Executive Officer shall, and shall cause the Bank to, execute and deliver or procure to be done, executed and delivered all such further acts, documents, and things required in connection with the Merger in order to give full effect to Clauses from 6.10 through 6.12.

#### **Preemptive Rights of Shareholders**

- 6.13 Each shareholder shall have the preemptive rights to subscribe to and purchase additional Shares or any security convertible to the Shares to be issued by the Bank, in accordance with Article 38 of the Company Law subject to requirements set forth in Article 36.1 of the Banking Law.
- 6.14 All transfers of the Shares shall remain subject to compliance with all provisions of the Banking Law and the rules and regulations adopted by BoM in effect at the time of such proposed transfer of the Shares and share redemption demand rights of minority shareholders of the Bank as provided for in Articles 53 and 54 of the Company Law shall remain in effect.

- 6.15 Each shareholder shall be notified by the Bank about the issuance of additional Shares or securities in the same way as the procedure for delivering notices of shareholders' meeting, of the number and price of Shares proposed to be issued by the Bank, the number of Shares that each shareholder may purchase, and the terms and procedures for purchasing additional Shares.
- 6.16 Subject to the Authorization, including, but not limited to, registration and listing by or with the BoM, FRC, and MSE, each shareholder who wishes to purchase additional Shares or securities offered and issued by the Bank shall inform the Bank of the number of the Shares or other securities on a pro-rata basis provided that the shareholding limit specified in the Banking Law is satisfied, which it is willing to purchase within 30 (thirty) business days of the issuance of the shareholders' meeting resolution on the issuance of the additional Shares or securities. If less than all of the shares or other securities being offered are subscribed for by subscribing shareholders under this Article 6.16 then each shareholder subscribing under this Article 6.16 shall be allowed to purchase the total number of shares or other securities requested by it and any unsubscribed shares can be sold by the Bank to the new investor through the open stock market. If the additional Shares or other securities issued by the Bank are oversubscribed, the additional shares or other securities being offered shall be allocated among the subscribing shareholders on a pro rata basis, and for this purpose "Pro Rata" shall mean a fraction, the numerator of which is the number of shares held by the shareholder wishing to acquire additional Shares or other securities offered by the Bank, and the denominator of which is the aggregate number of shares held prior to the issuance by all of the shareholders wishing to acquire shares or other securities in such Offering.

#### **Influential Shareholder of the Bank**

- 6.17 Any shareholder who is about to become an Influential Shareholder shall notify and provide relevant information and documents set out in the Applicable Laws to the Bank so that the Bank can facilitate the prior approval for the Influential Shareholder from the BoM under the Applicable Laws.
- 6.18 If there is any change to the amount of Shares held by an Influential Shareholder, such shareholder shall provide relevant information and documents set out in the Applicable Laws to the Bank for approval of the BoM under the Banking Law and relevant regulations.
- 6.19 Any decision or transaction with respect to the Influential Shareholder as contemplated under Clauses 6.17 and 6.18 shall become effective only after the approval of the BoM. Any Shares acquired above in violation of the requirements contemplated under Clauses 6.17 and 6.18 shall not have any voting rights and shall not be entitled to any dividend as per the Banking Law.

#### **ARTICLE SEVEN. SHARE CAPITAL AND SHARE OF THE BANK**

- 7.1 The total authorized Shares of the Bank is 1,052,700,000 (one billion fifty two million seven hundred thousand) common Shares.
- 7.2 As at the date of this Charter, the Bank has issued a total of 1,052,700,000 (One billion fifty two million seven hundred thousand) Shares with par value of MNT 100 (one hundred), and thereby, the total share capital of the Bank is MNT 105,270,000,000 (one hundred five billion two hundred seventy million).

- 7.3 Each Share shall represent the investment made by shareholders in the Bank subject to certain voting rights, entitlement to dividends and an allotment from the sales proceeds of assets after the dissolution of the Bank under the Applicable Laws.
- 7.4 The number of Shares shall determine the extent of any shareholder's voting rights, entitlement to dividends and liability for losses.

