

Dated

2017

RENTAL GUARANTEE AGREEMENT

Claremont Co Pty Ltd
ACN 605 551 737 ABN 87 372 513 788 (Vendor)

[]
(Purchaser/s)

**Lot No [], Plan of Subdivision PS805166C
42-48 Claremont Street, South Yarra, Victoria**

THIS DEED is made the

day of

2017.

BETWEEN: **CLAREMONT CO PTY LTD ACN 605 551 737 ABN 87 372 513 788** of Ground Floor, 155 Cremorne Street, Richmond, Victoria ("**the Vendor**") of the one part

AND The party or parties described as the purchaser in the Schedule hereto ("**the Purchaser**") of the other part

WHEREAS:

A. By a contract of sale bearing the date referred to in the Schedule hereto ("**Contract of Sale**") between the Vendor and the Purchaser the Vendor agreed to sell to the Purchaser the land ("**Land**") described in the Schedule hereto upon the terms and conditions referred to in the Contract of Sale.

B. The Vendor has agreed to guarantee to the Purchaser for the period of a five (5) years commencing 14 days after Settlement a gross rental return as follows:

1 st Year	An annual amount equal to 5% of the purchase price of the Land
2 nd Year	An annual amount equal to 5% of the purchase price of the Land
3 rd Year	An annual amount representing the rent for the 2 nd year indexed by the Consumer Price Index
4 th Year	An annual amount representing the rent for the 3 rd year indexed by the Consumer Price Index
5 th Year	An annual amount representing the rent for the 4 th year indexed by the Consumer Price

Index

- C. The Vendor's agreement to provide the rental guarantee referred to in Recital B is on the proviso the Purchaser irrevocably authorises the Vendor and the Developer to negotiate with prospective tenants and enter into a lease or leases with such tenants on behalf of the Purchaser.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretation
 - 1.1 Terms capitalised in this agreement (unless repugnant to the context) have the same meaning as defined in the Contract of Sale.
 - 1.2 **Consumer Price Index** means the consumer price index published by the Australian Government Statistician under the heading All Groups, Melbourne.
 - 1.3 **Developer** means Deal Corporation (South Yarra) Pty Ltd ACN 607 526 796 of 155 Cremorne St, Cremorne VIC 3121.
 - 1.4 In this agreement unless the context requires otherwise reference to:
 - 1.4.1 the singular includes the plural and vice versa;
 - 1.4.2 any gender includes all other genders;
 - 1.4.3 a person includes a corporation, company, partnership, joint venture, association, Authority, trust, state or government; and
 - 1.4.4 a reference to the property or the land is a reference to the land described in the Schedule hereto.
 - 1.5 If the whole or any part of a provision of this agreement is invalid or unenforceable then that provision or part of it which is invalid or unenforceable is severed and excluded from this agreement and the validity and enforceability of the remaining provisions are not affected.

- 1.6 Any provision of this agreement which is capable of taking effect after completion of this agreement does not merge on completion of this agreement or in any transfer of the property hereby sold but continues in full force and effect after such completion or transfer.
- 1.7 The word “includes” in any form is not a word of limitation.
- 1.8 Headings are inserted for convenience of reference only and must be ignored in the interpretation of this agreement.
- 1.9 If there is more than one purchaser then each purchaser shall be bound both severally and also jointly with every other purchaser by the terms and conditions of this agreement to be performed and observed by the purchaser.

2. Rental Guarantee

Subject to the Purchaser completing its obligations under the Contract of Sale and to the terms of this agreement, the Vendor hereby guarantees to the Purchaser for the period of 5 years commencing 14 days after Settlement (“**Rental Guarantee Term**”) a gross rental as follows:

1 st Year	An annual amount equal to 5% of the purchase price of the Land
2 nd Year	An annual amount equal to 5% of the purchase price of the Land
3 rd Year	An annual amount representing the rent for the 2 nd year indexed by the Consumer Price Index
4 th Year	An annual amount representing the rent for the 3 rd year indexed by the Consumer Price

Index

5th Year

An annual amount representing the rent for the 4th year indexed by the Consumer Price Index

(“**Rental Guarantee**”) and the following conditions shall apply:

- 2.1. The Vendor will pay the Purchaser any shortfall between the Rental Guarantee (calculated monthly) and the gross rent payable for the corresponding month under any applicable lease of the Land.
- 2.2. The shortfall referred to in clause 2.1 shall be payable monthly in arrears on the first day of each month with the first payment to be paid on the first day of the month following settlement and the last payment on the date the Rental Guarantee lapses as provided in clause 2.6. The amount for the first and last payments are to be calculated on a pro-rata basis to reflect any period less than one month (if applicable).
- 2.3. The Purchaser hereby agrees to and irrevocably authorises the Vendor or the Developer to:
 - (a) appoint any agent as the leasing agent during the Rental Guarantee Term and such other period as may be agreed in writing;
 - (b) for such agent, the Vendor, or the Developer to negotiate with prospective tenants and lease the Land and to sign all documents and do anything necessary in the Purchaser’s name and on the Purchaser’s behalf to give effect to a lease of the Land; and
 - (c) if a prospective tenant requires it, that it be a term of any lease entered into on the Purchaser’s behalf that the Purchaser make a once off payment not

exceeding \$12,000 (plus GST) to the tenant so that the tenant furnishes the Land in preparation for occupation.

