

## **APPLICABLE PRICING SUPPLEMENT**

### **EMIRA PROPERTY FUND LIMITED**

**(the "Issuer")**

(Incorporated in South Africa with limited liability under registration number  
2014/130842/06)

### **Issue of ZAR430 000 000 Senior Secured Floating Rate Listed Notes with a Stock Code EPF006**

#### **Under its ZAR5 000 000 000 Domestic Medium Term Note Programme**

This document constitutes the Applicable Pricing Supplement relating to the issue of Notes described in this Applicable Pricing Supplement.

This Applicable Pricing Supplement must be read in conjunction with the Programme Memorandum issued by the Issuer dated 1 July 2015, as may be amended or supplemented from time to time. To the extent that there is any conflict or inconsistency between the contents of this Applicable Pricing Supplement and the Programme Memorandum, the provisions of this Applicable Pricing Supplement shall prevail.

Any capitalised terms not defined in this Applicable Pricing Supplement shall have the meanings ascribed to them in the Terms and Conditions. References in this Applicable Pricing Supplement to the Terms and Conditions are to the section of the Programme Memorandum headed "*Terms and Conditions of the Notes*". References to any Condition in this Applicable Pricing Supplement are to that Condition of the Terms and Conditions.

The Issuer certifies that to the best of its knowledge and belief there are no facts that have been omitted from the Programme Memorandum which would make any statement false or misleading and that all reasonable enquiries to ascertain such facts have been made and that the Programme Memorandum contains all information required by Applicable Law and the JSE Listings Requirements. The Issuer accepts full responsibility for the information contained in the Programme Memorandum, the Applicable Pricing Supplements and the annual financial statements and any amendments to the annual financial statements or any supplements from time to time, except as otherwise stated therein.

The JSE assumes no responsibility or liability of whatsoever nature for the contents of the Programme Memorandum or this Applicable Pricing Supplement or the annual financial statements or any other information incorporated by reference into the Programme Memorandum (as amended or restated from time to time), and the JSE makes no representation as to the accuracy or completeness of the Programme Memorandum or this Applicable Pricing Supplement, the annual financial statements or any other information incorporated by reference into the Programme Memorandum (as amended or restated from time to time). The JSE expressly disclaims any liability for any loss arising from or in reliance upon the whole or any part of this Programme Memorandum or this Applicable Pricing Supplement or the annual financial statements or any other information incorporated by reference into this Programme Memorandum (as amended or restated from time to time).

**Description of the Notes**

1. Issuer	Emira Property Fund Limited
2. Status of the Notes	Senior Notes
3. Security	Secured  See Appendix "B" for a description of the security structure
4. Listed/Unlisted	Listed
5. Group number, if secured	1
6. Series number	21
7. Tranche number	1
8. Aggregate Principal Amount of this Tranche	ZAR430 000 000
9. Interest/Payment Basis	Floating Rate
10. Issue Date(s) and first settlement date	19 August 2015
11. Minimum Denomination per Note	ZAR1 000 000
12. Specified Denomination (Principal Amount per Note)	ZAR1 000 000
13. Issue Price(s)	100% of the Principal Amount of each Note
14. Applicable Business Day Convention, if different to that specified in the Terms and Conditions	Following Business Day
15. Interest Commencement Date(s)	19 August 2015
16. Step-Up Date	N/A
17. Final Redemption Date	19 August 2018
18. Specified Currency	ZAR
19. Additional Business Centre	N/A
20. Maturity Amount	100% of the Principal Amount of each Note
21. Set out the relevant description of any additional/other Terms and Conditions relating to the Notes (including additional	See Appendix "C" for additional/amended Terms and Conditions relating to the Notes

covenants)

**FIXED RATE NOTES**

N/A

**FLOATING RATE NOTES**

- |     |  |   |
|-----|--|---|
| 22. | Interest Payment Date(s)   | 19 February, 19 May, 19 August and 19 November each year until the Final Redemption Date  |
| 23. | Interest Period(s)   | From (and including) 19 February to (but excluding ) 19 May, from (and including) 19 May to (but excluding ) 19 August, from (and including) 19 August to (but excluding) 19 November, from (and including) 19 November to (but excluding) 19 February of each year until the Final Redemption Date (in each case subject to the Following Business Day Convention in relation to the Interest Payment Dates) |
| 24. | Manner in which the Interest Rate is to be determined  | Screen Rate Determination   |
| 25. | Margin/Spread for the Interest Rate  | 1.46% per annum to be added to the relevant Reference Rate  |
| 26. | Margin/Spread for the Step-Up Rate   | N/A   |
| 27. | If Screen Determination  |   |
|     | (a) Reference Rate (including relevant period by reference to which the Interest Rate is to be calculated)   | 3 month ZAR-JIBAR-SAFEX   |
|     | (b) Rate Determination Date(s)   | The auction date for the first Interest Period being 14 August 2015, and the first Business Day of each Interest Period thereafter  |
|     | (c) Relevant Screen page and Reference Code  | SAFEY   |
| 28. | If Interest Rate to be calculated otherwise than by reference to Screen Rate Determination, insert basis for determining Interest Rate/Margin/Fall back provisions | N/A   |
| 29. | Any other terms relating to the particular method of calculating interest  | N/A   |

