

COUNTER-INDEMNITY AGREEMENT

by

EMIRA PROPERTY FUND LIMITED
(Registration number 2014/130842/06)
(as "**Issuer**")

in favour of

FREESTONE MORTGAGE BOND SPV SERIES 1 (RF) PROPRIETARY LIMITED
(Registration number 2004/000792/07)
(as "**Mortgage Bond SPV**")

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1. DEFINITIONS AND INTERPRETATION

The headings of the clauses in this Counter-Indemnity Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Counter-Indemnity Agreement nor any clause hereof. Unless a contrary intention clearly appears:

- 1.1 words importing any one gender include the other two genders;
- 1.2 the singular include the plural and *vice versa*;
- 1.3 natural persons include created entities (corporate or unincorporated) and the state and *vice versa*; and
- 1.4 capitalised terms used in this Counter-Indemnity Agreement which are not defined herein shall bear the meanings ascribed to them in the Mortgage Bond SPV Guarantee (or incorporated therein by reference), and the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely:
 - 1.4.1 "**Counter-Indemnity Agreement**" means this counter-indemnity agreement concluded between the Issuer and the Mortgage Bond SPV, pursuant to which the Issuer indemnifies and holds the Mortgage Bond SPV harmless in respect of claims made against the Mortgage Bond SPV under the Mortgage Bond SPV Guarantee;
 - 1.4.2 "**Initial Issue Date**" means the Issue Date of the first issue of Group 1 Notes;
 - 1.4.3 "**Obligors**" means the Issuer and the Subsidiary Guarantor, and "**Obligor**" means any one of them, as the context requires;
 - 1.4.4 "**Parties**" means the Mortgage Bond SPV and the Issuer and "**Party**" means, as the context requires, any of them;
 - 1.4.5 "**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;
 - 1.4.6 "**Signature Date**" means the date of signature of this Counter-Indemnity Agreement by the party signing it last;
 - 1.4.7 "**Transaction Security**" means all the Security Interests given or intended to be given in favour of the Mortgage Bond SPV under the Security Documents.
- 1.5 If any provision in a definition is a substantive provision conferring rights or imposing obligations on either Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of this Counter-Indemnity Agreement.
- 1.6 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.7 Where any term is defined within the context of any particular clause in this Counter-Indemnity Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant

clause, shall bear the meaning ascribed to it for all purposes in terms of this Counter-Indemnity Agreement, notwithstanding that that term has not been defined in this interpretation clause.

- 1.8 Any reference to the **assets** of any person shall be construed as a reference to the whole or any part of the business, undertaking, property, shareholdings, assets and revenues (including any right to receive revenues and uncalled capital);
- 1.9 Where any matter requires the approval or consent of any Party such approval or consent shall be deemed not to have been given unless given in writing. Where any matter is required to be acceptable to any Party, that Party shall be deemed not to have accepted such matter unless its acceptance is communicated in writing, save as expressly provided for in this Counter-Indemnity Agreement.
- 1.10 Any reference to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time.
- 1.11 When any number of days is prescribed in this Counter-Indemnity Agreement, those days shall be reckoned inclusively of the first and exclusively of the last day unless the last day of the number so calculated falls on a day which is not a Business Day, in which case the number of days shall be reckoned to the next succeeding Business Day.
- 1.12 Expressions defined in this Counter-Indemnity Agreement shall bear the same meanings in schedules or annexures to this Counter-Indemnity Agreement which do not themselves contain their own definitions.
- 1.13 The expiration or termination of this Counter-Indemnity Agreement shall not affect such of the provisions of this Counter-Indemnity Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 1.14 The rule of construction that a contract shall be interpreted against the Party responsible for the drafting or preparation of the contract, shall not apply.
- 1.15 Any reference in this Counter-Indemnity Agreement to a Party includes, as the case may be, and shall be binding upon that Party's liquidator, trustee, executor, administrator, curator (in each case whether provisional or final), successors or permitted assigns and any representative of that person.
- 1.16 Any reference to any Party to this Counter-Indemnity Agreement or any other document or any person shall include reference to such party's or person's successors and permitted assigns or transferees.
- 1.17 References to including and in particular shall not be construed restrictively but shall mean including, without limitation to the generality of the foregoing and in particular, but without limitation to the generality of the foregoing respectively.
- 1.18 Any reference herein to an agreement shall be to such agreement as amended, supplemented, varied, novated, consolidated or restated from time to time hereafter in accordance with its terms.

