



Fee Agreement

**61-67, 71A, 73 and 75 Forest Road, Hurstville
and 126 Durham Street, Hurstville**

The One Capital Group Pty Limited ABN 39 600 814 131

and

..... **Prime Hurstville Pty Limited ABN 44 615 377 672**

and

.....

Wensheng Liu

Ref MMD:KG:625348

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Fee Agreement

Date

20TH OCTOBER 2017

Parties

The One Capital Group Pty Limited ABN 39 600 814 131 c/ - D'Angelo Solicitors, Suite G04, 4-12 Garfield Street, Five Dock 2090

(One Capital)

Prime Hurstville Pty Limited ABN 44 615 377 672 of suite 1705, Level 17, 227 Elizabeth Street, Sydney NSW 2000

(Aoyuan)

Wensheng Liu of [REDACTED] Narwee NSW 2209

(Liu)

Recitals

- A. Aoyuan intends to become the registered proprietor of the Properties.
- B. Aoyuan has agreed to pay to One Capital a fee in respect of the services provided by One Capital in respect of the rezoning of the Properties on the terms and conditions contained in this deed.

This deed witnesses that in consideration of, among other things, the mutual promises contained in this deed the parties agree as follows:

1. Definitions and interpretation clauses

1.1 Definitions

In this deed:

Aoyuan's Representatives means all employees, agents, consultants, advisers and contractors of Aoyuan.

Authority	means any government or governmental, semi-government body statutory, administration, fiscal or financial body, department, commission, Council, authority, tribunal, agency or entity whether public or private, which has authority, jurisdiction or rights over or relating to the Properties, the Call Options and this deed.
Business Day	means a Monday to Friday excluding a Saturday, Sunday or public holiday in New South Wales.
Call Options	means the Garthon Option, the Sentumar Option and the South East Option and, where the context permits, includes the respective Contracts.
Claim	means a claim, demand, suit, cause of action, damage, debt, Cost, verdict and judgment whatsoever whether at law or in equity or under any statute.
Codes	means all building and planning regulations, codes, requirements, plans, legislation, laws and schemes applicable to development on the Properties.
Contracts	means the contracts for sale of land in respect of each of the Properties in the form annexed to each of the Call Options and which will be entered into upon exercise of the call options granted under each of the Call Options.
Cost	means a cost, charge, expense, outgoing, payment, fee or other expenditure of any nature.
Council	means Georges River Council.
Due Diligence Material	means any information, documents or materials: <ul style="list-style-type: none"> (a) referred to in this deed; (b) provided in writing (including by email) to Aoyuan's Representatives in response to reasonable questions or requests for further information raised by or on behalf of Aoyuan or Aoyuan's Representatives; and (c) the subject of written replies to reasonable requests for information submitted by Aoyuan or Aoyuan's Representatives as part of Aoyuan's

due diligence investigations.

Effective Date means the date of this deed.

Event of Default means:

- (a) in respect of a Party, if the following occurs:
 - (i) if that Party does not pay any money payable under this deed within five (5) Business Days of the due date and otherwise in the manner required by this deed;
 - (ii) that Party fails to carry out its obligations under this deed in a proper, timely, professional and workmanlike manner such that in the opinion, acting reasonably, of the Party not in default such failure will have a material and adverse effect on completion of this deed;
 - (iii) distress is levied or a judgement or order is enforced, or becomes enforceable against any property of that Party or can be rendered enforceable by the giving of notice, lapse of time or fulfilment of any condition and the occurrence of that event has a materially adverse effect on the ability of that Party to perform its obligations under this deed;
 - (iv) a representation or warranty made or taken to be made by or on behalf of that Party in connection with this deed is found or is notified by that Party to be incorrect or misleading when made or taken to be made and the occurrence of that event has a materially adverse effect on the ability of that Party to perform its obligations under this deed; and
 - (v) an Insolvency Event occurs in respect of that Party; and
- (b) in respect of One Capital, in addition to the above matters, if One Capital breaches any of the One Capital Warranties and Covenants; and

- (c) in respect of Aoyuan, in addition to the above matters, if Aoyuan breaches any of the Aoyuan warranties contained in clause 11.1.