**ZERO COUPON NOTES**

N/A

<b>PARTLY PAID NOTES</b>	N/A
<b>INSTALMENT NOTES</b>	N/A
<b>MIXED RATE NOTES</b>	N/A
<b>INDEXED-LINKED NOTES</b>	N/A
<b>DUAL CURRENCY NOTES</b>	N/A
<b>EXCHANGEABLE NOTES</b>	N/A
<b>OTHER NOTES</b>	N/A
<b>PROVISIONS REGARDING REDEMPTION/ MATURITY</b>	
30. Redemption at the option of the Issuer:	No
if yes:	
(a) Optional Redemption Date(s)	N/A
(b) Optional Redemption Amount(s) and method, if any, of calculation of such amount(s)	N/A
(c) Minimum period of notice (if different from Condition 9.3 ( <i>Redemption at             the Option of the Issuer</i> ))	N/A
(d) If redeemable in part:	N/A
Minimum Redemption Amount(s)	N/A
Higher Redemption Amount(s)	N/A
(e) Other terms applicable on Redemption	N/A
31. Redemption at the option of the Senior Notes Holders:	No
if yes	
(a) Optional Redemption Date(s) (Put)	N/A
(b) Optional Redemption Amount(s) (Put)	N/A
(c) Minimum period of notice (if different	N/A

	from Condition 9.4 ( <i>Redemption at the Option of the Senior Noteholders</i> ))	
	(d) If redeemable in part:	N/A
	Minimum Redemption Amount(s)	N/A
	Higher Redemption Amount(s)	N/A
	(e) Other terms applicable on Redemption	N/A
	(f) Attach <i>pro forma</i> put notice(s)	
32.	Redemption in the event of a breach of the Loan to Value at the election of Noteholders pursuant to Condition 9.5 ( <i>Redemption in the event of a breach of the Loan to Value Ratio</i> ):	Yes
	If yes:	
	(a) Loan to Value Ratio (if different from Condition 9.5)	N/A
	(b) Other terms relating to the breach of the Loan to Value Ratio	N/A
33.	Redemption in the event of a Change of Control at the election of Noteholders pursuant to Condition 9.6 ( <i>Redemption in the event of a Change of Control</i> ) or any other terms applicable to a Change of Control	Yes
34.	Redemption in the event of a failure to maintain JSE listing or credit rating at the election of Noteholders pursuant to Condition 9.7 ( <i>Redemption in the event of a failure to maintain JSE listing or credit rating</i> )	Yes
35.	Early Redemption Amount(s) payable on redemption for taxation reasons in terms of Condition 9.2 ( <i>Redemption for Tax Reasons</i> ) or on Event Default, as defined in Condition 16 ( <i>Events of Default</i> ) (if required), if different from that set out in Condition 9.8 ( <i>Early Redemption Amounts</i> ).	N/A. Early Redemption Amounts are payable as per Condition 9.8 ( <i>Early Redemption Amounts</i> )
	If yes:	

- (a) Amount Payable; or
- (b) Method of calculation of amount payable

## GENERAL

36. Additional selling restrictions	N/A
37. International Securities Numbering (ISIN)	ZAG000128828
38. Stock Code	EPF006
39. Financial Exchange	JSE
40. Dealer(s)	Rand Merchant Bank, a division of FirstRand Bank Limited
41. If syndicated, names of Lead Manager(s)	N/A
42. Method of distribution	Dutch Auction
43. Rating assigned to this Tranche of Notes (if any), date of such rating and date for review of such rating	AA(RSA) assigned on a long term national scale as at 19 August 2015, which may be reviewed from time to time
44. Rating Agency (if any)	Global Credit Ratings
45. Governing Law	South Africa
46. Last Day to Register	by 17h00 on 8 February, 8 May, 8 August and 8 November, being the Business Day preceding the Books Closed Period
47. Books Closed Period	The register will be closed from (and including) 9 February to (but excluding ) 19 February, from (and including) 9 May to (but excluding ) 19 May, from (and including) 9 August to (but excluding ) 19 August, from (and including) 9 November to (but excluding) 19 November of each year until the Final Redemption Date
48. Calculation Agent	Rand Merchant Bank, a division of FirstRand Bank Limited
49. Specified Office of the Calculation Agent	1 Merchant Place Cnr Fredman Drive & Rivonia Road Sandton 2196
50. Transfer Agent	Rand Merchant Bank, a division of FirstRand Bank Limited

51. Specified Office of the Transfer Agent	1 Merchant Place Cnr Fredman Drive & Rivonia Road Sandton 2196
52. Debt Sponsor	Rand Merchant Bank, a division of FirstRand Bank Limited
53. Issuer's Settlement Agent	Rand Merchant Bank, a division of FirstRand Bank Limited
54. Specified Office of the Issuer's Settlement Agent	1 Merchant Place Cnr Fredman Drive & Rivonia Road Sandton 2196
55. Stabilisation Manager, if any	N/A
56. Programme Amount	ZAR5 000 000 000. The authorised amount has not been exceeded.
57. Aggregate Outstanding Principal Amount of Notes in issue on the Issue Date of this Tranche	ZAR1,832,000,000, excluding this Tranche of Notes and any other Tranche(s) of Notes to be issued on the Issue Date
58. Aggregate Outstanding Principal Amount of Notes in issue in respect of the Series on the Issue Date of this Tranche	ZAR nil, excluding this Tranche of Notes and any other Tranche(s) of Notes to be issued in respect of the Series on the Issue Date
59. Aggregate Outstanding Principal Amount of Notes in issue in respect of the Group 1 Notes on the Issue Date of this Tranche	ZAR nil, excluding this Tranche of Notes and any other Tranche(s) of Notes to be issued in respect of the Group 1 Notes on the Issue Date
60. Additional Events of Default	See Appendix "C".
61. Other provisions	N/A

DISCLOSURE REQUIREMENTS IN TERMS OF PARAGRAPH 3(5) OF THE COMMERCIAL PAPER REGULATIONS – SEE APPENDIX "A"

SECURITY STRUCTURE - SEE APPENDIX "B"

ADDITIONAL/AMENDED TERMS AND CONDITIONS RELATING TO THE NOTES – SEE APPENDIX "C"

As at the date of this Pricing Supplement, following due and careful enquiry, there has been no material change in the financial or trading position of the Issuer and its subsidiaries since the end of the last financial period for which either audited annual consolidated financial statements or unaudited interim consolidated financial results have been published. No auditors have been involved in making such statement.