2. INTRODUCTION

- 2.1 The Mortgage Bond SPV has agreed to guarantee to the Trustee, on behalf of the Group 1 Noteholders, the due and full performance by the Obligors of the

Guaranteed Obligations on the terms and conditions set out in the Mortgage Bond SPV Guarantee.

2.2 The Issuer has agreed to enter into this Counter-Indemnity Agreement in favour of the Mortgage Bond SPV and the Issuer has agreed to provide security in support thereof.

3. INDEMNITY BY THE ISSUER

3.1 Indemnity

3.1.1 With effect from the Initial Issue Date, the Issuer, irrevocably and unconditionally, hereby indemnifies and holds the Mortgage Bond SPV harmless against any claim made against, or liability of the Mortgage Bond SPV under, or amounts payable by the Mortgage Bond SPV in accordance with the Mortgage Bond SPV Guarantee (including, without limitation, any loss, liability, damage, claim, cost or expense of whatsoever nature plus legal costs as between attorney and own client, which the Mortgage Bond SPV may suffer or incur as a result of executing or furnishing or taking any action to enforce its rights under this Counter-Indemnity Agreement, the Mortgage Bond SPV Guarantee or any other Finance Document) and irrespective of the validity and legal effect of the Mortgage Bond SPV Guarantee.

3.1.2 The liability of the Issuer under this Counter-Indemnity Agreement is unlimited and shall be discharged and paid as provided in Clause 3.2 below.

3.2 Settlement of claims

3.2.1 The Issuer shall pay to the Mortgage Bond SPV on first written demand, any amount which the Mortgage Bond SPV is called upon to pay under the Mortgage Bond SPV Guarantee (plus any costs, fees or expenses incurred by the Mortgage Bond SPV in enforcing its rights under this Counter-Indemnity Agreement or any Security Document), subject only to the following requirements:

- (a) that such amount is due and owing by, and has been demanded in writing from, an Obligor under a Finance Document, and has not been paid in full;
- (b) the Mortgage Bond SPV has been called upon in writing to make payment in respect of that amount under the Mortgage Bond SPV Guarantee; and
- (c) copies of the notice of demand referred to in paragraph (b) above has been delivered to the Issuer.

3.2.2 Notwithstanding the above, the Issuer shall not be entitled to refuse to make payment of the indemnified claims 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 Issuer be entitled to refuse to make such payment by reason of the fact that the liability of the Mortgage Bond SPV in respect of the Mortgage Bond SPV Guarantee is limited in the manner set out in the Mortgage Bond SPV Guarantee.

3.2.3 A payment made under this Clause and received for value by the Mortgage Bond SPV, shall discharge, in an equal amount, the corresponding underlying payment obligation of the Obligors under the Finance Documents, in respect of which the payment under this Clause is made, provided that if any payment

by the Issuer, any discharge (whether in respect of the obligations of the Issuer or any security for those obligations or otherwise) or arrangement made in whole or in part on the faith of any payment, security or other disposition, is avoided or reduced or must be repaid, restored or reinstated on insolvency, liquidation, administration or business rescue proceedings or any similar event, the liability of the Issuer will continue or be reinstated as if that payment, discharge or arrangement had not occurred.