Fee	means the First Gazettal Payment and the Second Gazettal Payment amounts.
First Gazettal	means the publication in the NSW Government Gazette of a change to the zoning of all the Properties to: <ul style="list-style-type: none"> (a) allow mixed use development (as defined in the LEP); and (b) allow a floor space ratio (as defined in the LEP) of at least 4:1 across all Properties.
First Gazettal Payment	means a dollar amount calculated in accordance with the following formula: $(\text{First Gazettal FSR} \times \$1,386 \times 8546) - \$3,000,000 - \text{Settlement Sum}$
First Gazettal FSR	means the developable floor space for the combined Properties in accordance with the FSR permitted in the First Gazettal (excluding any non-residential developable floor space in excess of a 1.5:1 FSR for the combined Properties) taking into account any restrictions, constraints and limitations on development on the combined Properties arising from or prescribed by any applicable Codes (including building height, over-shadowing and set backs).
First Payment Date	means (10) Business Days after the date of the First Gazettal.
First Sunset Date	means 30 November 2018.
FSR	means floor space ratio as defined in the LEP.
Garthon Option	means the call option between One Capital (as grantee) and Arthur William Garthon and Valda May Garthon (together as grantor) in respect of the Garthon Property pursuant to which Aoyuan purchase the Garthon Property as nominee of One Capital and all variations to that call option.

Garthon Property	means 71A Forest Road, Hurstville being all that land contained in certificate of title 100/776275.
GST	has the meaning in the GST Act.
GST Act	means <i>A New Tax System (Goods and Services Tax) Act 1999</i> (as amended).
IA Amount	means an amount of \$1,500,000 (exclusive of GST) payable to Investment Alliance Group in accordance with clause 6.3.
Insolvency Event	<p>means, in respect of a Party, the happening of any of the following:</p> <ul style="list-style-type: none"> (a) a person is or states that the person is unable to pay from the person's own money all of the person's debts as and when they become due and payable; (b) a person is taken or must be presumed to be insolvent or unable to pay the person's debts under any applicable legislation; (c) an application or order is made (and in the case of an application, is not withdrawn within five (5) Business Days of lodgement) for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of a corporation; (d) an administrator, provisional administrator, liquidator or person having a similar function under the laws of any relevant jurisdiction is appointed in respect of a corporation or any action is taken to appoint any such person and the action is not stayed, withdrawn or dismissed within five Business Days; (e) a controller is appointed in respect of any property of a corporation; (f) a corporation is deregistered under the <i>Corporations Act 2001</i> (Cth) or notice of its proposed deregistration is given to the corporation; (g) a person enters into or takes any action to enter

into an arrangement (including a scheme of arrangement or deed of company arrangement), composition or compromise with, or assignment for the benefit of, all or any class of the person's creditors or members or a moratorium involving any of them;

- (h) a petition for the making of a sequestration order against the estate of a person is presented and the petition is not stayed, withdrawn or dismissed within five (5) Business Days or a person presents a petition against herself or himself;
- (i) a person presents a declaration of intention under s54A of the *Bankruptcy Act 1966* (Cth); or
- (j) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction occurs in respect of a person or corporation.

LEP	means Georges River Local Environmental Plan 2012 or any replacement plan.
Mortgage	means a mortgage in favour of One Capital of the Properties to secure the obligations of Aoyuan under this deed in a form reasonably acceptable to Aoyuan.
One Capital Warranties and Covenants	means the warranties and covenants given by One Capital to Aoyuan as set out in clauses 11.1, 11.2 and 11.3 and each of them separately.
Parties	means One Capital, Aoyuan and Liu.
Previous Agreement	means the Deed of Agreement to Nominate between the Parties dated 25 November 2016 in respect of the Properties.
Properties:	means the Garthon Property, the Sentumar Property and the South East Property.
Second Gazettal	means the publication in the NSW Government Gazette of a change to the zoning of all the Properties after the First Gazettal to allow a floor space ratio (as defined in the LEP) in excess of the floor space ratio allowed in the First Gazettal.

Second Gazettal Payment	means a dollar amount calculated in accordance with the following formula: $((\text{First Gazettal FSR} - \text{Second Gazettal FSR}) \times \$1,386 \times 8546) - \text{IA Amount}$
Second Gazettal FSR	means the developable floor space for the combined Properties in accordance with the FSR permitted in the Second Gazettal (excluding any non-residential developable floor space in excess of a 1.5:1 FSR for the combined Properties) taking into account any restrictions, constraints and limitations on development on the combined Properties arising from or prescribed by any applicable Codes (including building height, over-shadowing and set backs).
Second Payment Date	means (10) Business Days after the date of the Second Gazettal.
Second Sunset Date	means 29 February 2020.
Security Interest	has the meaning given in the <i>Personal Property Securities Act 2009</i> (Cth).
Sentumar Option	means the call option between One Capital (as grantee) and Sentumar Pty Limited (as grantor) in respect of the Sentumar Property pursuant to which Aoyuan purchase the Sentumar Property as nominee of One Capital and all variations to that call option.
Sentumar Property	means 61-67 Forest Road, Hurstville being all that land contained in certificates of title 101/776275 and 1/225302.
Settlement Sum	means the total amount paid by Aoyuan to the registered proprietors on the Properties to complete the purchase of the Properties under the contracts entered into pursuant to the Call Options (excluding GST).
South East Option	means the call option between One Capital (as grantee) and South East Automotive Pty Limited (as grantor) in respect of the South East Property pursuant to which Aoyuan purchase the South East Property as nominee of One Capital and all variations to that call option.