**Issuance of additional Shares and securities of the Bank, redemption of Shares by the Bank**

- 7.5 The Bank, from time to time, may issue, on an open or closed subscription basis, additional Shares and other securities that are convertible into the Shares of the Bank, including preferred shares, options, promissory notes which are subject to the relevant Authorizations and procedures under the Applicable Laws.
- 7.6 Any decision on and the terms of the issuance of any additional Shares of the Bank, options to purchase the Shares of the Bank, or any securities convertible into the Shares of the Bank shall be made and determined by the shareholders' meeting of the Bank by a Super Majority vote of shareholders present in person or by proxy at such meeting and eligible to vote on the matter. Each shareholder present in person or by proxy at the meeting shall have one vote for each Share of which he/she is the holder.
- 7.7 Subject to clause 7.6 above, the total quantity, par value, interest rate, periods for interest payments, price and redemption price of the additional Shares and other securities convertible to Shares, and convertibility of the securities into the Shares shall be determined by the BoD for the final approval and resolution from the shareholders' meeting.
- 7.8 The price of the securities and the Shares shall be determined by the BoD in accordance with the Company Law and other Applicable Laws.
- 7.9 The payment for additional securities and the Shares issued by the Bank may only be made in cash.
- 7.10 Subject to Article 49.10 of the Company Law, a decision of the Bank to redeem its Shares representing more than 5 (five) percent of the total issued and outstanding Shares from the holder shall be made by shareholders' meeting by a Super Majority vote of shareholders present in person or by proxy at such meeting and eligible to vote on the matter upon obtaining the relevant Authorizations from the BoM, MSE and FRC. Each shareholder present in person or by proxy at the meeting shall have one vote for each Share of which he/she is the holder.
- 7.11 The Bank may redeem its securities other than the Shares in whole or in part. In case of the redemption of the Shares, the number of redeemed Shares must not exceed 25 (twenty five) percent of the average number of Shares outstanding in the relevant year.
- 7.12 The Shares redeemed by the Bank shall be considered as treasury shares, to which no voting rights are attached, and which shall not vary the authorized number of the Shares of the Bank and shall not constitute Share Capital of the Bank. Treasury shares can be re-issued by the Bank in accordance with the Applicable Laws.
- 7.13 The Bank may pay for the redeemed Shares in cash, securities, property or property rights as agreed with the seller.
- 7.14 Any change to the Share Capital of the Bank by way of including, without limitation, the issuance of additional Shares and securities, or redemption of the Shares by the Bank,

are subject to prior approval of BoM under the Banking Law and prior registration and authorization of the FRC and MSE.

## **ARTICLE EIGHT. MANAGEMENT AND ORGANIZATION OF THE BANK**

### **Shareholders' Meeting**

- 8.1 The supreme authority for the governance of the Bank shall be a meeting of the shareholders. The quorum for the meetings of the shareholders shall be the presence in person or by proxy of the holders of equal to or more than a Simple Majority of the total issued and outstanding Shares of the Bank at the Record Date. In the absence of the quorum provided for in the foregoing sentence, the shareholders' meeting shall not be convened and a date for a new shareholder meeting shall be announced and held in accordance with the provisions of the Company Law applicable to the postponed shareholders' meeting and the quorum requirement for such postponed shareholders' meeting shall be the presence of the holders of equal to or more than a Simple Majority of the total issued and outstanding Shares of the Bank at the Record Date initially set out by the BoD.
- 8.2 The shareholders' meeting shall be either a regular or extraordinary shareholders' meeting.
- 8.3 The annual shareholders' meeting must be convened within 4 (four) months from the end of the preceding financial year i.e by the 30<sup>th</sup> of April (inclusive) every year. Failure to convene the annual shareholders' meeting will result in termination of all rights and powers of the BoD except for the power to call and convene the annual shareholders' meeting of the Bank.
- 8.4 The matters set forth in Article 29.2 of the Banking Law and Article 62.1 of the Company Law and other matters that are subject to the shareholders' meeting as well as approving a budget of the BoD for the forthcoming financial year are only vested in the power of the shareholders' meeting.
- 8.5 Except as otherwise provided in the Applicable Law or this Charter, decisions of the shareholders' meeting shall be made by a Simple Majority vote of shareholders present in person or by proxy at such meeting and eligible to vote on the matter. Each shareholder present in person or by proxy at the meeting shall have one vote for each Share of which he /she is the holder.
- 8.6 The following matters set out hereunder shall be considered as "Strategic Matters" for the purposes of this Charter, and shall require a Super Majority vote of shareholders present in person or by proxy at such meeting and eligible to vote on the matter. Each shareholder present in person or by proxy at the meeting shall have one vote for each Share of which he/she is the holder. Any decision on the Strategic Matters will be presented to the shareholders' meeting for voting only after it has been discussed by the BoD:
- (i) any material change in the equity structure of the Bank including any increase in the the Share Capital, split or reverse split of shares, capital reduction, or redemption of Shares consisting more than 5 (five) percent of the total Shares;
  - (ii) any decision to distribute and allocate dividends;
  - (iii) any decisions for establishing, incorporating, acquiring or investing in a new business for the amount exceeding 2 (two) percent of the total equity of the Bank

