

## COMPASS LATITUDE LEIGHTON BEACH – 5% RENTAL GUARANTEE Terms and Conditions

### Background to Promotion

1. Mirvac (WA) Pty Ltd (**Mirvac** or the **Promoter**) recently introduced the Rental Guarantee Promotion for Compass Latitude Leighton Beach (**Promotion**).
2. The Promotion will run for a limited time. The Promotion commences at 8am on 31 March 2020 and ends at 5pm on 30 June 2020 (**Promotion Period**).
3. Under the Promotion, subject to these terms and conditions, Mirvac will provide the Rental Guarantee to Eligible Buyers who purchase 1 of the 10 selected apartments at Compass at Beachside Leighton (**Eligible Property**) during the Promotion Period. Speak to a Mirvac Sales Consultant to find out further details on the Eligible Properties.
4. The following terms and conditions apply to the Promotion. By participating in the Promotion, Eligible Buyers agree to be bound by these terms and conditions.

### Promotion Terms and Conditions

The Eligible Buyer will only be entitled to take part in the Promotion if the following terms and conditions are satisfied:

5. The Promotion is only open to natural persons over the age of 18 acting on their own behalf (**Eligible Buyer**). The Promotion is not open to businesses or corporations.
6. The Promotion is restricted to sales made directly through a Mirvac Sales Consultant.
7. The Promotion is only available to Eligible Buyers who enter into a Contract of Sale with Mirvac to purchase an Eligible Property and that Contract of Sale:
  - a. is entered into during the Promotion Period;
  - b. is unconditional; and
  - c. includes the Rental Guarantee Special Condition,

#### (**Eligible Contract**).

8. If the Eligible Buyer enters into the Eligible Contract during the Promotion Period and settles the Eligible Contract by the first date nominated by the Seller for Settlement (**Due Date**), the Eligible Buyer will be entitled to the Rental Guarantee.
9. The Eligible Buyer will not be entitled to receive any part of the Rental Guarantee if the Eligible Contract is terminated, the Eligible Buyer breaches these terms and conditions or the Eligible Contract, or settlement of the Eligible Contract occurs after the date for settlement required under the Eligible Contract.

10. The items in the Rental Guarantee are subject to amendment by Mirvac but subject to the terms of the Eligible Contract. Where an item of the Rental Guarantee is unavailable for any reason, Mirvac may substitute that item for another item of equal or higher value as determined by Mirvac.
11. The Eligible Buyer's right to receive the Rental Guarantee will be exclusive to the Eligible Buyer and cannot be transferred to any other party.
12. The Eligible Buyer is required to disclose these terms and conditions to the Lending Institution as soon as practicable after being provided with these Terms and Conditions by Mirvac. The Eligible Buyer indemnifies Mirvac and its related entities against all claims, damages, losses, liability or proceedings of any nature arising from any breach of this warranty.
13. As a condition of participating in the Promotion, the Eligible Buyer consents to Mirvac releasing information regarding these terms and conditions to the Lending Institution upon Mirvac receiving a request from the Lending Institution and without further reference to the Eligible Buyer.
14. In these terms and conditions, unless the context is otherwise provided, the following words are defined as follows:
  - a. **Depreciation Schedule** means a depreciation schedule for depreciable items in the Property.
  - b. **Lending Institution** means any lending institution providing finance to the Eligible Buyer to assist with the purchase of the Property.
  - c. **Mirvac Sales Consultant** means a Mirvac in-house real estate sales agent and excludes any external or conjunction real estate sales agents.
  - d. **Rental Guarantee** means a rental guarantee in the form of and on the terms set out in the Rental Guarantee Special Condition.
  - e. **Rental Guarantee Special Condition** means a special condition in substantially the same form as Annexure A or on such other terms as Mirvac and the Eligible Buyer may agree.

### Further Terms and Conditions of Promotion

The following additional terms and conditions also apply to the Promotion:

15. The Eligible Buyer acknowledges and agrees that the Promotion is non-transferrable, non-refundable and cannot be exchanged for cash. All taxes which may be payable as a consequence of receiving or participating in the Promotion are the sole responsibility of the Eligible Buyer.
16. The Eligible Buyer must disclose the contents of this Promotion to any lending institution providing finance to the Buyer to assist with the purchase of the Property.
17. The Eligible Buyer forfeits all rights to receiving or participating in the Promotion if the Eligible Buyer does not comply with any of these terms and conditions or any term or condition under the Contract.
18. This Promotion cannot be used in conjunction with any other promotion or campaign promoted by Mirvac.