**South East
Property**

means 73 Forest Road, Hurstville, 75 Forest Road, Hurstville and 126 Durham Street, Hurstville being all that land contained in certificates of title 10/621395, 3/12517, 4/12517 and Auto Consol 5324-180.

1.2 Interpretation

In this deed unless the context otherwise requires or permits:

- (a) where any word or phrase is given a defined meaning any other grammatical form of that word or phrase will have a corresponding meaning;
- (b) references to legislation or legislative provisions will include modifying, consolidating or replacing legislation or legislative provisions;
- (c) references to months and years means calendar months and years;
- (d) the use of headings are only for convenience and do not affect interpretation and any headings, underlinings or marginal notes are only included for ease of reference;
- (e) if any part of this deed is void or unenforceable or would be so unless severed, then the rest of the deed will continue to have full force and effect;
- (f) delivery of this deed will be taken to have been given on the date it bears;
- (g) if the day on which any act, matter or thing is to be done under or in accordance with this deed is not a Business Day, that act, matter or thing may be done on the next Business Day;
- (h) references to a Party will include as the context requires respective executors, administrators, successors and permitted assigns;
- (i) references to a person includes any other entity recognised by law;
- (j) words denoting the singular number include the plural and vice versa;
- (k) words denoting one gender include every gender;
- (l) every covenant or provision applying to or binding more than one person will bind them jointly and each of them severally;
- (m) references to clauses, subclauses, paragraphs, annexures and schedules are references to clauses, subclauses, paragraphs, annexures and schedules in this deed; and
- (n) an Event of Default subsists until it is remedied to the satisfaction of the non-defaulting Party or waived by the non-defaulting Party.

2. Previous Agreement

- 2.1 The parties agree that with effect on the Effective Date the Previous Agreement is terminated by mutual agreement between the parties.
- 2.2 Aoyuan acknowledges and agrees that One Capital is not required to refund any payments made by Aoyuan to One Capital pursuant to the Previous Agreement despite its termination.
- 2.3 The parties agree to release each from all Claims arising in respect of the Previous Agreement whether arising before or after the Effective Date or to the extent covered by any any obligations contained in this deed.

3. Rezoning

3.1 One Capital role

One Capital agrees to (at its own cost and expense in respects):

- (a) use its best endeavours to achieve the First Gazettal on or before the First Sunset Date;
- (b) use its best endeavours to achieve the Second Gazettal on or before the Second Sunset Date;
- (c) comply with all reasonable directions of Aoyuan in respect of the steps it takes towards the First Gazettal and the Second Gazettal; and
- (d) otherwise work in a co-operative manner with Aoyuan in respect of obtaining the First Gazettal and the Second Gazettal.

3.2 One Capital to keep Aoyuan informed

One Capital must promptly give Aoyuan a copy of each of the following in respect of or connected to the First Gazettal and the Second Gazettal:

- (a) prior to lodgement, any application to be lodged with any Authority;
- (b) all significant correspondence between One Capital and any Authority;
- (c) all requirements issued by the Authority;
- (d) all submissions that may be made to or reports prepared by or on behalf of Aoyuan or One Capital for any Authority;
- (e) all submissions received, and any report provided to One Capital by any Authority;

- (f) any response to issues raised in submissions and statement of commitments or other document provided by One Capital; and
- (g) all approvals and notices received by One Capital.

3.3 Aoyuan consent

Despite anything in this clause 3, One Capital must obtain the consent of Aoyuan prior to:

- (a) lodging any application, proposal or submission with any Authority or negotiating or entering into any agreement, arrangement or understanding with any Authority (each a **Proposal**) in respect of any matter associated with either the First Gazettal or the Second Gazettal (and such consent shall not be unreasonably withheld unless the Proposal specifies, contemplates, envisages or would likely lead to an outcome where the FSR for the Properties includes a non-residential FSR component of more than 1.5:1);
- (b) lodging any application, proposal or submission with any Authority with respect to or connect with a voluntary planning instrument which affects or relates to the Properties; and/or
- (c) negotiating or entering into any voluntary planning agreement with any Authority which affects or relates to the Properties.