as per the most recent audited accounts of the Bank, in accordance with IFRS;

- (iv) the issuance of the additional Shares, or securities of any class (whether initially or subsequently authorized) convertible to Shares, the authorization of any additional Shares or securities of any class or the granting of options or warrants to purchase the Shares or other securities of the Bank;
- (v) BoD budget including remunerations for the BoD, and any increase or decrease in the number of members of the BoD;
- (vi) any listing of the Shares of the Bank on a foreign stock exchange;
- (vii) making any investments including by way of deposits, loans, share capital in any concern other than in the ordinary course of business for the amount exceeding 2 (two) percent of the total equity of the Bank as per the most recent audited accounts of the Bank, in accordance with IFRS;
- (viii) any scheme or decision for a reorganization, consolidation, reconstitution, merger or amalgamation; and/or the merger or consolidation of the Bank with or into another corporation or entity or the acquisition by the Bank of all or substantially all of the assets of any other corporation or entity;
- (ix) any change in the activities of the Bank;
- (x) appointment or removal of the External Auditors of the Bank if the External Auditor to be selected is other than the Big Four Audit Firms;
- (xi) the sale, conveyance, transfer, rent or other disposition of any assets with a value of more than 25 (twenty five) percent of the total assets of the Bank.

8.7 A written decision to call a regular or extraordinary shareholders' meeting shall be issued by the BoD no less than 40 (forty) days prior to the proposed date of the shareholders' meeting and notice of any meeting of the shareholders shall be published no less than 30 (thirty) days in advance of the shareholders' meeting date.

All issues with respect to arranging the shareholders' meeting including but not limited to making a decision to call, convene and prepare for the shareholders' meeting, conveyance of shareholders' meeting notice, conducting or convening the shareholders' meeting, voting, procedures for tabulation and functions of tabulation committees, preparing the minutes of the shareholders' meeting, verifying and delivery of the decisions and minutes of the shareholders' meeting shall be regulated by the "Regulation on Delivery of Shareholders' Meeting Notice" adopted by the FRC and the internal regulation adopted by the BoD in this regard.

8.8 The shareholders' meeting can be held either in a conventional form or an online form by means of tele-conference or similar communications equipment as deemed appropriate by the BoD, the procedure of which shall be determined by the BoD from time to time. The shareholders meetings and communications will be conducted in English, provided that the Bank ensures that each shareholder will be fully informed of the matters discussed at the shareholders meeting, by providing interpreter or interpreting devices.

8.9 Except as otherwise provided in the Applicable Law or this Charter, the Chairman of the BoD shall chair all shareholders' meetings. In the case of the absence of the Chairman of the BoD, the BoD Chairman will nominate a person to chair the meeting. If the BoD

Chairman has not nominated a person, then any person appointed by the BoD will chair the shareholders' meeting.

- 8.10 As deemed appropriate by the BoD, any matter vested in the power of the shareholders' meeting may be resolved by way of an external voting (i.e., Ballot Voting) instead of convening a shareholders' meeting to the extent permitted by the Company Law. The quorum requirements set forth in Section 8.1 shall similarly apply to Ballot Voting, including for a postponed Ballot Voting.
- 8.11 A regular annual shareholders meeting shall not be replaced by the external voting arrangement.
- 8.12 Matters which have not been covered by this Charter, such as calling for a regular or extraordinary shareholders meeting, delivering the notice and agenda, making decisions in this respect, entering of resolutions into force, rights to attend the meeting, conducting the meeting, determining the quorum, voting, tabulation as well as passing resolutions based on absentia voting of shareholders shall be determined and administered as set forth in Chapter 9 of the Company Law.