Application is hereby made to list this Tranche of the Notes, as from 19 August 2015 pursuant to the Emira Property Fund Limited Domestic Medium Term Note Programme. The updated Programme was registered with the JSE on 1 July 2015.

**EMIRA PROPERTY FUND LIMITED**

Signed at Johannesburg on behalf of Emira Property Fund Limited,  
on 2015

\_\_\_\_\_  
Director

Signed at Johannesburg on behalf of Emira Property Fund Limited,  
on 2015

\_\_\_\_\_  
Director



**APPENDIX "A"****Disclosure Requirements in terms of paragraph 3(5) of the Commercial Paper Regulations**

At the date of this Applicable Pricing Supplement:

Paragraph 3(5)(a)

The ultimate borrower is the Issuer.

Paragraph 3(5)(b)

The Issuer is a going concern and can in all circumstances be reasonably expected to meet its commitments under the Notes.

Paragraph 3(5)(c)

The auditor of the Issuer is PriceWaterhouseCoopers Inc.

Paragraph 3(5)(d)

As at the date of this issue:

- (a) the amount of Notes in issue by the Issuer is ZAR1,832,000,000; and
- (b) it is anticipated that the Issuer will the Issuer will issue additional Notes with an estimated nominal value of R600, 000 000 during the remainder of its current financial year ended 30 June 2016, in addition to the Notes issued on the Issue Date.

Paragraph 3(5)(e)

Prospective investors in the Notes are to consider this Applicable Pricing Supplement, the Programme Memorandum and the documentation incorporated therein by reference in order to ascertain the nature of the financial and commercial risks of an investment in the Notes. In addition, prospective investors in the Notes are to consider the latest audited financial statements of the Issuer which are incorporated into the Programme Memorandum by reference and which may be requested from the Issuer.

Paragraph 3(5)(f)

There has been no material adverse change in the Issuer's financial position since the date of its last audited financial statements.

Paragraph 3(5)(g)

The Notes issued will be listed, as stated in the Applicable Pricing Supplement.

Paragraph 3(5)(h)

The funds to be raised through the issue of the Notes are to be used by the Issuer to re-finance existing financial indebtedness under the Notes in issue under the Programme.

Paragraph 3(5)(i)

The Notes are secured.

Paragraph 3(5)(j)

PriceWaterhouseCoopers Inc, the auditors of the Issuer, have confirmed that nothing has come to their attention to indicate that this issue of Notes issued under the Programme will not comply in all respects with the relevant provisions of the Commercial Paper Regulations (Government Notice 2172 in Government Gazette No, 16167 of 14 December 1994) published under Paragraph (cc) of the definition of the “business of a bank” in terms of Section 1 of the Banks Act, 1990.

## **APPENDIX "B"**

### **SECURITY STRUCTURE**

All the Notes of Group 1 share in the same security.

### **SECURITY IN FAVOUR OF THE GROUP 1 NOTEHOLDERS**

#### **MORTGAGE BOND SPV GUARANTEE**

The Mortgage Bond SPV will bind itself under an irrevocable guarantee to the Trustee, acting on behalf of the Group 1 Noteholders, pursuant to the terms and conditions stated in the Mortgage Bond SPV Guarantee. Pursuant to such Mortgage Bond SPV Guarantee, the Mortgage Bond SPV will undertake in favour of the Trustee, acting on behalf of the Group 1 Noteholders, to pay it the full amount then owing to it by an Obligor, if an Acceleration Notice is delivered following an event of default under the Group 1 Notes or the Subsidiary Guarantee. The liability of the Mortgage Bond SPV pursuant to the Mortgage Bond SPV Guarantee will be limited in the aggregate to the net amount recovered by the Mortgage Bond SPV from the Subsidiary Guarantor arising out of the Counter-Indemnity Agreement and, if necessary, the Security Documents referred to below.

#### **COUNTER INDEMNITY AGREEMENT**

The Subsidiary Guarantor will execute a Counter-Indemnity Agreement, indemnifying the Mortgage Bond SPV in respect of claims that may be made against the Mortgage Bond SPV arising out of the Mortgage Bond SPV Guarantee. The Subsidiary Guarantor shall not be entitled to refuse to make payment under the Counter-Indemnity Agreement to the Mortgage Bond SPV by reason of the fact that the Mortgage Bond SPV has not paid the claims of the Trustee under the Mortgage Bond SPV Guarantee nor shall the Subsidiary Guarantor be entitled to refuse to make payment by reason of the fact that the liability of the Mortgage Bond SPV in respect of any such Mortgage Bond SPV Guarantee is limited in the manner set out in the Mortgage Bond SPV Guarantee.

#### **SECURITY**

In accordance with the Mortgage Bonds, the Subsidiary Guarantor mortgages the properties in the Property Portfolio to the Mortgage Bond SPV, as security for the obligations of the Subsidiary Guarantor to the Mortgage Bond SPV under the Counter-Indemnity Agreement or acts of guarantee executed by the Subsidiary Guarantor or given by the Mortgage Bond SPV on behalf of the Mortgage Bond SPV. In accordance with the Security Cession, the Subsidiary Guarantor cedes in security to the Mortgage Bond SPV, as security for its obligations under the Counter Indemnity Agreement, its rights, title and interest in and to the Tenant Lease Agreements, the Lease Payments and other claims against Tenants under such Tenant Lease Agreements, the Rent Collections Accounts and all monies in such bank accounts from time to time, the Property Management Agreements, the Insurance Policies and Insurance Proceeds and the Related Security in respect of each Property (all as defined therein).

## **THE MORTGAGE BOND SPV**

### **Introduction**

The Mortgage Bond SPV was incorporated and registered in South Africa on 16 January 2004, under registration number 2004/000792/07, under the Companies Act, 61 of 1973, as amended, as a private company with limited liability. The Mortgage Bond SPV has no subsidiaries. The shares in the Mortgage Bond SPV are held by the trustees for the time being of The Freestone Security SPV Owner Trust. The current trustees of the Owner Trust are TMF Corporate Services (South Africa) Proprietary Limited.