19. To the extent permitted by law, Mirvac is not liable to the Eligible Buyer for any direct, indirect, consequential, exemplary, incidental, special or punitive damages arising out of or in connection with the Eligible Buyer's participation in this Promotion even if Mirvac has been advised of the possibility of such damages.
20. Prior to an Eligible Buyer's entry into the Contract, Mirvac reserves the right, at its sole discretion, to cancel, terminate, modify, extend or suspend the Promotion at any time without notice.
21. If there is any inconsistency between these terms and conditions and the provisions of the contract of sale entered into by a person participating in the Promotion, the contract of sale prevails.
22. These terms and conditions are governed by the laws of Western Australia.

### **Privacy Collection Statement**

1. The Mirvac Group (Mirvac Limited and its controlled entities) collects and uses personal information about you to promote its products and services and may disclose personal information to third parties agents and services providers including the leasing agent appointed pursuant to the Rental Guarantee Special Condition. Mirvac also uses your personal information for related purposes including to request your feedback on the products and services provided by Mirvac. If you do not provide all the personal information Mirvac requests from you, Mirvac may be unable to provide these products or services to you.
2. Mirvac may disclose personal information about you to third party agents and service providers to assist Mirvac in the operation of its business to provide the products and services you request. Your personal information may also be disclosed to overseas recipients who use the personal information to assist Mirvac in the operation of its business in countries including, but not limited to, the United States of America, the Philippines, Japan and United Kingdom.
3. The Mirvac Group Privacy Policy (available on [www.mirvac.com](http://www.mirvac.com)) contains information about how you may request access to and correction of personal information Mirvac holds about you, or to make a complaint about an alleged breach of the Australian Privacy Principles. You can also contact our Mirvac Privacy Officer using the following details: Phone: (02) 9080 8000; Email: [privacy@mirvac.com](mailto:privacy@mirvac.com); and Address: 'Mirvac Privacy Officer', Mirvac Group Compliance, Level 28, 200 George Street, Sydney, NSW 2000.
4. By participating in the Promotion, you agree to Mirvac using your personal information to promote its products and services. If you no longer wish to receive promotional information from Mirvac, you may advise Mirvac of your wish. The Mirvac Group Privacy Policy contains information about how you may send your request to Mirvac.

### ANNEXURE A – RENTAL GUARANTEE SPECIAL CONDITION

#### 5% Rental Guarantee

1. Subject to the Buyer complying with this special condition (**Rental Guarantee Special Condition**), if the Buyer settles this Contract by the Due Date, the Seller will pay to the Buyer the Monthly Guaranteed Return during the Guarantee Period.
2. Despite anything else in this Contract and without limiting the Seller's other rights and remedies, the Buyer has no right to, and cannot compel the Seller or any other party to provide the Monthly Guaranteed Return if:
  - (a) this Contract is terminated;
  - (b) the Buyer is in default under this Contract or has failed to comply with all the terms and conditions of this Rental Guarantee Special Condition;
  - (c) settlement of this Contract occurs after the Due Date;
  - (d) the Buyer does not execute the Managing Agency Agreement as required by **special condition 4**;
  - (e) the Managing Agency Agreement is terminated, rescinded or otherwise comes to an end prior to expiry of the Guarantee Period;
  - (f) the Buyer has not installed window treatments in the Property as required by **special condition 8**;
  - (g) the Seller does not receive the statement referred to in **special condition 10** as and when required due to the actions or instructions of the Buyer;
  - (h) the Tenancy Agreement terminates, due to a breach or default of the Buyer under the Tenancy Agreement, prior to the expiry date of the Tenancy Agreement; or
  - (i) in the Seller's reasonable opinion, the Buyer:
    - (i) is acting unreasonably in accepting a tenant or is unreasonable in its requirements in selecting a tenant, including without limitation the rent requested for the Property having regard to the market rent for the Property; and
    - (ii) delays in appointing the Approved Leasing Agent or causes or contributes to a delay in securing a tenant.