### **Board of Directors**

- 8.13 The BoD is the governing body of the Bank between the shareholders' meetings. The BoD shall consist of 12 (twelve) Directors (except that in exceptional cases, e.g. through resignations or death, it can temporarily sink below 12), who meet the requirements set forth in the Company Law, the Banking Law and other Applicable Laws.
- 8.14 No less than 1/3 (one third) of members of the BoD must be independent members, each of whom shall be selected and nominated by the Governance, Nomination and Compensation Committee who shall meet the requirements set forth in the Company Law, Banking Law and the relevant requirements set out by the BoM and the FRC. The independent members of the BoD shall exercise the right and responsibilities provided for in the Company Law, the Banking Law, the Securities Market Law and all other Applicable Laws including, but not limited to rules and regulations approved by the BoM, the FRC, and the MSE.
- 8.15 In compliance with the guidelines and based on the approval by the Governor of BoM, the members of the BoD shall be appointed by the shareholders' meeting by a cumulative voting method per the FRC regulation.
- 8.16 The term of BoD is 2 (two) years subject to fulfillment of its obligation to convene the shareholders' meeting within a given time period required under this Charter. In the event of a vacancy in the BoD during the term, the BoD shall fill a vacancy by appointing an interim member, upon obtaining BoM approval, until the next shareholders' meeting and informing the shareholders of such change within 14 (fourteen) days of the individual's appointment. The interim member shall exercise all powers and responsibilities of a BoD member.
- 8.17 A BoD meeting can be held either in a conventional form or an online form by means of tele-conference or similar communications equipment as deemed appropriate by the BoD, the procedure of which shall be determined by the BoD from time to time. The presence of a Super Majority of the members of the BoD shall constitute a quorum of the BoD meeting. The BoD meetings and communications will be conducted in English and should allow all members participating in such meeting to hear each other, and such participation in the meeting shall constitute presence in person in the meeting.

- 8.18 A decision from the BoD meeting shall be made by a Super Majority vote of the BoD members present at the meeting in a form of resolution, except as otherwise provided in the Applicable Laws or this Charter.
- 8.19 Resolutions of the BoD shall be affirmed by the signature of the Chairman of the BoD and affixed with the stamp of the Bank. As deemed appropriate by the BoD, a decision of the BoD can be made by external voting (i.e., ballot voting) of the members without convening a meeting of the BoD.
- 8.20 The Chairman of the BoD shall be elected from among the members of the BoD by a Super Majority vote of all members of the BoD, excluding the vote by the candidate himself/herself. In the case of the absence of the Chairman of the BoD, the BoD Chairman will nominate a person to chair the meeting. If the BoD Chairman has not nominated a person, then any person appointed by the BoD will chair the Board meeting.
- 8.21 The Chairman alone and/or any or some members of the BoD are not empowered to exercise the powers of the BoD, make a decision on matters referring to the powers of the BoD, and represent the BoD without a valid decision or resolution made at a BoD meeting. No member of the BoD acting alone is permitted to represent the position of the BoD without the special approval of the BoD on such matter.
- 8.22 The BoD shall meet at least once in each quarter of the calendar year and if deemed necessary, additional meetings may be held.
- 8.23 Unless otherwise required by Applicable Laws, the procedure with respect to the meeting and operation of the BoD shall be adopted by the BoD itself.
- 8.24 Members of the BoD may participate in the meeting by means of tele-conference or similar communications equipment, allowing all members participating in such meeting to hear each other, and such participation in the meeting shall constitute presence in person at the meeting.
- 8.25 Any matter in relation to the BoD, its power, operation, meeting and resolution which have not been covered by this Charter and a procedure adopted by the BoD, shall be determined and administered as set forth in Chapter 9 of the Company Law, other Applicable Laws and “BoD Operation Procedures” adopted by the BoD that is consistent with the Code of Governance.
- 8.26 The BoD shall exercise the powers specified in the Banking Law and the Company Law as well as the following powers, except those that are expressly vested in shareholders’ meeting under this Charter and the Company Law:
- 8.26.1 making any decision for establishing, incorporating, acquiring or investing in a new business for the amount up to 2 (two) percent of the total equity of the Bank as per the most recent audited accounts of the Bank, in accordance with IFRS;
  - 8.26.2 making any investments including by way of deposits, loans, share capital in any concern other than in the ordinary course of business for the amount up to 2 (two) percent of the total equity of the Bank as per the most recent audited accounts of the Bank, in accordance with IFRS,;
  - 8.26.3 appointment or removal of the External Auditors of the Bank if the External Auditor to be selected is from among the Big Four Audit Firms.