3.3 Continuing obligations

3.3.1 The obligations of the Issuer under this Counter-Indemnity Agreement shall come into force on the Initial Issue Date and shall remain in force and extend to the ultimate balance of all amounts owing under the Mortgage Bond SPV Guarantee as a continuing covering indemnity until the Final Discharge Date, regardless of any intermediate discharge or settlement or temporary extinction thereof or temporary fluctuation therein. Except as otherwise provided in the Finance Documents, the Issuer shall have no right to withdraw from or terminate this Counter-Indemnity Agreement at any time before the Final Discharge Date.

3.3.2 This indemnity shall be enforceable against the Issuer in accordance with the tenor hereof, whether as an Counter-Indemnity Agreement or otherwise, regardless of any invalidity or unenforceability of the Mortgage Bond SPV Guarantee, for any reason whatsoever, in whole or in part.

3.4 Waiver of defences

The obligations of the Issuer under this Counter-Indemnity Agreement and the indemnities given hereunder shall not be prejudiced, affected or diminished by an act, omission, circumstance, matter or thing which, but for this provision, might otherwise operate to reduce, release or prejudice any of the obligations of the Issuer under this Counter-Indemnity Agreement (whether or not known to it or the Mortgage Bond SPV), including:

3.4.1 any time, waiver or consent granted to, or composition with, an Obligor, the Mortgage Bond SPV or other person under the Finance Documents or otherwise;

3.4.2 the release of any person under the terms of any composition or arrangement with any creditor of an Obligor;

3.4.3 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights, remedies against, or security over assets of an Obligor or any other person;

3.4.4 any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

3.4.5 any legal disability, incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of an Obligor, the Mortgage Bond SPV or any other person;

3.4.6 any variation (however fundamental and whether or not more onerous) of or extension of the due date for performance of any term of any Finance Document or any agreement in connection with any of the Guaranteed

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Obligations (with the intent that the Issuer's obligations under this Counter-Indemnity Agreement and in respect of the Guaranteed Obligations shall apply to such term as varied or in respect of the extended due date) or any increase, reduction, exchange, acceleration, renewal, surrender, release or loss of or failure to perfect any of the Guaranteed Obligations or any security therefor or any non-presentment or non-observance of any formality in respect of any instruments provided in relation to the Guaranteed Obligations;

- 3.4.7 any unenforceability, illegality, invalidity or non-provability of any obligation of any person under any Finance Document or any other document or security;
- 3.4.8 any liquidation, winding-up, insolvency, business rescue proceedings or similar proceedings in respect of an Obligor, the Mortgage Bond SPV or any other person;
- 3.4.9 the Mortgage Bond SPV, the Trustee or any Group 1 Noteholder receiving a dividend or benefit in any insolvency, liquidation or in business rescue proceedings or any compromise or composition, whether in terms of any statutory enforcement or the common law;
- 3.4.10 any Group 1 Noteholder, the Trustee or the Mortgage Bond SPV granting any indulgences to an Obligor or not exercising any one or more of its rights under the Finance Documents, either timeously or at all; and/or
- 3.4.11 any other fact or circumstance arising on which the Issuer might otherwise be able to rely on a defence based on prejudice, waiver or estoppel.

3.5 Renunciation of benefits

The Issuer hereby renounces, to the extent permitted under all applicable law, the benefits of each of the legal exceptions of excussion, division, revision of accounts, no value received, *errore calculi*, *non causa debiti*, *non numeratae pecuniae* and cession of action, and declares that it understands the meaning of each such legal exception and the effect of such renunciation.

