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| Dated  First Tenant Rental Assurance Deed  Parties  **Lazy Daze Pty Ltd ATF The DB Management Trust**  ACN 100 236 691  **The Purchaser of Lot …………….. ALTO and TENOR** |
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**First Tenant Rental Assurance Deed**

**Date:**

**Parties** **LAZY DAZE PTY LTD ATF THE DB MANAGEMENT TRUST ACN 100 236 691** of 3 Hudd Street, Bowen Hills, Queensland Australia

**(‘MANAGER’)**

…………………………………………………………………………. of

………………………………………………………………………….

**(‘PURCHASER’)**

**BEING THE PURCHASER OF LOT ………….. ALTO &TENOR (‘PROPERTY’)**

**Introduction**

1. The Purchaser has entered into the Contract to purchase the Property.
2. The Manager expects to be appointed as the Caretaker and Letting agent for the Alto & Tenor building, in which the Property will be located.
3. The Manager has agreed to provide a conditional 3 month rental assurance to the Purchaser, in exchange for the Purchaser appointing the Manager to be the managing agent for the Property.
4. This Deed contains the agreed terms for the rental assurance.

**Operative Provisions**

# Definitions and interpretation

## **Definitions**

In this Deed:

### **Business Day** means a day that is not a Saturday, Sunday or any other day which is a public holiday or a bank holiday in the place where an act is to be performed or a payment is to be made;

### **Contract** means the contract between the Purchaser and the Vendor, pursuant to which the Purchaser is purchasing the Property;

### **Deed** means this document, including any schedule or annexure to it;

### **Property** means the proposed lot described at the commencement of this Deed, being in the Alto & Tenor building to be constructed at 21 Upper & 28 Lower Clifton Terrace, Red Hill, Australia;

### **Related Body Corporate** has the meaning given in section 9 of the *Corporations Act 2001*;

### **Rental Assurance Amount** means the amount which, when annualised, represents 5.0% of the price paid by the Purchaser to the Vendor for the Property;

### **Rental Assurance Period** means the period commencing on the first day after the Settlement Date and ending on the earlier of the following dates:

#### the date which is 3 months after the Settlement Date; and

#### the date of commencement of a Tenancy Agreement for the Property.

### **Settlement Date** means the date on which settlement of the Contract takes place;

### **Tenancy Agreement** means a residential tenancy agreement entered into between the Purchaser and a tenant for the Property for a term of not less than 3 months;

### **Vendor** means Noel Anthony Greenhalgh & Maria Teresa Greenhalgh as trustee under instrument 708499009, the Vendor of the property;

## **Interpretation**

### Reference to:

#### one gender includes each other gender;

#### the singular includes the plural and the plural includes the singular;

#### a person includes a body corporate;

#### an associate of a person means another person who is associated with that person by application of any of the provisions of Division 2 of Part 1.2 of the *Corporations Act 2001*;

#### a party includes the party’s executors, administrators, successors and permitted assigns; and

#### a statute, regulation or provision of a statute or regulation (**Statutory Provision**) includes:

##### that Statutory Provision as amended or re‑enacted from time to time; and

##### a statute, regulation or provision enacted in replacement of that Statutory Provision.

### “Including” and similar expressions are not words of limitation.

### Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

### Headings and any table of contents or index are for convenience only and do not form part of this Deed or affect its interpretation.

### A provision of this Deed must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Deed or the inclusion of the provision in the Deed.

### All monetary amounts are in Australian dollars, unless otherwise stated.

### If an act must be done on a specified day which is not a Business Day, the act must be done instead on the next Business Day.

## **Parties**

### If a party consists of more than 1 person, this Deed binds each of them separately and any 2 or more of them jointly.

### A party which is a trustee is bound both personally and in its capacity as a trustee.

# Conditions Precedent to payment of Rental Assurance

## The conditions precedent to payment of the Rental Assurance Amount are as follows:

### The Contract must become unconditional by no later than 15 April 2016;

### Settlement of the Contract must occur on or before the due date for settlement under the Contract;

### The Purchaser must sign all applicable forms and documents to appoint the Manager to let the Property as agent for the Purchaser;

### The Purchaser must make the Property available for occupancy by a tenant in a good and tenantable condition;

### The Purchaser must enter into a Tenancy Agreement with any respectable and responsible tenant recommended by the Manager.

## If any condition precedent in clause 2.1 is not satisfied, this Deed will be at an end and neither party will have any further obligation to the other.

# Payment of Rental Assurance

## Subject to satisfaction of the conditions precedent in clause 2.1, the Manager agrees to pay the Rental Assurance Amount for the Rental Assurance Period.

## Payments under clause 3.1 will be made monthly in arrears, with a pro-rata adjustment to be made for any periods of less than one month.

