

DEED OF NOVATION

DETAILS

PARTIES

Developer **PARRA RISE PTY LTD ACN 609 901 028**

Transferee **GQ AUSTRALIA FUND I PARRAMATTA PTY LTD ACN 655
016 005 ATF GQ BTR PARRAMATTA TRUST**

DATE OF DEED 23 November 2022

TERMS

INTRODUCTION

- A. On or around 24 December 2020, the Council and the Developer entered into the Planning Agreement.
- B. Clause 12.3 of the Planning Agreement generally states that the Developer may not transfer, assign or dispose of the whole or any part of its right, title or interest in the Land (present or future) to another person unless the Transferee delivers to the Council a novation deed signed by the Transferee in a form and of such substance as is acceptable to the Council containing provisions under which the Transferee agrees to comply with all the outstanding obligations of the Developer under the Planning Agreement.
- C. The Developer and the Transferee have entered, or will on the date of this Deed enter, into the Contract.

IT IS AGREED

DEFINITIONS AND INTERPRETATION

1. In this Deed:

Contract means the contract for the sale and purchase of land dated 23 November 2022 and made between the Developer (as vendor) and the Transferee (as Purchaser) in respect of the Land;

Council means City of Parramatta Council (ABN 49 907 174 773);

Deed means this deed and any annexure to it;

Effective Date means the date of this Deed or the date of completion of the Contract, whichever is the later;

Land means Lot 156 in Deposited Plan 1240854, known as 12 Hassall Street, Parramatta NSW 2150; and

Planning Agreement means the voluntary planning agreement made between the Council and the Developer on or about 12 February 2021 and registered on title to the Land (registration number AQ790263);

2. Capitalised terms used in this Deed bear the same meaning as in the Planning Agreement unless varied by this Deed.

NOVATION

3. On and from the Effective Date, the Transferee covenants to perform and observe the terms and conditions of the Planning Agreement and to be bound by it as if the Transferee was a party to the Planning Agreement in lieu of the Developer.
4. On and from the Effective Date, the Transferee:
 - (a) takes all rights, benefits and interests under the Planning Agreement to which, but for this Deed, the Developer would have been entitled to, which the Developer hereby novates to the Transferee on the Effective Date; and
 - (b) must perform all obligations and discharge all liabilities under the Planning Agreement which, but for this Deed, the Developer would have been required to perform or discharge at and after the Effective Date.
5. On and from the Effective Date, any reference in the Planning Agreement to the Developer is to be read as a reference to the Transferee.

RELEASE

6. On and from the Effective Date, the Developer releases and discharges the Council from all claims, demands and liability under the Planning Agreement.

DEVELOPER AND TRANSFEEE ACKNOWLEDGEMENT

7. The Developer acknowledges and confirms that:
 - (a) the Developer has not provided any Bank Guarantees under the Planning Agreement; and
 - (b) the Transferee is not required to provide any replacement Bonds or Bank Guarantees, as contemplated in clause 12.3(a)(iv) of the Planning Agreement.
8. The Developer and Transferee acknowledge and confirm that the rights of Council will not be diminished or fettered in any way, by the Developer and Transferee entering into this Deed, the Contract, or as a result of the Transferee becoming the registered proprietor of the Land.

COSTS

9. The Developer and the Transferee must, jointly and severally, pay the Council's reasonable costs in relation to this Deed.

10. The Developer and the Transferee must pay their own legal and other costs in respect of this Deed.

WARRANTIES

11. Each party warrants in respect of itself that it has full power and capacity to enter into and perform its obligations under this Deed and the execution, delivery and performance of this Deed complies with its constitution or other constituent documents (as applicable).
12. The Developer warrants that, as at the date of the Contract and again on the Effective Date:
 - (a) the Planning Agreement is current and in operation and has not been varied or amended;
 - (b) there are no current breaches or defaults by the Developer or by Council of any provision of the Planning Agreement;
 - (c) the Developer has not received any written notice from Council that Council considers the Planning Agreement to be unenforceable, void, voidable, terminated, or capable of immediate termination;
 - (d) there are no outstanding Developer obligations or payments under the Planning Agreement which relate to the period prior to the Effective Date.