### **Registered office**

The registered office of the Mortgage Bond SPV is situated at 1st Floor, 4 Merchant Place, Fredman Drive and Rivonia Road, Sandton, 2196.

### **Auditors**

The current auditors of the Mortgage Bond SPV are KPMG Incorporated.

### **Activities**

The activities of the Mortgage Bond SPV are to enter into, amend and perform the obligations and exercise the Mortgage Bond SPV's rights under the Mortgage Bond SPV Guarantee, the Counter-Indemnity Agreement and any other activities reasonably incidental thereto.

**APPENDIX "C"****ADDITIONAL/AMENDED TERMS AND CONDITIONS RELATING TO THE NOTES OF THE SERIES****EVENTS OF DEFAULT**

Condition 16.1 (Events of Default relating to the Senior Notes) of the Terms and Conditions set out in the Programme Memorandum is amended in relation to the Notes of this Tranche by the insertion of the following new Conditions 16.1.11, 16.1.12 and 16.1.13:

"16.1.11 *Breach of Mortgage Bond SPV Guarantee*: the Mortgage Bond SPV fails to perform any of its obligations under the Mortgage Bond SPV Guarantee, and such failure, if capable of remedy, remains unremedied for 15 Business Days after written notice thereof has been delivered by the Trustee to the Mortgage Bond SPV; or

16.1.12 *Mortgage Bond SPV Guarantee and/or other Finance Documents Unenforceable*: any obligation of the Mortgage Bond SPV under the Mortgage Bond SPV Guarantee and/or other Finance Document to which it is a party becomes unenforceable for any reason whatsoever and such unenforceability, if capable of remedy, remains unremedied for 15 Business Days after written notice thereof has been delivered by the Trustee to the Mortgage Bond SPV; or

16.1.13 *Security Unenforceable*: any security interest granted or purported to be granted by the Subsidiary Guarantor pursuant to any of the Finance Documents becomes unenforceable for any reason whatsoever and such unenforceability, if capable of remedy, remains unremedied for 15 Business Days after written notice thereof has been delivered by the Trustee to the Issuer and the Subsidiary Guarantor.

## EVENTS OF DEFAULT

Condition 16.1 (Events of Default relating to the Senior Notes) of the Terms and Conditions set out in the Programme Memorandum is amended in relation to the Notes of this Tranche by the deletion of the hanging paragraph at the end of Condition 16.1 and the replacement thereof of the following Condition 16.1A:

16.1 **Condition 16.1A - Steps following an Event of Default relating to the Senior Notes**

16.1.1 If an Event of Default occurs in relation to the Notes of the Series:

- (a) the Calculation Agent and/or the Issuer will forthwith inform the Trustee and the JSE thereof; and
- (b) the Trustee will, as soon as such Event of Default comes to its notice (whether as a result of having been informed by the Calculation Agent and/or the Issuer thereof pursuant to Condition (a)16.1.1(a) or otherwise), forthwith call a meeting of the Group 1 Noteholders

16.1.2 Following the occurrence of an Event of Default, the Trustee may, and if so directed by an Extraordinary Resolution of the Group 1 Noteholders shall, give written notice (an "**Acceleration Notice**") to the Issuer that the Group 1 Notes are, and they shall accordingly become, immediately due and payable at their Early Redemption Amount together with accrued and unpaid interest (if any) thereon to the date of payment.

### **THIRD PARTY RIGHTS AND OBLIGATIONS**

The Terms and Conditions set out in the Programme Memorandum are amended in relation to the Notes of this Tranche by the insertion of the following additional Condition 23 (**Third party rights and obligations**):

#### **23. Condition 23 Third party rights and obligations**

- 23.1 Each Group 1 Noteholder, upon its subscription for Group 1 Notes and the issue of Group 1 Notes to it, or upon the transfer of Group 1 Notes to it, as the case may be, shall be entitled to the benefit of, and be bound by, and will be deemed to have notice of, those provisions of the Mortgage Bond SPV Guarantee which confer rights and/or impose obligations on the Group 1 Noteholders.
- 23.2 It is recorded that in terms of the Mortgage Bond SPV Guarantee, the Mortgage Bond SPV, upon signing the Mortgage Bond SPV Guarantee, is deemed to have been given notice of the Terms and Conditions of the Group 1 Notes, and the Mortgage Bond SPV shall be bound by those provisions of the Terms and Conditions of the Group 1 Notes which confer rights and/or impose obligations on the Mortgage Bond SPV.
- 23.3 Each Group 1 Noteholder, upon its subscription for Group 1 Notes and the issue of Group 1 Notes to it, or upon the transfer of Group 1 Notes to it, as the case may be, shall be entitled to the benefit of, and be bound by, and will be deemed to have notice of, all the provisions of the Trust Deed.

## MEETINGS OF THE GROUP 1 NOTEHOLDERS

The Terms and Conditions set out in the Programme Memorandum are amended in relation to the Notes of this Tranche by the insertion of the following additional Condition 24:

### 24. Condition 24 - Meetings of the Group 1 Noteholders

Where a meeting of the Group 1 Noteholders is to be convened, in accordance with these Terms and Conditions or the trust deed of the Emira Note Trust, then the provisions of this Condition 24 shall apply.

#### 24.1 Convening of meetings

24.1.1 The Issuer or the Trustee may at any time convene a meeting of the Group 1 Noteholders (a "**meeting**").

24.1.2 The Issuer or the Trustee will convene a meeting of the Group 1 Noteholders upon the requisition in writing of Group 1 Noteholders holding not less than 20% of the aggregate Outstanding Principal Amount of the Group 1 Notes (a "**requisition notice**").