4. REPRESENTATIONS AND WARRANTIES

- 4.1 The Issuer makes the following representations and warranties to the Mortgage Bond SPV in respect of itself:
 - 4.1.1 **Status:** The Issuer is a limited liability company, duly incorporated and validly existing under the laws of South Africa;
 - 4.1.2 **Powers and Authority:** The Issuer has the power to enter into and perform this Counter-Indemnity Agreement and the transactions contemplated thereby and has taken all necessary action to authorise the entry into and performance of this Counter-Indemnity Agreement and the transactions contemplated thereby in accordance with its terms;
 - 4.1.3 **Legal Validity:** This Counter-Indemnity Agreement constitutes the legal and valid obligations of the Issuer binding on and enforceable against it in accordance with its terms (subject to insolvency and other laws affecting creditors' rights generally);
 - 4.1.4 **Non-Conflict:** The entry into and performance by the Issuer of this Counter-Indemnity Agreement and the transactions contemplated herein do not:

- (a) conflict with any law or regulation applicable to it;
- (b) conflict with its memorandum of incorporation;
- (c) conflict with any agreement or document to which it is a party or which is binding upon it or any of its assets; or
- (d) result in the creation or imposition of (or enforceability of) any Security Interest on any of its assets or the provisions of any agreement or document;

4.1.5 Consents: All authorisations, approvals, consents, licences, exemptions, filings, regulations, notarisations and other matters, official or otherwise, required in connection with the entry into and performance by the Issuer and the validity and enforceability against it of this Counter-Indemnity Agreement have been obtained or effected (or, in the case of registrations, will be so effected within any applicable required period) and, if obtained and effected, are in full force and effect and all fees (if any) payable in connection therewith, if due, have been paid and there has been no default in the performance of any of the terms or conditions thereof which is material to the effectiveness of any of the foregoing.

4.2 The representations and warranties set out in this Clause 4 shall be given on the execution of this Counter-Indemnity Agreement and shall be deemed to be repeated by the Issuer in favour of the Mortgage Bond SPV on each day until the Final Discharge Date, in each case with reference to the facts and circumstances then subsisting as if made at each such time.

5. TRANSACTION SECURITY

5.1 As security for the obligations of the Issuer under this Counter-Indemnity Agreement and the indemnities contained herein, the Issuer shall grant to the Mortgage Bond SPV the Transaction Security to be established (or intended to be established) under the Security Documents to which the Issuer is required to be a party and shall, except as otherwise permitted by the Finance Documents, maintain in full force and effect and preserve all such Transaction Security until the Final Discharge Date.

5.2 The Issuer shall obtain and maintain in full force and effect all authorisations for the time being required by any applicable law to enable the Issuer to perform its obligations under this Counter-Indemnity Agreement and the other Finance Documents to which it is party.

5.3 If the Issuer does not forthwith pay any amount due and payable by it following demand by the Mortgage Bond SPV in terms of Clause 3.2.1, the Mortgage Bond SPV shall be entitled and obliged:

5.3.1 to take all such steps as may be reasonably necessary in order to realise the security given to the Mortgage Bond SPV in terms of the Security Documents and otherwise to enforce the claim against the Issuer pursuant to this Counter-Indemnity Agreement; and

5.3.2 out of the proceeds of that security given to the Mortgage Bond SPV in terms of the Security Documents and amounts recovered pursuant to this Counter-Indemnity Agreement, pay the claims of the Trustee in accordance with the Mortgage Bond SPV Guarantee.

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6. UNDERTAKINGS BY THE ISSUER

- 6.1 The Issuer shall promptly furnish to the Mortgage Bond SPV such information in its possession or control, as the Mortgage Bond SPV may reasonably request.
- 6.2 The Issuer shall obtain and promptly renew from time to time, and shall promptly furnish certified copies to the Mortgage Bond SPV of all such authorisations, approvals, consents, licences and exemptions as may be required under any applicable law or regulation to enable it to perform its obligations under this Counter-Indemnity Agreement or required for the validity or enforceability hereof and that Issuer shall comply with the terms of the same.