3.4 Meetings

One Capital acknowledges and agrees that:

- (a) it must invite Aoyuan in a timely manner to attend any meeting which One Capital intends to have with any Authority relating to or connected with the First Gazettal and the Second Gazettal and the process leading up to the First Gazettal and the Second Gazettal; and
- (b) it must not attend any meeting with any Authority relating to the First Gazettal or the Second Gazettal or the process leading up to the First Gazettal and the Second Gazettal unless Aoyuan or a nominated representative of Aoyuan is in attendance.

3.5 Aoyuan role

- (a) Subject to Aoyuan's rights under this deed and without limiting those rights, Aoyuan will co-operate with and provide reasonable assistance to One Capital in obtaining the First Gazettal and the Second Gazettal.
- (b) Subject to One Capital complying with its obligations under this deed and so long as the Proposal sought by One Capital does not have or likely to have a material and adverse impact on Aoyuan's application to develop the Properties (including the timing by which such an application is assessed or approved), Aoyuan agrees:

- (i) to sign all documents and promptly provide all authorisations, consents and approvals as may be reasonably required to enable One Capital to lodge any Proposal reasonably necessary for the First Gazettal and the Second Gazettal with an Authority; and
- (ii) not to withdraw, amend or withhold any such authorisation, consent or approval.

4. First Gazettal

- (a) If the First Gazettal does not occur by the First Sunset Date Aoyuan may by notice in writing to One Capital terminate this deed unless prior to issuing such notice the First Gazettal has occurred.
- (b) If this deed is terminated pursuant to clause 4(a):
 - (i) without affecting any rights either party may have against the other arising prior to termination of this deed, neither party has any rights against the other arising from the termination;
 - (ii) One Capital must immediately cease its activities under clause 3 other than to promptly provide to Aoyuan all information and correspondence in its possession concerning its activities under clause 3;
 - (iii) With effect on the date of termination, One Capital by this deed assigns to Aoyuan absolutely all intellectual property rights of One Capital in any material and information produced by or on behalf of One Capital in respect of or connected with the First Gazettal or the Second Gazettal or the process leading up to the First Gazettal and the Second Gazettal; and
 - (iv) for the avoidance of doubt, One Capital is not entitled to the Fee or any part of the Fee.

5. Second Gazettal

- (a) If the Second Gazettal does not occur by the Second Sunset Date Aoyuan may by notice in writing to One Capital terminate this deed unless prior to issuing such notice the Second Gazettal has occurred.
- (b) If this deed is terminated pursuant to clause 5(a):
 - (i) without affecting any rights either party may have against the other arising prior to termination this deed, neither party has any rights against the other arising from the termination;

- (ii) One Capital must immediately cease its activities under clause 3 other than to promptly provide to Aoyuan all information and correspondence in its possession concerning its activities under clause 3;
 - (iii) with effect on the date of termination, One Capital by this deed assigns to Aoyuan absolutely all intellectual property rights of One Capital in any material and information produced by or on behalf of One Capital in respect of or connected with the First Gazettal or the Second Gazettal or the process leading up to the First Gazettal and the Second Gazettal; and
 - (iv) for the avoidance of doubt, One Capital is not entitled to the Second Gazettal Payment.
- (c) One Capital acknowledges and agrees that nothing in this deed shall prevent or restrict Aoyuan from lodging or pursuing any application or proposal with an Authority to develop the Properties.

6. Fees

6.1 First Gazettal Payment

If the First Gazettal occurs on or before the First Sunset Date, then in consideration of One Capital performing its obligations contained in clause 3 in respect of the First Gazettal, Aoyuan agrees to pay to One Capital the First Gazettal Payment on the First Payment Date.

6.2 Second Gazettal Payment

If the First Gazettal occurs on or before the First Sunset Date and the Second Gazettal occurs on or before the Second Sunset Date, then in consideration of One Capital performing its obligations contained in clause 3 in respect of the Second Gazettal, Aoyuan agrees to pay to One Capital the Second Gazettal Payment on the Second Payment Date.

6.3 Security

Aoyuan must (if requested by One Capital and prepared by One Capital) grant the Mortgage to One Capital to secure the obligations of Aoyuan under this deed.

6.4 IA Amount

- (a) Aoyuan acknowledges that the IA Amount forms part of the Second Gazettal Payment and that Aoyuan is responsible for the payment of that amount to Investment Alliance Group in accordance with a side arrangement as between Aoyuan, One Capital and Investment Alliance Group only if the Second Gazettal Payment is payable to One Capital.