24.1.3 Whenever the Issuer wishes to convene a meeting, it will forthwith give notice in writing to the Group 1 Noteholders in the manner prescribed in Condition 16 and to the Trustee in accordance with the provisions of the Trust Deed of the place, day and hour of the meeting, the nature of the business to be transacted at the meeting and the resolutions to be proposed and considered at the meeting.

24.1.4 Whenever the Trustee wishes or is obliged to convene a meeting it will forthwith give notice in writing to the Group 1 Noteholders and the Issuer in the manner prescribed in Condition 16, of the place, day and hour of the meeting, the nature of the business to be transacted at the meeting and the resolutions to be proposed and considered at the meeting.

24.1.5 All meetings of the Group 1 Noteholders will be held in Johannesburg.

24.1.6 The Issuer or the Trustee may conduct a meeting of Group 1 Noteholders entirely by electronic communication (as defined in the Companies Act) or provide for participation in a meeting by electronic communication and shall provide for participation by electronic communication if so requested in writing by Group 1 Noteholders holding not less than 30% of the aggregate Outstanding Principal Amount of the Group 1 Notes. Accordingly, one or more Group 1 Noteholders, or proxies for Group 1 Noteholders, may participate by electronic communication in all or part of any Group 1 Noteholders meeting that is being held in person, so long as the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary, and to participate reasonably effectively in the meeting. Any notice of any meeting of Group 1 Noteholders at which it will be possible for Group 1 Noteholders to participate by way of electronic communication shall inform Group 1 Noteholders of the ability to so participate and shall provide any necessary information to enable Group 1



Noteholders or their proxies to access the available medium or means of electronic communication, provided that such access shall be at the expense of the Group 1 Noteholder or proxy concerned.

## 24.2 **Requisition**

24.2.1 A requisition notice will state the nature of the business for which the meeting is to be held and the resolutions to be proposed and considered at the meeting and will be deposited at the Specified Office of the Issuer or the Trustee, as the case may be.

24.2.2 A requisition notice may consist of several documents in like form, each signed by one or more requisitionists.

## 24.3 **Convening of meetings by requisitionists**

If the Issuer or the Trustee, as the case may be, does not convene a meeting to be held within 20 days of the deposit of a requisition notice, the requisitionists may themselves convene the meeting, but the meeting so convened will be held within 60 days from the date of such deposit and will be convened as nearly as possible in the same manner as that in which meetings may be convened by the Issuer. Whenever the requisitionists are about to so convene any such meeting, requisitionists shall forthwith give notice of the meeting to the Issuer and the Trustee.

## 24.4 **Notice of meeting**

Unless the holders of at least 90% of the aggregate Outstanding Principal Amount of the Group 1 Notes, agree in writing to a shorter period, at least 10 days' written notice, specifying the place, day and time of the meeting, the nature of the business for which the meeting is to be held and the resolutions to be proposed and considered at the meeting, will be given to each Group 1 Noteholder, to the Issuer and to the Trustee.

## 24.5 **Quorum**

24.5.1 A quorum at a meeting shall:

- (a) for the purposes of considering an Ordinary Resolution, consist of Group 1 Noteholders present in person or by proxy and holding in the aggregate not less than one-third of the aggregate Outstanding Principal Amount of the Group 1 Notes;
- (b) for the purposes of considering a resolution in respect of the dismissal of the Trustee and approval of the appointment of any new Trustee in accordance with the provisions of the Trust Deed or any matter which is to be decided by Extraordinary Resolution of the Group 1 Noteholders, consist of Group 1 Noteholders present in person or by proxy and holding in the aggregate not less than a clear majority of the aggregate Outstanding Principal Amount of the Group 1 Notes.

24.5.2 No business will be transacted at a meeting of the Group 1 Noteholders unless a quorum is present at the time when the meeting proceeds to business.

24.5.3 If, within 15 minutes from the time appointed for the meeting, a quorum is not present, the meeting will, if it was convened on the requisition of the Group 1 Noteholders be dissolved. In every other case the meeting will stand adjourned to the same day in the third week thereafter, at the same time and place, or if that day is not a Business Day, the next succeeding Business Day. If at such adjourned meeting a quorum is not present the Group 1 Noteholders present, in person or by proxy, will constitute a quorum for the purpose of considering any resolution, including an Extraordinary Resolution.

#### 24.6 **Chairman**

The chairman of the meeting shall be appointed by the Trustee. If the Trustee or the person appointed by the Trustee to preside as chairman of the meeting is not present within 10 minutes of the time appointed for the holding of the meeting, the Group 1 Noteholders then present will choose one of their own to preside as chairman.

#### 24.7 **Adjournment**

24.7.1 Subject to the provisions of this Condition 24, the chairman may, with the consent of, and will on the direction of, the meeting adjourn the meeting from time to time and from place to place.

24.7.2 No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

24.7.3 At least 14 days' written notice of the place, day and time of an adjourned meeting will be given by the Issuer or the Trustee, as the case may be, to the Issuer, the Trustee and each Group 1 Noteholder. In the case of a meeting adjourned in terms of Condition 24.7.1, the notice will state that the Group 1 Noteholders present in person or by proxy at the adjourned meeting will constitute a quorum.

#### 24.8 **How questions are decided**

24.8.1 At a meeting, a resolution put to the vote will be decided on a poll.

24.8.2 In the case of an equality of votes, the chairman will not be entitled to a casting vote in addition to the vote, if any, to which he is entitled.