- 8.27 In addition to liabilities and responsibilities mandated by Applicable Law, each of Chairman and member of the BoD shall:
- 8.27.1 perform duties duly within the powers granted in the laws and regulations;
  - 8.27.2 prioritize the bank and its customers interests over own private interest and that of the body that appointed him/her;
  - 8.27.3 not to gain any benefit in secret;
  - 8.27.4 prevent conflict of interest and inform the BoD in case of the occurrence of a conflict of interest;
  - 8.27.5 not to interfere with the day-to-day operations of the bank.
- 8.28 The BoD shall issue internal procedures with respect to the nomination of board members, procedure for the conduct of elections, exercise of powers and convention of meetings, grounds for termination and removal of a member before expiration of term, interim appointments of board members, replacement elections and criteria for Members, each of which is subject to the prior approval and acknowledgement by, and notification to BoM.

#### **Committees of the BoD**

- 8.29 The BoD shall have “Audit”, “Risk Management”, “Governance, Nomination and Compensation Committee” Committees and such other committees as the BoD may deem necessary or as required by the Applicable Laws (solely “**Committee**”, together “**Committees**”). The BoD may delegate some of its authorities to the committees and this shall be regulated by the procedures of the Committees.
- 8.30 No less than 2/3 (two thirds) of the members of the Audit Committee and, Governance, Nomination and Compensation Committee shall be comprised of independent members of the BoD as stipulated under the Company Law, Article 81.2.
- 8.31 The appointment and release or dismissal of the members of each Committees as well as the powers, duties, responsibilities of the Committees shall be set forth in their respective procedures adopted by the BoD in compliance with the Company Law, the Banking Law, and all other applicable rules and regulations of the BoM and FRC.
- 8.32 The term of each member’s seat on the each Committee is 2 (two) years or for a term equal to their existing Board membership, whichever is shorter.
- 8.33 Each Committee shall elect a chair from among its members who will chair all meetings of the Committee.
- 8.34 The Bank is obliged to provide the reasonable documentation requested by the Committee for carrying out its duties.
- 8.35 The Committee shall meet at least once in each quarter or more frequently as circumstances dictate. A Simple Majority of the Committee Members present in person shall constitute a quorum for the meeting.
- 8.36 Procedures of the operation, quorum of the meetings of the Committees, and the power of each Committee shall be adopted by the BoD save for the powers and authority granted to the each Committee under the Company Law.



### **Chief Executive Officer**

- 8.37 In compliance with the guidelines, and based on the approval by the Governor of the BoM, Chief Executive Officer appointed by the BoD shall manage the day-to-day activities of the Bank while complying with all regulatory and legal requirements, this Charter and conduct Bank's activities within the limits of authority provided under the Chief Executive Employment Contract concluded with the BoD.
- 8.38 The rights and duties of the Chief Executive Officer shall be regulated by the Chief Executive Employment Contract which shall be executed by the Chairman of the BoD on behalf of the Bank.
- 8.39 The Chief Executive Officer maybe the BoD member with voting rights at the BoD meeting but may not serve as Chairman.
- 8.40 The Chief Executive Officer shall be prohibited to be a member of the Audit, Governance, Nomination and Compensation Committees and shall not have any voting rights on decisions which are related to appointment, selection and dismissal of the the Chief Executive Officer, its power and authority, as well as the supervision of his/her and performance.
- 8.41 The BoD shall supervise the activities of the Chief Executive Officer. No member of the BoD may inspect the activities of the Chief Executive Officer or assign any tasks and duties to the Chief Executive Officer without a BoD's resolution.
- 8.42 The primary responsibility of the Chief Executive Officer shall be enhancing the economic and financial capacity of the Bank and adding value to the shareholders' investment using all available resources while overseeing the effective delivery of services that are market competitive and meet the needs of the customer base, meet the Bank's mission and are within the framework of the Bank's main activities.
- 8.43 The Chief Executive Officer shall act independently in undertaking the duties and responsibilities of the position except those requiring powers of the shareholders and the BoD. The Duties and responsibilities of the Chief Executive Officer are as follows in addition to those provided for in the Chief Executive Employment Contract, the Company Law, the Banking Law and the relevant Applicable Laws to:
- 8.43.1 develop, identify and implement future trends, policies and direction of the Bank's activities and its financial performance;
  - 8.43.2 oversee and manage branches, settlement centers, deposit and currency exchange units, representative offices, units, departments, and divisions of the Bank;
  - 8.43.3 represent the Bank in all public affairs as well as before the regulators and government officials;
  - 8.43.4 oversee setting deposit and interest rates, service fees and charges of the Bank;
  - 8.43.5 represent the Bank without any power of attorney in implementing the powers specified in the Charter, contracts and agreements; and
  - 8.43.6 if required, call for a BoD meeting;
  - 8.43.7 The Chief Executive Officer shall regularly report his activities to BoD meetings;

