

EXECUTION

**INDEMNITY DATED 11 DECEMBER 2019
in respect of Transaction 3 of the Issuer Programme established by AB Finco 1 (RF) Limited**

entered into by

AB FINCO 1 (RF) LIMITED
(the **Issuer**)

and

AB FINCO 1 SECURITY SPV (RF) PROPRIETARY LIMITED
(the **Security SPV**)

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1. INTRODUCTION

- 1.1 The Issuer has established the Issuer Programme.
- 1.2 Under the Issuer Programme, the Issuer may establish one or more Transactions by signing an Applicable Transaction Supplement in respect of each relevant Transaction.
- 1.3 The Issuer has established Transaction 3 of the Issuer Programme and proposes to issue Notes in respect of such Transaction.
- 1.4 The Security SPV has been established for the purpose of holding and realising security for the benefit of the Secured Creditors in respect of the obligations of the Issuer to the Secured Creditors in terms of the Transaction Documents.
- 1.5 In order to give effect to the principles set out in clause 1.4 above, the Security SPV shall, in respect of Transaction 3:
 - 1.5.1 guarantee to each of the Secured Creditors on the terms set out in the Guarantee, the payment of their claims on the occurrence of Guarantee Event;
 - 1.5.2 obtain and hold the Indemnity from the Issuer against any claims made against the Security SPV pursuant to the Guarantee; and
 - 1.5.3 if Guarantee Event occurs:
 - (a) claim from the Issuer in terms of the Indemnity;
 - (b) realise the Security, if necessary; and
 - (c) pay to each Secured Creditor, in accordance with the Guarantee and in the order and subject to the terms of the Post-Enforcement Priority of Payments, the amount of its claim.

2. DEFINITIONS AND INTERPRETATION

- 2.1 The Common Terms Agreement signed by, among others, the parties to this Agreement (as such Agreement may be amended, novated and/or substituted from time to time in accordance with its terms) is expressly and specifically incorporated into this Agreement and, accordingly, the expressions defined in, and the terms and provisions of, the Common Terms Agreement (as so amended, novated and/or substituted) shall, except where the context otherwise requires and save where otherwise defined or provided for in this Agreement, have the same meanings in this Agreement and shall form part of this Agreement.
- 2.2 All capitalised terms used in this Agreement refer to such term in respect of Transaction 3 of the Issuer Programme.
- 2.3 If there is any conflict between the provisions of the Common Terms Agreement and the provisions of this Agreement, the provisions of this Agreement shall prevail with the exception of clause 3 (*Subordination, Limited Recourse, Enforcement and Non-Petition*) of the Common Terms Agreement which shall, in any case, prevail.

3. INDEMNITY FOR CLAIM UNDER THE GUARANTEE

- 3.1 The Issuer shall and hereby does, with effect from the Date of Signature, indemnify and hold the Security SPV harmless against all and any claims which may be made against the Security SPV by any Secured Creditor arising in any manner whatsoever out of or

in connection with the Guarantee, including any loss, liability, damage, claim, cost or expense of whatsoever nature, and legal costs as between attorney and own client, which the Security SPV might suffer or incur in consequence of executing or furnishing, or arising out of or in the enforcement of and/or compliance with, the Guarantee.

- 3.2 If any Secured Creditor lodges a claim against the Security SPV arising in any manner whatsoever out of the Guarantee given by the Security SPV to that Secured Creditor or upon the Security SPV becoming liable to pay a Secured Creditor under the Guarantee:
 - 3.2.1 the Issuer shall forthwith be liable to the Security SPV in terms of this Agreement in respect of the amount for which the Security SPV is liable under the Guarantee; and
 - 3.2.2 the Security SPV shall, not later than the 2 Business Days after it receives that claim in writing, notify the Issuer and demand payment forthwith of the amount of that claim from the Issuer, provided that any delay in notifying the Issuer of a claim under this Agreement shall not release the Issuer from liability in terms of this Agreement.
- 3.3 Upon receipt by the Issuer of any written notice from the Security SPV stating that an amount is payable by the Issuer pursuant to this Agreement, or that the Issuer is obliged to perform any obligation to the Security SPV in terms of this Agreement, the Issuer shall pay such amount or perform such obligation, forthwith upon demand as envisaged in clause 3.2.2, in cash, without set-off, withholding or deduction of any nature whatsoever into a bank account nominated in writing by the Security SPV subject to clause 5.
- 3.4 The Security SPV shall not apply any monies recovered from the Issuer pursuant to this Agreement to meet any liability on the part of the Security SPV to Secured Creditors for any loss occasioned by or arising from the Security SPV's dishonesty, gross negligence or breach of contract.
- 3.5 The Issuer shall not be entitled to refuse to make payment of the indemnified claims to the Security SPV by reason of the fact that the Security SPV has not paid the claims of the Secured Creditors under the Guarantee, nor shall the Issuer be entitled to refuse to make such payment by reason of the fact that the liability of the Security SPV in respect of the Guarantee is limited in the manner set out in the Guarantee.
- 3.6 Any payment made by the Issuer under this Agreement shall discharge its liability in like amount for the underlying obligations to which that payment relates.
- 3.7 A certificate signed by any representative of the Security SPV, whose appointment or authority need not be proven, reflecting the amount owing by the Issuer to the Security SPV under this Agreement, and the due date for payment of such amounts, will be *prima facie* evidence of the contents of such certificate.
- 3.8 On the Date of Signature of this Agreement, the Issuer shall be, and shall remain, bound to the full extent of this Agreement, which shall at all times be fully and immediately enforceable, despite:
 - 3.8.1 any of the obligations of the Issuer in respect of amounts owing to any Secured Creditors or any security granted by the Issuer or any other person in respect of such amounts owing, being or becoming illegal, invalid, unenforceable or ineffective in any respect;
 - 3.8.2 any incapacity or lack of power, authority or legal personality of or dissolution or change in the directors of the Security SPV or in the directors of the Issuer or in the status of the Issuer or the Security SPV or any other person;