#### 24.9 **Votes**

Voting shall only take place on a poll and not on a show of hands. On a poll every Group 1 Noteholder, present in person or by proxy, will be entitled to one vote in respect of each ZAR1.00 in Group 1 Notes held. In relation to joint Group 1 Noteholders, the vote may be exercised only by that Group 1 Noteholder whose name appears first on the Register in the event that more

than one of such Group 1 Noteholders is present, in person or by proxy, at the meeting. The Group 1 Noteholder in respect of Group 1 Notes held in the Central Securities Depository in uncertificated form shall vote at any such meeting on behalf of the holders of Beneficial Interests in such Group 1 Notes in accordance with the instructions to the Central Securities Depository's Nominee from the holders of Beneficial Interests conveyed through the Participants in accordance with the Applicable Procedures.

#### 24.10 **Proxies and representatives**

- 24.10.1 Group 1 Noteholders, present either in person or by proxy, may vote on a poll. A Group 1 Noteholder, may by an instrument in writing (a "**proxy form**") signed by the Group 1 Noteholder (or his duly authorised agent) or, in the case of a juristic person, signed on its behalf by a duly authorised officer of the juristic person, appoint any person (a "**proxy**" or "**proxies**") to act on his or its behalf in connection with any meeting or proposed meeting.
- 24.10.2 A person appointed to act as proxy need not be a Group 1 Noteholder.
- 24.10.3 The proxy form will be deposited at the Specified Office of the Issuer or at the Specified Office of the Transfer Agent, as the case may be, not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in such proxy proposes to vote.
- 24.10.4 No proxy form will be valid after the expiration of 6 months from the date named in it as the date of its execution.
- 24.10.5 Notwithstanding Condition 24.10.4, a proxy form will be valid for any adjourned meeting, unless the contrary is stated thereon.
- 24.10.6 A vote given in accordance with the terms of a proxy form will be valid notwithstanding the previous death or incapacity of the principal or revocation or amendment of the proxy form or of any of the instructions of the Group 1 Noteholder, pursuant to which the proxy form was executed or of the authority under which the proxy form was executed or the transfer of Group 1 Notes or in respect of which the proxy was given, provided that no intimation in writing of such death, incapacity, revocation or amendment shall have been received by the Issuer at its Specified Office or the Transfer Agent at its Specified Office, as the case may be, more than, and that the transfer has been given effect to less than, 12 hours before the commencement of the meeting or adjourned meeting at which the proxy is to be used.
- 24.10.7 Any Group 1 Noteholder which is a juristic person may authorise any person to act as its representative in connection with any meeting or proposed meeting of the Group 1 Noteholders, by resolution of the directors or other governing body of the juristic person. Any reference in the Terms and Conditions to a Group 1 Noteholder or any other member of the Group 1 Noteholders present in person, includes the duly authorised representative of a Group 1 Noteholder or any other member of the Group 1 Noteholders, as the case may be, which is a juristic person.

24.11 **Minutes**

24.11.1 The Issuer will cause minutes of all resolutions and proceedings of meetings to be duly entered in the minute books of the Issuer.

24.11.2 Any such minutes as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings held or by the chairman of the next succeeding meeting, will be receivable in evidence without any further proof, and until the contrary is proved, a meeting the Group 1 Noteholders in respect of the proceedings of which minutes have been so made will be deemed to have been duly held and convened and all resolutions passed thereat, or proceedings held, to have been duly passed and held.

24.12 **Written resolutions**

A resolution in writing submitted to the Group 1 Noteholders entitled to exercise voting rights in relation to the resolution, and signed by the requisite majority of the Group 1 Noteholders, shall be as valid and effective as if it had been passed at a meeting duly convened and constituted and shall be deemed (unless a statement to the contrary is made in that resolution) to have been passed on the last day on which that resolution is signed by any one or more of the Group 1 Noteholders. That resolution may consist of two or more documents in the same form each of which is signed by one or more of the Group 1 Noteholders.

## COVENANTS

The Terms and Conditions set out in the Programme Memorandum are amended in relation to the Notes of this Tranche by the insertion of the following additional Condition 25 (Covenants):

### 25. Condition 25 – Covenants

- 25.1 The Issuer must ensure that the Loan to Valuation Ratio (Group 1) of the Group 1 Property Portfolio does not exceed 40% at any time, based on the most recent Open Market Valuation.
- 25.2 The Issuer must deliver a compliance certificate to the Trustee in respect of the financial covenant referred to in Condition 25.1:
- 25.2.1 within 90 days of the last day of each financial year and half financial year of Issuer;
- 25.2.2 at least 2 Business Days prior to the issue of further Group 1 Notes, taking account of the pro forma effect of the issue of such Notes; and
- 25.2.3 prior to the disposal of, addition to, or substitution of, Properties in the Group 1 Property Portfolio, taking account of the pro forma effect of the disposal of, addition to, or substitution of, such Properties.
- 25.3 A compliance certificate must be signed by the financial director of the Issuer or by 2 other duly authorised directors of the Issuer.
- 25.4 The covenants shall be tested on:
- 25.4.1 the last day of each financial year and half financial year of the Issuer;
- 25.4.2 the date of issue of any further Group 1 Notes; or
- 25.4.3 the date of registration in the deeds office of the disposal of, addition to, or substitution of, Properties in the Group 1 Property Portfolio,
- as the case may be, in relation to each 12 month period ending on (i) that date, in the case of 25.4.1, or ii) the last day of the month preceding that date, in the case of 25.4.2 and 25.4.3, by reference to the audited consolidated financial statements of the Issuer on that date, or, if not available, then the unaudited consolidated financial statements of the Issuer on that date.
- 25.5 The Issuer is entitled to dispose of, add to, or substitute, Properties in the Group 1 Property Portfolio, subject to compliance with the following provisions:
- 25.5.1 the Issuer must deliver a compliance certificate to the Trustee in accordance with the provisions of Condition 25.2.3, signed in accordance with the provisions of Condition 25.3, confirming compliance with the covenant referred to in Condition 25.1;
- 25.5.2 the compliance certificate must (i) identify the Properties to be disposed of, added to, or substituted, in the Group 1 Property Portfolio, and (ii)

include as an annexure to the certificate, an updated list of the Properties that will form part of the Group 1 Property Portfolio following the disposal of, addition to, or substitution of, such Properties, and the Mortgage Bonds in respect of such Properties;