7. DISPUTES OF RIGHT

Where in this Counter-Indemnity Agreement it is provided that the Mortgage Bond SPV may only exercise a right if certain events have occurred or notices of demand have been delivered (or the exercise of a right is constrained by words to similar effect) and the Issuer disputes that the relevant events have occurred or notices have been delivered, then, pending final resolution of that dispute, the Mortgage Bond SPV shall be entitled, without restriction, to exercise its rights under this Counter-Indemnity Agreement in all respects, and the Issuer shall in all respects continue to perform its obligations under this Counter-Indemnity Agreement and to give effect to its terms (including provisions relating to the enforcement of the security) as if all requirements for the exercise by the Mortgage Bond SPV of that right have been met.

8. LIMITATION OF LIABILITY

The Issuer hereby irrevocably and unconditionally absolves the Mortgage Bond SPV absolutely from any liability for any claim and/or actual or contingent losses, liabilities, damages, costs (including legal costs on a full Counter-Indemnity Agreement basis) or expenses (collectively referred to as **costs**) which the Issuer may suffer or incur as a result of the Mortgage Bond SPV lawfully exercising its rights arising out of, or in connection, with this Counter-Indemnity Agreement, other than costs arising from the fraud, gross negligence or wilful misconduct of the Mortgage Bond SPV.

9. PAYMENTS

9.1 Place

All payments by the Issuer under this Counter-Indemnity Agreement must be made to the Mortgage Bond SPV to its account at such office or bank in South Africa as it may notify to the Issuer for this purpose by not less than five Business Days' prior notice.

9.2 Currency of account

Each amount payable under this Counter-Indemnity Agreement is payable in South African Rand.

9.3 Funds

Payments under this Counter-Indemnity Agreement must be made for value on the due date in immediately available and freely transferable funds, or at such times and in such funds as the Mortgage Bond SPV may specify to the Issuer as being customary at the time for the settlement of transactions in South African Rand in the place for payment.

9.4 **No set-off or deduction**

All payments made by the Issuer under this Counter-Indemnity Agreement must be calculated and made without (and free and clear of any exchange, any other costs, charges or expenses) set-off, deduction or counterclaim whatsoever.

9.5 **Business Days**

If a payment under this Counter-Indemnity Agreement is due on a day which is not a Business Day, the due date for that payment will instead be the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not) or whatever day the Mortgage Bond SPV reasonably determines is market practice.

10. **CALCULATIONS AND CERTIFICATES**

10.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with this Counter-Indemnity Agreement, the entries made in the accounts maintained by or on behalf of the Mortgage Bond SPV are *prima facie* proof of the matters to which they relate.

10.2 **Certificates and determinations**

Any certification or determination by the Mortgage Bond SPV of a rate or amount or a due date under this Counter-Indemnity Agreement, signed by any officer, manager or employee of the Mortgage Bond SPV (the appointment of which officer, manager or employee need not be proved), will be, in the absence of manifest error, *prima facie* proof of the matters to which it relates.

11. **CHANGES TO THE PARTIES**

11.1 **Transfers by the Issuer**

The Issuer shall not cede any of its rights nor delegate any of its obligations under this Counter-Indemnity Agreement without the prior consent of the Mortgage Bond SPV.

11.2 **Transfers by the Mortgage Bond SPV**

11.2.1 As between the Parties, the Mortgage Bond SPV may cede any of its rights and delegate any of its obligations under this Counter-Indemnity Agreement and any Security Document to any person by notice to the Issuer. The Issuer agrees to co-operate and take all action reasonably required by the Mortgage Bond SPV to implement any such cession and delegation.

11.2.2 To the extent that a splitting of claims arises as a result of any actions taken under this Clause 11.2, the Issuer hereby consent to the splitting of claims.

12. **NOTICES AND DOMICILIA**

12.1 **In writing**

12.1.1 Any notice or other communication in connection with this Counter-Indemnity Agreement must be in writing.

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12.1.2 Unless it is agreed in writing to the contrary, any consent, waiver or agreement required under this Counter-Indemnity Agreement must be given in writing.