# Costs

## Each party will pay their own costs of and incidental to the negotiation, preparation and execution of this Deed.

# Notices

## A notice or other communication connected with this Deed (**Notice**) has no legal effect unless it is in writing and:

### sent by registered post, postage prepaid, to the address for service of the addressee, if the address is in Australia and the Notice is being sent from within Australia;

### sent by prepaid airmail to the address for service of the addressee, if the address is outside Australia or the Notice is being sent from outside Australia;

### sent by facsimile to the facsimile number of the addressee; or

### otherwise delivered at the address for service of the addressee.

## A certificate signed by a party giving a Notice or by an officer or employee of that party stating the date on which that Notice was delivered or sent under clause 5.1 is prima facie evidence of the date on which that Notice was delivered or sent.

## Where the Notice is delivered or sent in a manner provided by clause 5.1, it must be treated as given to and received by the party to which it is addressed:

### if mailed from within Australia to an address in Australia, on actual delivery to that address as evidenced by Australia Post documentation;

### if mailed to an address outside Australia or mailed from outside Australia, on the 5th Business Day (at the address to which it is mailed) after mailing;

### if sent by facsimile before 4 p.m. on a Business Day at the place of receipt, on the day it is sent and otherwise on the next Business Day at the place of receipt; or

### if otherwise delivered, upon delivery.

## Despite clause 5.3(3):

### a facsimile is not treated as given and received unless at the conclusion of the transmission the sender’s facsimile machine issues a transmission report which indicates that the relevant number of pages comprised in the Notice have been sent; and

### a facsimile is not treated as given and received if it is not received in full and in legible form and the addressee notifies the sender of that fact within 3 hours after conclusion of the transmission or by 12 noon on the Business Day on which it would otherwise be treated as given and received, whichever is the later.

## A Notice delivered or sent in a manner provided by clause 5.1 must be treated as validly given to and received by the party to which it is addressed even if:

### the addressee has been liquidated or deregistered or is absent from the place at which the Notice is delivered or to which it is sent; or

### the Notice is returned unclaimed.

## A party may change its address for service or facsimile number by giving Notice of that change to each other party.

## If the party to which a Notice is intended to be given consists of more than 1 person then the Notice must be treated as given to that party if given to any of those persons.

## Any Notice by a party may be given and may be signed by the solicitor for the party.

## Any Notice to a party may be given to the solicitor for the party by any of the means listed in clause 5.1 to the solicitor’s business address or facsimile number as the case may be.

# Assignment

## At any time prior to performance of the obligations in clause 3, the Purchaser may assign its interest in this Deed to another party who becomes owner of the Property, provided the assignee first signs a deed of covenant in favour of the Manager in which the assignee covenants to be bound by the obligations of the Purchaser under this Deed, so far as they remain to be performed. If required by the Purchaser, the Manager must also sign that deed of covenant.

## If for any reason the Manager is not appointed as the letting agent for the Alto & Tenor building, the Manager may assign its interest in this Deed to the party which is appointed as the Manager for the Alto & Tenor building, provided the assignee first signs a deed of covenant in favour of the Purchaser in which the assignee covenants to be bound by the obligations of the Manager under this Deed, so far as they remain to be performed. If required by the Manager, the Purchaser must also sign that deed of covenant.

# Governing law and jurisdiction

## The law of Queensland governs this Deed.

## The parties submit to the non-exclusive jurisdiction of the courts of Queensland and of the Commonwealth of Australia.

# GST

## Amounts in this Deed are expressed to be exclusive of GST.

## If GST is payable on any taxable supply made under this Deed, the party making the payment will pay an additional amount on account of the GST payable on the supply, in exchange for a tax invoice in accordance with the applicable legislation.

EXECUTED as a Deed.

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| Executed by **LAZY DAZE Pty Ltd ATF THE DB MANAGEMENT TRUST** ACN 100 236 691 in accordance with section 127 of the *Corporations Act 2001:* |  |  |
|  |  |  |
| Director/company secretary |  | Director |
|  |  |  |
| Name of director/company secretary  (BLOCK LETTERS) |  | Name of director  (BLOCK LETTERS) |

|  |  |  |
| --- | --- | --- |
| **EXECUTION BY PURCHASER –**  **COMPANY**  Executed by ……………….…………………………. Pty Ltd  ACN ……………………………. in accordance  with section 127 of the *Corporations*  *Act 2001:* | | |
|  |  |  |
| Director/company secretary |  | Director |
|  |  |  |
| Name of director/company secretary  (BLOCK LETTERS) |  | Name of director  (BLOCK LETTERS) |

|  |  |  |
| --- | --- | --- |
| **EXECUTION BY PURCHASER –**  **INDIVIDUAL**  Executed by ……………….…….………………………….  in the presence of: | | |
|  |  |  |
| Signature of Witness |  | Signature of Purchaser |
|  |  |  |
| Name of Witness  (BLOCK LETTERS) |  | Name of Purchaser  (BLOCK LETTERS) |