8.43.8 If the Chief Executive Officer deliberately violates the duty to satisfy the criteria for banking operations set forth by the BoM and those specified in the Banking Law, does not comply with the Applicable Laws, or does not fulfil the duties specified in this Charter or the Chief Executive Employment Contract or is in serious violation of the above, the BoD may dismiss the Chief Executive Officer with consultation with the Governor of the BoM.

### **The Governing Persons**

8.44 The following personnel involved in making official decisions of the Bank are considered governing persons of the Bank:

8.44.1 Chairman of the Board;

8.44.2 Board member;

8.44.3 Chief Executive Officer;

8.44.4 Chief Financial Officer/General Accountant;

8.44.5 Corporate Secretary;

8.44.6 Any other official working at the executive management level under employment contract with special conditions entered into with the Chief Executive Officer.

8.45 The act of entering into a contract, performing certain actions, or representing the Bank on its behalf in front of a third party in the daily operations of the Bank within the scope of the rights delegated by the Chief Executive Officer does not constitute a basis for considering such employee/personnel as a governing person.

8.46 No governing person shall be personally liable to the Bank or its shareholders for damages for breach of fiduciary duty save for the circumstances provided for in the relevant laws and regulations which are:

8.46.1 for any breach of the Governing Persons' duty of loyalty to the Bank or all its shareholders as a body;

8.46.2 for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; or

8.46.3 for any transaction made for personal interests and any personal benefits.

8.47 If the Applicable Law is hereafter amended to eliminate or limit further the liability of a Governing Person, then, in addition to the elimination and limitation of liability provided by the preceding sentence, the liability of each Governing Person shall be eliminated or limited to the fullest extent provided or permitted by the amended law.

### **ARTICLE NINE. INTERNAL AUDIT AND CONTROL**

9.1 The Audit Committee shall supervise the implementation of the Bank's accounting policies and the operational procedures approved by the BoD of the Bank, the correctness of the accounting records and the accuracy of the financial statements. The Audit Committee shall be accountable to the BoD.

- 9.2 The BoD, through its Audit Committee, shall hire an independent external audit firm to certify the financial statements of the Bank and perform a comprehensive annual examination of the financial activities of the Bank.

#### **ARTICLE TEN. LIQUIDATION AND DISSOLVING THE BANK**

- 10.1 The Bank may be dissolved by an Ultra Majority vote of the shareholders present in person or by proxy at such meeting and eligible to vote on such matter or other grounds and procedures set forth in the Company Law, the Banking Law and other Applicable Laws. Each shareholder present in person or by proxy at the meeting shall have one vote for each Share of which he/she is the holder.
- 10.2 Any dissolution shall be implemented by a Dissolution Commission which shall be appointed by the BoD or the trustee appointed by the court, in the event the dissolution is by a court decision.
- 10.3 In the event of dissolution of the Bank, if there are any remaining funds (including proceeds from any sale of assets) after the settlement of all liabilities and satisfying all payment obligations of the Bank, the assets shall be distributed to the shareholders as provided by the Company Law.
- 10.4 Liquidation or dissolution shall be carried out in accordance with the Civil Code, Banking Law, Company Law and other Applicable Laws.