12.2 **Language**

Any notice given in connection with this Counter-Indemnity Agreement must be in English.

12.3 **Addresses**

12.3.1 The Parties choose the following addresses to which notices may be given and at which documents in legal proceedings may be served (their *domicilia citandi et executandi*) in connection with this Counter-Indemnity Agreement:

(a) the Mortgage Bond SPV:

Address: c/o FirstRand Bank Limited
1 Merchant Place
Cnr Fredman Drive & Rivonia Road
Sandton
2196

Telefax: 011 282 8328

E-mail: nokuthula.lubisi@rmb.co.za

Attention: Nokuthula Lubisi

(b) the Issuer:

Address: Knightsbridge
Building A, 1st Floor
33 Sloane Street
Bryanston, 2021

Telefax: 011 028 3140

E-mail gjennett@emira.co.za

Attention: The Chief Financial Officer.

12.3.2 A Party may change its address chosen for the purposes of this Clause 12.3 to another address in South Africa by giving five Business Days' notice to the other Parties.

12.3.3 Any notice given in connection with this Counter-Indemnity Agreement must be:

(a) delivered in person; or

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(b) sent by prepaid registered post or by fax,

to the address chosen by the Party concerned. Communications in connection with this Counter-Indemnity Agreement may also be given by any electronic communication previously approved in writing by the Mortgage Bond SPV.

12.3.4 Where a Party nominates a particular department or officer to receive a communication, a communication will not be effective if it fails to specify that department or officer.

12.3.5 This Clause will not operate so as to invalidate the giving or receipt of any notice which is actually received by the addressee other than by a method referred to above.

12.4 **Effectiveness**

12.4.1 Except as provided below, any communication in connection with this Counter-Indemnity Agreement will be deemed to have been duly given:

- (a) if delivered in person, at the time of delivery;
- (b) if posted, 14 days after being deposited in the post, postage prepaid, in a correctly addressed envelope;
- (c) if by fax, e-mail or any other electronic communication, and provided it is received in legible form, on the day of its transmission, except that any such transmission after 16h30 shall be deemed to have been received on the following day.

12.4.2 A communication given under Clause 12.4.1 above but received on a day which is not a Business Day or after business hours in the place of receipt will be deemed to be given on the next Business Day.

12.4.3 A communication to the Mortgage Bond SPV will only be effective on actual receipt by it.

13. **MISCELLANEOUS**

13.1 **Entire contract**

This Counter-Indemnity Agreement contains all the express provisions agreed on by the Parties with regard to the subject matter hereof and the Issuer waives the right to rely on any alleged express provision not contained in this Counter-Indemnity Agreement.

13.2 **No representations**

The Issuer may not rely on any representation which allegedly induced it to enter into this Counter-Indemnity Agreement or any other Finance Document, unless the representation is recorded in this Counter-Indemnity Agreement or that other Finance Document.

13.3 **Amendments, waivers and cancellation**

13.3.1 No amendment or consensual cancellation of this Counter-Indemnity Agreement or any provision or term hereof or of any agreement, bill of

exchange or other document issued or executed pursuant to or in terms of this Counter-Indemnity Agreement and no settlement of any disputes arising under this Counter-Indemnity Agreement and no extension of time, waiver or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this Counter-Indemnity Agreement or of any agreement, bill of exchange or other document issued pursuant to or in terms of this Counter-Indemnity Agreement shall be binding unless recorded in a written document signed by the Parties (or in the case of an extension of time, waiver or relaxation or suspension, signed by the Party granting such extension, waiver or relaxation). Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

13.3.2 No extension of time or waiver or relaxation of any of the provisions or terms of this Counter-Indemnity Agreement or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this Counter-Indemnity Agreement, shall operate as an estoppel against any Party in respect of its rights under this Counter-Indemnity Agreement, nor shall it operate so as to preclude such Party thereafter from exercising its rights strictly in accordance with this Counter-Indemnity Agreement.