- 2.4. The Purchaser will:
- (a) give the Vendor and/or the agent unrestricted access to the Land for any purpose connected to leasing the Land;
 - (b) keep the Land vacant until it is leased;
 - (c) if requested by the Vendor or the Developer, ratify any lease entered into or pursuant or incidental to clause 2.3 above; and
 - (d) accept any offer to lease the Land as recommended by the Vendor or the Developer.
- 2.5. The Purchaser must not lease or commence occupation of the Land for any period during the Rental Guarantee Term without the Vendor or Developer's prior approval. Should the Purchaser breach this clause 2.5, the Rental Guarantee shall not apply.
- 2.6. The Purchaser acknowledges and agrees the Rental Guarantee will automatically lapse on the earlier of:
- (a) the expiration of the Rental Guarantee Term; or
 - (b) termination of this agreement in accordance with clause 4;
 - (c) the Purchaser revoking or purporting to revoke the Purchaser's authority given as referred to in Recital C.
- 2.7. The Purchaser is and shall remain principally liable for payment of all outgoings relating to the Land including but not limited to insurance, owners corporation fees and levies, council rates, water rates and agent's fees and commission, and the

Vendor and the Developer are not and shall not be liable to make any such payments.

2.8. The Rental Guarantee is for the sole benefit of the Purchaser named in the Contract of Sale and it may not be assigned or transferred to any other party without the consent of the Vendor.

2.9. Any letting fee charged by the agent appointed by the Vendor pursuant to clause 2.3 above shall be payable by the Purchaser.

3. Authority

3.1. The Rental Guarantee is conditional upon the Purchaser executing and providing to the Vendor and the Developer an irrevocable authority (in the form annexed at Annexure A) authorising them to enter in the name of the Purchaser and on the Purchaser's behalf any lease or tenancy agreement referred to in clause 2 of this agreement, and in particular the documents referred to in clause 2.3(b) of this agreement.

4. Cancellation/Termination of the Rental Guarantee

4.1. The Rental Guarantee will not apply and this agreement shall be cancelled (without prejudice to the Vendor or the Developer's rights either under this agreement or the Contract of Sale) in the following circumstances:

(a) The Purchaser revokes or purports to revoke the authority referred to in clause 3 herein.

(b) The Purchaser does not deliver vacant possession to the Vendor to allow the property to be leased.

- (c) The Purchaser is in default under any of its obligations under the Contract of Sale (including but not limited to the obligation to settle on the date due for settlement).
- (d) The Purchaser refuses to sign any lease or consider any tenant put forward by the Vendor to satisfy or partly satisfy the Vendor's obligations in providing the Rental Guarantee to the Purchaser.
- (e) The Purchaser terminates any lease over the Land.
- (f) A mortgagee of the Purchaser takes possession over the Land.
- (g) The Purchaser breaches any clause of this agreement.

EXECUTED by the parties the day and year first hereinbefore written.

SIGNED for and on behalf of the)
Vendor by:) _____

SIGNED by the Purchaser/s:) _____

SCHEDULE

DATE OF CONTRACT:

**DESCRIPTION OF LAND
AS DESCRIBED IN THE
ORIGINAL CONTRACT
OF SALE:**

Lot [] Plan of Subdivision PS805166C,
42-48 Claremont Street, South Yarra, Victoria

PURCHASER/S

ANNEXURE A

Irrevocable Authority

To: Claremont Co Pty Ltd
c/- 155 Cremorne Street
Cremorne VIC 3121

(Vendor)

Deal Corporation (South Yarra) Pty Ltd
155 Cremorne Street
Cremorne VIC 3121

(Deal Corporation)

Re: Sale of Lot [] 42-48 Claremont Street, South Yarra VIC (**Land**)

I _____

Of _____

having executed a Rental Guarantee Agreement with the Vendor now:

For valuable consideration, hereby unconditionally and irrevocably:

- a) Appoint each of you as my agent for the Rental Guarantee Term and such other period as may be agreed in writing; and
- b) Authorise each of you in my name and on my behalf to:
 - i. Negotiate and lease in my name and on my behalf the Land on whatever terms you can procure;
 - ii. sign all documents and do whatever you consider necessary in my name and on my behalf to lease the Land as referred to in (i) above; and
 - iii. Appoint any agent you consider appropriate as leasing agent to lease the Land.

Terms defined in the Rental Guarantee Agreement have the same meaning where used in this document.

EXECUTED by:

Signature: _____

Name :.....

Date :.....