WAIVER OR VARIATION

13. A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
14. The exercise of a power or right does not preclude:
 - (a) its future exercise; or
 - (b) the exercise of any other power or right.
15. The variation or waiver of a provision of this Deed or a party's consent to a departure from a provision by another party will be ineffective unless in writing executed by the other parties.

GOVERNING LAW AND JURISDICTION

16. This Deed is governed by the laws of New South Wales. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales.

FURTHER ASSURANCE

17. Each party will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this Deed.

ENTIRE AGREEMENT

18. In relation to the subject matter of this Deed:

- (a) this Deed is the whole agreement between the parties; and
- (b) this Deed supersedes all oral and written communications by or on behalf of any of the parties.

SEVERANCE

19. If any part of this Deed is invalid or unenforceable, this Deed does not include it. The remainder of this Deed continues in full force.

COUNTERPARTS

20. This Deed may be executed in any number of counterparts each signed by one or more parties. Each counterpart when so executed is deemed to be an original and all such counterparts taken together constitute one document and the date of this Deed will be the date on which a counterpart is executed by the last party. The exchange of executed counterparts by email or fax will create a binding Deed.

ELECTRONIC EXECUTION

21. The parties acknowledge and agree that:
- (a) this Deed may be executed and exchanged using electronic means;
 - (b) each party consents to the execution and exchange of this Deed by electronic means; and
 - (c) the parties agree to be legally bound by this Deed being executed and exchanged by electronic means.
22. If a party delivers an executed counterpart of this Deed by electronic means:
- (a) the delivery will be deemed to be an effective delivery of an originally executed counterpart; and
 - (b) the failure of a party to deliver an originally executed counterpart will not affect the validity or effectiveness of the Deed.
23. Each party agrees that a company that executes this Deed under section 127 of the *Corporations Act 2001* (Cth) may do so by having each signatory sign a copy or a counterpart of this Deed in a physical or electronic form. Each such company agrees to be legally bound by this Deed signed in this way.

LIMITATION OF LIABILITY

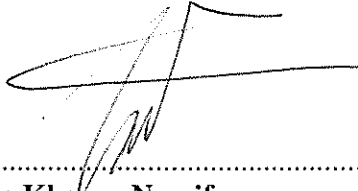
- 24. Transferee as Trustee**
- 24.1. The Transferee enters into this Deed only in its capacity as trustee of the Trust and in no other capacity.

- 24.2. The Transferee is referred to in this clause 24 as a trustee (**Trustee**) and references in this clause 24 to Trust are to the GQ BTR Parramatta Trust.
- 24.3. A liability of the Trustee arising under or in connection with this Deed is strictly limited to the extent to which (and can be enforced against the Trustee only to the extent to which) it can be satisfied out of property of the Trust out of which the Trustee is actually indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of this Deed (except clause 24.5) and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Deed.
- 24.4. A party may not sue the Trustee in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to the property of the Trust).
- 24.5. The provisions of this clause 24 shall not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because under the trust deed establishing the Trust, or by operation of law, there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust, as a result of the Trustee's fraud, negligence, breach of trust or breach of duty.

EXECUTED AS A DEED.

Developer

EXECUTED for and on behalf of **PARRA RISE PTY LTD ACN 609 901 028** in accordance with Section 127(1) of the *Corporations Act 2001*:



.....
Jean Khazen Nassif
Sole director and secretary

Transferee

SIGNED for and on behalf of **GQ AUSTRALIA FUND I PARRAMATTA PTY LTD ACN 655 016 005 ATF GQ BTR PARRAMATTA TRUST** by its duly authorised Attorneys of the Power of Attorney

Dated: 26/10/2022

who warrant that the Power of Attorney has not been revoked:


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Signature of Witness

Edwina Strange


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Name of Witness

DocuSigned by:

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Signature of Witness

Angie Wong

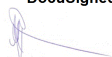
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Signature of Attorney

Tim Gurner

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Name of Attorney

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Signature of Attorney

Mark Fischer

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Name of Attorney