#### **ARTICLE ELEVEN. RESTRICTIONS FOR BANKING ACTIVITIES AND REQUIREMENTS OF BANK STAFF**

- 11.1 The following restrictions shall apply to banking activities:
- 11.1.1 The Bank shall not engage in any new business, initiate the establishment of a new branch or legal entity unless it is provided for in the budget approved by the BoD or a specific decision has been taken by the BoD;
- 11.1.2 Unless otherwise authorized by the BoD, the Bank shall be prohibited from making any individual expenditure or series of expenditures on an individual project or for a single purpose which was not included in the budget, in excess of MNT 500,000,000 (five hundred million).
- 11.2 The Bank employees shall comply with the following requirements:
- 11.2.1 Not represent interests of any other institution or business entity;
- 11.2.2 Perform their duties in good faith, not provide unlawful or unethical advantage to themselves, their family, relatives, nor others who are in business or have personal relations with them or their family or relatives;

Unless otherwise specified in law or internal rules and regulations, not disclose to others, or allow to be used by others, or use for private interest, any information about customers' accounts statements, loans, transactions and documents related to the business activities, figures, internal procedures, regulations, terms and conditions.

#### **ARTICLE TWELVE. INSURANCE AND ENVIRONMENTAL AND SOCIAL POLICY**

- 12.1 With respect to Insurance, the Bank shall:

- 12.1.1 insure and keep insured on terms and conditions acceptable to the shareholders, with a reputable insurer or insurers all its assets, business and liabilities which can be insured, against insurable losses, on a reinstatement basis utilizing current full replacement values, and any other insurance required by law. The policies shall be in the English language;
  - 12.1.2 punctually pay any premium, commission and any other amount necessary for effecting and maintaining in force each insurance policy;
  - 12.1.3 not do or omit to do, or permit to be done or not done, anything the doing or omission of which, as the case may be, might prejudice the Bank's right to claim or recover under any insurance policy;
  - 12.1.4 promptly notify the relevant insurer of any claim by the Bank under any policy written by that insurer and diligently pursue that claim;
  - 12.1.5 at the request of a shareholder with 10 (ten) percent or more of the total issued and outstanding shares, submit relevant documentation evidencing insurances in place.
- 12.2. With respect to Environmental and Social Policy, the BoD shall:
- 12.2.1. approve an Environmental and Social Policy (E&S Policy) that shall be applied to all Bank activities. This policy shall include the following elements:
    - (i) Detailed list of investment activities that are Excluded for Environmental and Social Impacts;
    - (ii) The Environmental and Social Requirements (E&S Requirements) that the Bank will require of their clients and the activities of those clients; and
    - (iii) The implementation processes for the E&S Requirements to Bank activities.
  - 12.2.2. approve an internal and external reporting mechanisms on E&S Policy and performance;
  - 12.2.3. approve an Assessment and monitoring of the potential for, and occurrence of, Environmental and Social issues that could materially impact the performance of Bank investments and report such internally to management and BoD; and
  - 12.2.4. publish a public Environmental and Social Report on an annual basis on the development and implementation of the E&S Policy;
  - 12.2.5. The BoD shall review and amend the above where or when necessary on a five year cycle, or as needed where appropriate.

### **ARTICLE THIRTEEN. MISCELLANEOUS**

- 13.1. The financial year of the Bank shall begin on the 1<sup>st</sup> of January and end on 31<sup>st</sup> of December of the same year.
- 13.2. The Bank shall prepare audited financial statements as required by the Accounting Law of Mongolia, IFRS, and other rules and regulations as may be necessary.

- 13.3. This Charter shall be amended only by an Ultra Majority vote of shareholders present at the meeting in person or by proxy and eligible to vote on such matter. Each shareholder present in person or by proxy shall have one vote for each Share of which he /she is the holder.
- 13.4. Any matters not explicitly stipulated in this Charter shall be governed by the Applicable Laws in force and effect at the time. In the event Applicable Laws are amended or restated, the shareholders' rights shall be reviewed and modified in accordance with the amendments thereto.
- 13.5. Any dispute arising from this Charter and related to the activities of the Bank shall be resolved according to the laws of Mongolia.
- 13.6. This Charter, as amended from time to time, shall remain in full force and effect until the restructuring or dissolution of the Bank.
- 13.7. This Charter is made in both English and Mongolian languages with same effect and force. The English version shall prevail in any discrepancies in the two versions.
- 13.8. This Charter was approved by the shareholders' meeting of the Bank on 15 September 2023.

XacBank JSC

Ulaanbaatar