- 25.5.3 upon receipt by the Trustee of a compliance certificate in accordance with the provisions of Condition 25.5, confirming compliance with the covenant referred to in Condition 25.1, the Trustee will instruct the Mortgage Bond SPV to sign any documents required to give effect to any addition to, substitution of, or sale of, Properties in the Group 1 Property Portfolio and the release of the security in respect of the Properties to be disposed of or substituted, including the cancellation of the Mortgage Bonds in respect of such Properties.
- 25.6 The Issuer will provide the Trustee with a list of the Properties in the Group 1 Property Portfolio on or before the Issue Date. The Trustee will maintain an updated list of the Properties in the Group 1 Property Portfolio, based on the list attached to the compliance certificate provided to the Trustee by the Issuer following the disposal of, addition to, or substitution of, Properties in the Group 1 Property Portfolio.

## ADDITIONAL DEFINITIONS IN RESPECT OF THE GROUP 1 NOTES

The Terms and Conditions set out in the Programme Memorandum are amended in relation to the Notes of this Tranche by the insertion of the following additional Condition 26 (Additional Definitions in respect of the Group 1 Notes):

### 26. Condition 26 – Additional Definitions in respect of the Group 1 Notes

Terms and expressions set out below will have the meanings set out below in the Terms and Conditions of the Notes of this Tranche:

- 26.1 **Counter-Indemnity Agreement** means the counter-indemnity agreement concluded between the Subsidiary Guarantor and the Mortgage Bond SPV, pursuant to which the Subsidiary Guarantor indemnifies and holds the Mortgage Bond SPV harmless in respect of claims made against the Mortgage Bond SPV under the Mortgage Bond SPV Guarantee;
- 26.2 **Finance Documents** means:
- 26.2.1 the Trust Deed;
- 26.2.2 the Terms and Conditions of the Group 1 Notes;
- 26.2.3 the Subsidiary Guarantee;
- 26.2.4 the Security Documents; and
- 26.2.5 any other document which is from time to time designated by the Trustee (on behalf of the Group 1 Noteholders) and the Issuer as a Finance Document,
- and **Finance Document** means any of them, as the context may require;
- 26.3 **Group 1 Noteholders** means the holders of the Group 1 Notes;
- 26.4 **Group 1 Notes** means the Notes issued by the Issuer in respect of Series 21 and Series 22 of the Issuer's domestic medium term note programme, read together with the applicable pricing supplements in respect of such Notes, or, if the indebtedness of the Issuer under such Notes is refinanced at any time, any new financial indebtedness entered into in connection with that refinancing<sup>21</sup>, and designated as such in the applicable pricing supplements;
- 26.5 **Group 1 Property Portfolio** means those Properties in the Property Portfolio which provide security in respect of the Group 1 Notes, listed in a schedule provided to the Trustee on the Issue Date, as such schedule may be updated from time to time, including following any disposal of, addition to or substitution of, the Properties in accordance with the provisions Condition 25 of the Group 1 Notes;
- 26.6 **Institute of Valuers** means The South African Institute of Valuers, founded in 1909, the national society of professional real estate valuers, or its successor;
- 26.7 **Loan to Valuation Ratio (Group 1)** means at any time, in respect of the Group 1 Notes, the ratio as expressed as follows:

Loan to Valuation Ratio (Group 1) = L divided by V

Where:

L = the aggregate Outstanding Principal Amount of the Group 1 Notes;  
and

V = the amount of the most recent Open Market Valuation of all the Properties in the Group 1 Property Portfolio;

- 26.8 **Mortgage Bond** means in respect of each Property, a first-ranking continuing covering mortgage bond (whether a principal bond or collateral bond)(or such lower ranking continuing covering mortgage bond provided that all higher ranking mortgage bonds are or will be registered in favour of the Mortgage Bond SPV) registered in favour of the Mortgage Bond SPV over such Property (or the long term lease or sub-lease in respect of such Property, as the case may be), securing the obligations of the Subsidiary Guarantor to the Mortgage Bond SPV under the Counter-Indemnity Agreement;
- 26.9 **Mortgage Bond SPV** means Freestone Mortgage Bond SPV Series 1 (RF) Proprietary Limited, a company duly incorporated in accordance with the laws of South Africa, registration number 2004/000792/07;
- 26.10 **Mortgage Bond SPV Guarantee** means the guarantee issued by the Mortgage Bond SPV in favour of the Trustee, on behalf of the Group 1 Noteholders, for the obligations of the Obligors under the Finance Documents dated on or about the date of this Agreement;
- 26.11 **Obligors** means the Issuer and the Subsidiary Guarantor, and "**Obligor**" means any one of them, as the context requires
- 26.12 **Open Market Valuation** means in respect of the Properties in the Group 1 Property Portfolio, the annual property valuation undertaken and prepared at the instance of the Issuer in regard to all the Properties in the Group 1 Property Portfolio, which in relation to a minimum of 1/3 of the Properties in the Group 1 Property Portfolio, shall be undertaken by a Valuer or Valuers appointed by the Issuer and conducted in accordance with the valuation methodology approved by the Institute of Valuers from time to time; provided that in respect of any 3 year period all of the Properties in the Group 1 Property Portfolio will have been valued, in accordance with the valuation methodology approved by the Institute of Valuers from time to time or such other methodology approved in writing by Valuers approved by the Issuer;
- 26.13 **Property** means a property in the Property Portfolio;
- 26.14 **Property Portfolio** means the fixed, immovable properties registered in the name of the Subsidiary Guarantor (in each case, as sole owner or co-owner, as the case may be) or in respect of which the Subsidiary Guarantor has registered leasehold rights, from time to time;
- 26.15 **Principal Amount** means, in relation to any Note, the nominal amount of that Note, being the amount on the Issue Date equivalent to the Specified Denomination set out in the Applicable Pricing Supplement;