13.3.3 To the extent permissible by law no Party shall be bound by any express or implied term, representation, warranty, promise or the like not recorded herein, whether it induced the contract and/or whether it was negligent or not.

13.4 **Rights and remedies**

The rights and remedies of the Mortgage Bond SPV under this Counter-Indemnity Agreement:

13.4.1 are cumulative and not exclusive of its rights under the general law;

13.4.2 may be exercised as often as the Mortgage Bond SPV requires;

13.4.3 may be waived only in writing and specifically.

Delay in the exercise or non-exercise of any right is not a waiver of that right.

13.5 **Severability**

Each term of this Counter-Indemnity Agreement, whether forming an entire clause or only part of a clause, is divisible and severable from all the other terms (regardless of the manner in which they may be linked together or grouped grammatically). If a term of this Counter-Indemnity Agreement is or becomes illegal, invalid or unenforceable in any respect in any jurisdiction, that will not affect or impair in any manner the legality, validity or enforceability in that jurisdiction of any other term of this Counter-Indemnity Agreement, or the legality, validity or enforceability in other jurisdictions of that and all the other terms of this Counter-Indemnity Agreement.

13.6 **Costs**

The Issuer must pay to the Mortgage Bond SPV the amount of all costs and expenses (including legal fees on a scale as between attorney and own client) incurred by the Mortgage Bond SPV in connection with the enforcement or the

preservation of its rights under or in connection with this Counter-Indemnity Agreement.

13.7 **Governing Law and Jurisdiction**

13.7.1 This Counter-Indemnity Agreement shall be governed by and construed in accordance with the laws of South Africa.

13.7.2 The Issuer agrees that any legal action or proceedings arising out of or in connection with this Counter-Indemnity Agreement may be brought against it in the High Court of South Africa, Gauteng Local Division, Johannesburg (or any successor to that court) and irrevocably submits to the non-exclusive jurisdiction of such court. The Issuer irrevocably waives any objection it may now or hereafter have that such action or proceeding has been brought in an inconvenient forum. Nothing herein shall affect the right of the Mortgage Bond SPV to serve process in any manner permitted by law. The submission to such jurisdiction shall not (and shall not be construed so as to) limit the right of the Mortgage Bond SPV to take proceedings against the Issuer in whatever other jurisdiction the Mortgage Bond SPV considers appropriate nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction whether concurrently or not.

13.8 **Further assurances**

The Issuer shall perform, or procure the performance, of all further things, and execute and deliver (or procure the execution and delivery) of all further documents, as may be required by any applicable law or regulation or as may be necessary or desirable to implement or give effect to this Counter-Indemnity Agreement and the transactions contemplated herein.

13.9 **Independent advice**

The Issuer acknowledges that it has been free to secure independent legal and other advice as to the nature and effect of all the provisions of this Counter-Indemnity Agreement and that it has either taken such independent legal and other advice or dispensed with the necessity of doing so. Further, the Issuer acknowledges that all of the provisions of this Counter-Indemnity Agreement and the restrictions herein contained have been negotiated as between it and the other Parties hereto and are part of the overall intention of the Parties in connection with this Counter-Indemnity Agreement.

13.10 **Counterparts**

This Counter-Indemnity Agreement may be executed in any number of counterparts. This has the same effect as if the signatures on the counterparts were on a single copy of this Counter-Indemnity Agreement.

SIGNATURE PAGE

THE MORTGAGE BOND SPV

For and on behalf of:

**FREESTONE MORTGAGE BOND SPV
SERIES 1 (RF) PROPRIETARY
LIMITED**

Name: _____

Date: _____

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SIGNATURE PAGE

THE ISSUER



For and on behalf of:

EMIRA PROPERTY FUND LIMITED

(in its capacity as Issuer)

Name: GM ROOZE GM JENNETT

Date: 18/11/18 15-11-2018