#### Appointment of Leasing Agent and Tenancy Agreement

3. The Buyer must appoint a leasing agent for the Property (who must be an Approved Leasing Agent) on and as a condition of Settlement.
4. The Buyer must provide the Seller within a reasonable period after the Contract Date and in any event at least 14 days prior to Settlement a copy of the Managing Agency Agreement duly signed by the Buyer.
5. The Seller must procure the Approved Leasing Agent to execute the Managing Agency Agreement signed by the Buyer pursuant to **special condition 4** within a reasonable period after the Contract Date and in any event prior to Settlement. The Seller must serve a copy of the Managing Agency Agreement duly executed by the Approved Leasing Agent on the Buyer.
6. The Buyer acknowledges and agrees that:
  - (a) the Seller may provide a copy of this Rental Guarantee Special Condition to the Approved Leasing Agent;
  - (b) the Buyer must not instruct the Approved Leasing Agent to do anything which is contrary to this Rental Guarantee Special Condition;
  - (c) for the duration of the Guarantee Period, the Seller must be given a copy of any instructions given by the Buyer to the Approved Leasing Agent; and
  - (d) the Seller and the Approved Leasing Agent may enter into an agreement whereby:
    - (iii) the Approved Leasing Agent agrees not to act on any instructions of the Buyer which are contrary to this Rental Guarantee Special Condition; and

- (iv) the Approved Leasing Agent agrees to provide a copy of any instructions received by the Approved Leasing Agent from the Buyer during the Guarantee Period.
- 7. The Seller agrees that the Approved Leasing Agent may advertise the Property for lease prior to Settlement.
- 8. If window treatments have not been installed in the Property by Settlement then the Buyer must promptly procure the installation of window treatments at the Property.
- 9. The Buyer must:
  - (a) do all things reasonably required to enter into a Tenancy Agreement with effect from the Settlement Date, or as soon as possible after the Settlement Date;
  - (b) act reasonably to enter into a Tenancy Agreement with a tenant for the Property proposed by the Approved Leasing Agent at a reasonable rent, which may be less than the Guarantee Amount; and
  - (c) provide the Seller with any information reasonably requested by the Seller in relation to the leasing of the Property and authorises the Seller to obtain any information from the Approved Leasing Agent.
- 10. During the Guarantee Period, the Buyer must instruct the Approved Leasing Agent to provide to the Seller:
  - (a) no later than 7 days after the end of each monthly period of the Tenancy Agreement, a statement setting out the rent paid by the tenant under the Tenancy Agreement for the preceding month, or
  - (b) where a Tenancy Agreement has not been entered into, a monthly report no later than 7 days after the end of the preceding month setting out information regarding potential tenants presented by the Approved Leasing Agent to the Buyer during the preceding month, including but not limited to:
    - (i) a summary of the rental history of any potential tenants;
    - (ii) the rent any potential tenants were prepared to pay;
    - (iii) the length of any lease the potential tenants were prepared to enter into; and
    - (iv) the disclosure of the reason why the proposed tenants have not been accepted by the Buyer.
- 11. The Buyer appoints the Seller as their agent to enter into a Tenancy Agreement prior to Settlement to commence on the date following Settlement of the Contract.

### Payments

- 12. At Settlement and again on the Buyer entering into the Tenancy Agreement the Seller will prepare a Payment Schedule and provide the Payment Schedule to the Buyer.
- 13. Subject to the terms of this Rental Guarantee Special Condition, the Seller must pay the Monthly Guaranteed Return to the Buyer from Settlement to the earlier of:
  - (a) expiry of the Guarantee Period; or
  - (b) termination of the Tenancy Agreement,in the instalments and dates set out in the Payment Schedule.
- 14. All payments of the Monthly Guaranteed Return to be made by the Seller to the Buyer under this Rental Guarantee Special Condition must be paid into an account nominated by the Buyer.
- 15. The Buyer is responsible for payment of all costs, fees, charges, expenses and outgoings of any nature relating to the ownership or leasing of the property.
- 16. For the avoidance of doubt, in no circumstances will the Seller be required to pay the Monthly Guaranteed Return prior to Settlement.