- 3.8.3 the Issuer being deregistered, being placed in liquidation or under business rescue (whether provisionally or finally, voluntarily or compulsorily), or otherwise becoming subject to any other legal liability or to any law for the benefit or assistance of debtors and/or creditors, or entering into or becoming subject to any scheme of arrangement or compromise or the Security SPV being sequestrated or any change in the status, function, control or ownership of the Issuer or the Security SPV, as the case may be;
- 3.8.4 any intended security not being obtained or protected or being released or ceasing to be enforceable or ceasing to be held for any other reason;
- 3.8.5 the obligations of the Issuer or the Security SPV being varied or novated, whether by agreement, operation of law or otherwise;
- 3.8.6 any amendment (however fundamental) or replacement of any Transaction Document or any other document or security;
- 3.8.7 the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, the Issuer or any other person;
- 3.8.8 any other cause which, but for the provisions of this clause 3, would or might have the effect of terminating, discharging or in any other manner whatsoever affecting any of the Issuer's obligations under this Agreement.
- 3.9 The obligation of the Issuer and liability under this Agreement shall continue and remain in full force and effect as a continuing security and indemnity until such time as:
- 3.9.1 the Security SPV is entirely and finally released and discharged from its obligations under the Guarantee; and
- 3.9.2 the Issuer has finally discharged all of its obligations under this Agreement,
- and the Issuer shall not be entitled to withdraw from or terminate this Agreement until the Security SPV has been fully and finally released and discharged and the Guarantee has been cancelled.
- 3.10 Should the Issuer resist any claim arising out of this Indemnity on the grounds that:
- 3.10.1 there is no *causa* (ie reason or basis) for the Security SPV's claim (*ie. non causa debiti*); or
- 3.10.2 errors have been made in calculating the amount claimed (*ie. errore calculi*); or
- 3.10.3 in the case of monies lent, no money, or less money than has been claimed, has been advanced (*ie. non numeratae pecuniae*); or
- 3.10.4 no value has been received,
- the onus of proving that ground or those grounds shall be on the Issuer.
- 3.11 The Issuer shall, upon the Security SPV informing the Secured Creditors that the Issuer has no further Assets available for payment of any sums outstanding and owing by the Issuer and upon the Security SPV's release under the Guarantee, be entitled to request the Security SPV to confirm in writing that the obligations owing by the Issuer to the Security SPV in terms of this Agreement have been discharged. Any such confirmation of release shall not however apply in respect of any liability of the Issuer which is reinstated following such release, or in respect of the Security SPV's and/or the Issuer's

liability for all obligations existing at the date of release (including any variation or novation of the obligations as a result of any subsequent agreement between the Issuer and the Secured Creditors, or which may take effect by operation of law or otherwise).

- 3.12 Upon the release of the Issuer from liability under this Agreement, the original of this Agreement shall be delivered to the Issuer, provided that if at any time thereafter any of the Security SPV's obligations under the Guarantee are reinstated, the original of this Agreement shall be returned forthwith to the Security SPV.

4. SECURITY SPV TO HOLD SECURITY

- 4.1 As security for the obligations arising out of this Agreement to the Security SPV, the Issuer shall execute the Security Agreements in favour of the Security SPV.

- 4.2 The Issuer shall and hereby undertakes to the Security SPV that it shall not in any manner whatsoever create any Encumbrances of any nature whatsoever (other than those created by the execution of the Security Agreements) in favour of third parties over any Assets of any nature whatsoever from time to time held by it and including (but without limitation) the Assets which are the subject of any cession in security to the Security SPV in terms of the Security Agreements.

- 4.3 If the Issuer does not forthwith pay any amount due and payable by it pursuant to the demand in terms of clause 3.2.2 as read with clause 3.3, the Security SPV shall be entitled and obliged:

- 4.3.1 to take all such steps as may be reasonably necessary in order to realise the Security given to the Security SPV in terms of the Security Agreements and otherwise to enforce the claim against the Issuer pursuant to this Agreement; and

- 4.3.2 out of the proceeds of that Security and amounts recovered pursuant to this Agreement, pay the claims of the Secured Creditors in accordance with the Post-Enforcement Priority of Payments.

5. LIMITATION OF LIABILITY OF THE ISSUER

Notwithstanding anything to the contrary contained in this Agreement, the liability of the Issuer in terms of this Agreement shall strictly be limited to, and shall not be construed at any time so as to exceed, the amounts recovered and available for distribution from the Assets. The Security SPV acknowledges and agrees that it shall not be entitled to claim from the Issuer any amount in excess of the amounts recovered and available for distribution from the Assets.

THIS AGREEMENT has been entered into on the date stated at the beginning of this Agreement.

SIGNATURE PAGE

THE ISSUER

A handwritten signature in black ink, appearing to be 'J. Burnett', written over a horizontal line.

For and on behalf of:

AB FINCO 1 (RF) LIMITED


Name: J. BURNETT

Capacity: DIRECTOR

(who warrants his authority)

SIGNATURE PAGE

THE SECURITY SPV



For and on behalf of:

**AB FINCO 1 SECURITY SPV (RF)
PROPRIETARY LIMITED**

Name: ASUMIHA MPHABLELE

Capacity: DIRECTOR
(who warrants his authority)