- 26.16 **Secured Creditors** means the Group 1 Noteholders, represented by the Trustee;
- 26.17 **Security Cession** means the written agreement entitled "Cession in Security" entered into between FPI and the Mortgage Bond SPV on 13 June 2006, as amended, pursuant to which FPI cedes in security to the Mortgage Bond SPV, as security for its obligations under the Counter Indemnity Agreement, its rights, title and interest in and to the Tenant Lease Agreements, the Lease Payments and other claims against Tenants under such Tenant Lease Agreements, the Rent Collections Accounts and all monies in such bank accounts from time to time, the Property Management Agreements, the Insurance Policies and Insurance Proceeds and the Related Security in respect of each Property (all as defined *therein*);
- 26.18 **Security Documents** means:
- 26.18.1 the Mortgage Bond SPV Guarantee;
- 26.18.2 the Counter-Indemnity Agreement;
- 26.18.3 the Security Cession;
- 26.18.4 the Mortgage Bonds; and
- 26.18.5 any other document which is from time to time designated by the Trustee (on behalf of the Group 1 Noteholders) and the Issuer as a Security Document;
- 26.19 **Subsidiary Guarantor** means Freestone Property Investments (Proprietary) Limited, a private company incorporated in accordance with the laws of South Africa, registration number 2005/025542/07;
- 26.20 **Trustee** means the trustee for the time being of the Emira Note Trust, acting on behalf of and for the benefit of the Group 1 Noteholders, which shall initially be TMF Corporate Services (South Africa) Proprietary Limited (Registration number 2006/013631/07), a company duly registered and incorporated in accordance with the company laws of South Africa; and
- 26.21 **Valuer** means an accredited property valuer registered as such in terms of the Valuer's Act, 1982, who is independent of the Issuer and any Property Manager.

## TRUSTEE

TMF Corporate Services (South Africa) Proprietary Limited (Registration number 2006/013631/07) will be appointed in terms of a trust deed between the Trustee and the Issuer, to act as trustee on behalf of and for the benefit of Group 1 Noteholders.

Pursuant to the Trust Deed, the Trustee is entitled to exercise the rights conferred on the Trustee and is obliged to perform the duties imposed on the Trustee in terms of the Conditions of the Group 1 Notes, including the rights and duties in terms of Condition 16.1 (Steps following an Event of Default relating to the Group 1 Notes), Condition 24 (Meetings of the Group 1 Noteholders) and Condition 25 (Covenants).

The Trustee may at any time, at its discretion and without notice, take such proceedings against the Issuer or any Obligor as it may think fit to enforce the provisions of the Trust Deed, the Group 1 Notes or any other Finance Document, but it shall not be bound to take any such proceedings or any other action in relation to the Trust Deed, the Group 1 Notes or any other Finance Document, unless (i) it shall have been so directed by an Extraordinary Resolution of the Group 1 Noteholders or been so requested in writing by Group 1 Noteholders holding at least 66.67% of the aggregate Outstanding Principal Amount of the Group 1 Notes for the time being outstanding, and (ii) it shall have been indemnified and/or secured and/or prefunded to its satisfaction.

No Group 1 Noteholder shall be entitled to proceed directly against the Issuer or any Obligor which has furnished security, unless the Trustee, having become bound so to proceed, fails so to do within a reasonable period and the failure shall be continuing.

The Trust Deed sets out provisions relating to the replacement of the Trustee, including following a resolution to this effect by the Noteholders, by a majority consisting of not less than 75% of the votes cast on a poll by the Noteholders, present in person or by proxy at a meeting convened in terms of the Terms and Conditions of the Group 1 Notes.

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including relieving it from taking proceedings unless indemnified and/or secured and/or prefunded to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit. The Trustee may rely without liability to Group 1 Noteholders on a report, confirmation or certificate or any advice of any accountants, financial advisers or investment bank, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Trustee or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee shall be obliged to accept and be entitled to rely on any such report, confirmation or certificate or advice where the Issuer procures delivery of the same pursuant to its obligation to do so under any provision of these Conditions or the Trust Deed and such report, confirmation or certificate or advice shall be binding on the Issuer, the Trustee and the Group 1 Noteholders in the absence of manifest error.

In connection with the exercise of its functions the Trustee shall have regard to the interests of the Group 1 Noteholders as a class and, in particular but without limitation, shall not have regard to the consequences of the exercise of its trusts, powers or discretions for individual Group 1 Noteholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory, and the Trustee shall not be entitled to require, nor shall any Group 1 Noteholder be entitled to claim, from the Issuer or any other person any indemnification

or payment in respect of any tax consequences of any such exercise upon individual Group 1 Noteholders.

The contact details of the Trustee as follows:

TMF Corporate Services (South Africa) (Pty) Ltd

3<sup>rd</sup> Floor

200 on Main

Cnr Main and Bowwood Roads

Claremont

7708

Contact: Mandy Collis

Telephone: +27 21 657 6010

E-mail: [mandy.collis@tmf-group.com](mailto:mandy.collis@tmf-group.com)

**DOCUMENTS INCORPORATED BY REFERENCE**

For so long as the Group 1 Notes are outstanding, the following documents listed below are deemed to be incorporated into, and to form part of, the Programme Memorandum, in addition to the documents listed in the Programme Memorandum, and will be available for inspection by Noteholders at the registered office of the Issuer following signature thereof:

- (a) the Trust Deed;
- (b) the Subsidiary Guarantee;
- (c) the Security Documents;
- (d) the audited annual financial statements of the Subsidiary Guarantor, for the financial years ended 30 June 2013, 30 June 2014 and 30 June 2015, and for each financial year ended thereafter, together with such statements, reports and notes attached to or intended to be read with such financial statements.