### Property unavailable for use

- 17. If at any time during the Guarantee Period for any reason it is not possible for the Property to be occupied or offered for lease under a Tenancy Agreement, including but not limited, due to renovation works or destruction or damage to the Property, or where the Property is occupied other than under a Tenancy Agreement, the Buyer is not entitled to receive the Monthly Guaranteed Return until it becomes possible for the Property to be occupied or offered for lease.

### Rights exclusive to Buyer

18. The Buyer's right to receive the Monthly Guaranteed Return under this Rental Guarantee Special Condition cannot be transferred or assigned to any other party.
19. If the Buyer sells the Property prior to the expiration of the Guarantee Period, the Buyer's right to receive the Monthly Guaranteed Return will terminate on the date of settlement and may not be assigned or otherwise transferred to the incoming buyer of the Property or any other party.

### Disclosure of the 5% Rental Guarantee

20. The Buyer represents and warrants to the Seller that it will provide a copy of this Rental Guarantee Special Condition to the Lending Institution as soon as practicable after being provided with this Rental Guarantee Special Condition by the Seller. The Buyer indemnifies the Seller and the Seller's Related Bodies Corporate against all claims, damages, losses, liabilities or proceedings of any nature arising from any breach of the warranty in this **special condition 20**.
21. The Buyer consents to the Seller releasing information regarding this Rental Guarantee Special Condition to the Lending Institution without further reference to the Buyer, and upon the Seller receiving a request from the Lending Institution.

### Confidentiality

22. The Buyer:
  - (a) agrees that the negotiations of the parties relating to the transaction contemplated by this Contract and the subject matter and terms and existence of this Contract must be kept confidential and may only be disclosed by the Buyer as required by law or to its professional advisers on the condition that they agree to be bound by the terms of this clause;
  - (b) acknowledges that damages will not be a sufficient remedy for any breach by the Buyer of this **special condition 22** and that the Seller will be entitled to injunctive relief in respect of any actual or threatened breach of this **special condition 22** by the Buyer; and
  - (c) indemnifies the Seller against all claims, damages, losses or expenses incurred directly or indirectly as a consequence of any breach of this clause by the Buyer.

### No merger

23. This Rental Guarantee Special Condition does not merge on Settlement or on the transfer of the real property supplied.

### Definitions

24. In this Rental Guarantee Special Condition:
  - (a) **Approved Leasing Agent** means the leasing agent specified in Item 3 of the Schedule.
  - (b) **Due Date** means the first date nominated by the Seller for Settlement.
  - (c) **Guarantee Amount** means the guarantee amount specified in Item 1 of the Schedule.
  - (d) **Guarantee Period** means the guarantee period specified in Item 2 of the Schedule.
  - (e) **Lending Institution** means any lending institution providing finance to the Buyer to assist with the purchase of the Property.
  - (f) **Managing Agency Agreement** means the agreement between the Buyer and the Approved Leasing Agent entered into in accordance with this **special condition 4**.
  - (g) **Monthly Guaranteed Return** means an amount represented by A in the formula:  
$$A = B/12 - C$$
where B is the Guarantee Amount;

- C is the Rental Return; and  
A cannot be less than zero.
- (h) **Payment Schedule** means a schedule setting out:
- i. all amounts paid and payable by the Seller to the Buyer under this Rental Guarantee Special Condition;
  - ii. the times of those payments from Settlement and from the commencement of the Tenancy Agreement as the case may be; and
  - iii. if applicable, the Rental Return payable from the commencement of the Tenancy Agreement.
- (i) **Related Bodies Corporate** has the meaning given to that term in the *Corporations Act 2001* (Cth).
- (j) **Rental Return** means the monthly rent specified in the Tenancy Agreement, being limited to the gross rent only, without any set-off, deduction for fees or rental expenses.
- (k) **Tenancy Agreement** means a residential lease of the Property for a term of 12 months.

# RENTAL GUARANTEE SPECIAL CONDITION



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## SCHEDULE

1. Guarantee Amount	\$ .....per annum (inclusive of GST, if any), which is an amount equal to 5% of the <i>(insert amount)</i> Purchase Price.
2. Guarantee Period	A period of 12 months commencing on the date on which Settlement occurs.
3. Approved Leasing Agent	Leasing Property WA

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*Signature of Buyer*

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*Signature of Buyer*

\_\_\_\_\_  
*Signature of Seller - Mirvac attorney*

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*Signature of Seller - Mirvac attorney*