- (b) If the IA Amount is payable by Aoyuan pursuant to clause 6.4(a), the IA Amount will be payable by Aoyuan on or about the Second Payment Date and will be treated as between Aoyuan and One Capital as a part payment of the Second Gazettal Payment.

7. Call Options

- 7.1 This deed is conditional upon Aoyuan as purchaser settling under each of the Contracts simultaneously in accordance with the terms of each Contract no earlier than 15 November 2017 and no later than 24 November 2017 (time being of the essence).
- 7.2 On the Effective Date, One Capital will provide to Aoyuan:
- (a) the original duly executed counterparts of each of the Call Options;
 - (b) a statement of all of the fees paid or payable by One Capital to the grantors under each of the Call Options;
 - (c) to the extent not already provided, copies of all correspondence between One Capital (or its solicitors) and the grantors under each Call Option (or their solicitors) or the tenants of other occupants of the Properties (or their solicitors) relating to or connected with to:
 - (i) the validity and enforceability of each of the Call Options;
 - (ii) all amounts paid or payable under each of the Call Options;
 - (iii) all matters pertaining to the Properties including all leases and other occupancies in respect of each of the Properties; and
 - (iv) any other matters that would be material to Aoyuan as grantee under each of the Call Options including:
 - (A) all communications with all Authorities in respect of the Properties; and
 - (B) the results of all searches and enquiries made in respect of the Properties including rate and planning enquiries.
- 7.3 Within 7 days of the being requested to do so by Aoyuan, One Capital will do all things necessary to formally nominate Aoyuan as the grantee under each of the Call Options in a form and manner first approved by Aoyuan.
- 7.4 Aoyuan will do all things reasonably necessary to exercise each of the Call Options and to co-ordinate and arrange for the simultaneous settlement of each of the Contracts.
- 7.5 Aoyuan must keep One Capital fully informed in respect of all communications it has with each of the grantors under each of the Call Options.

- 7.6 All amounts paid by or on behalf of One Capital under the Call Options and the Leases are for the benefit of Aoyuan absolutely as grantee under the Call Options and One Capital has no further claim in respect of those amounts other than to the extent covered in the formula used to calculate the First Payment Amount.
- 7.7 If Aoyuan forms the view that the simultaneous settlement of each of the Contracts will not occur in accordance with clause 7.1, Aoyuan must notify One Capital in writing that it does not intend to exercise the Call Options (or any one of them) (**Non-Exercise Notice**). The Non-Exercise Notice from Aoyuan must be accompanied by duly executed nomination forms in accordance with each of the Call Options nominating One Capital as grantee under each of the Call Options.
- 7.8 Upon delivery of a Non-Exercise Notice in accordance with clause 7.7:
- (a) this deed will be terminated in respect of the Properties and Call Options to which the Non-Exercise Notice relates and, without affecting any rights either party may have against the other arising prior to termination this deed or in respect of the other Properties and Call Options, neither party has any claim against the other arising from the termination; and
 - (b) where the Non-Exercise Notice relates to not all the Properties then:
 - (i) the formulas used to calculate the First Gazettal Payment and the Second Gazettal Payment will be altered such that the figure '8546' will be reduced by amount equal to the area of the Property to which the Non-Exercise Notice relates expressed in square metres; and
 - (ii) this deed will be deemed to continue to apply to all Properties and Call Options not included in the Non-Exercise Notice.

8. GST

- 8.1 The Parties agree that all money payable or consideration to be given by either Party (**Recipient**) to the other (**Supplier**) for any taxable supply under this deed is exclusive of GST.
- 8.2 The Recipient must without deduction or set off and in addition to all other money payable or consideration to be given by the Recipient to the Supplier pay to the Supplier an amount (**GST reimbursement amount**) equal to any GST payable in respect of any taxable supply by the Supplier to the Recipient under this deed.
- 8.3 Any GST reimbursement amount payable by the Recipient will be:
- (a) calculated by multiplying the amount or consideration payable (or to be provided) for the relevant supply by the prevailing GST rate;
 - (b) paid forthwith upon receipt of a tax invoice in the prescribed form by the Recipient from the Supplier.

- (c) For the purpose of this clause:
- (i) any terms used in it which have meanings under the Act, will have the meanings given by the GST Act; and
 - (ii) if the GST Act is repealed, GST means any goods and services tax, consumption tax, value added tax or other like tax.

9. Assignment and other dealings

9.1 Aoyuan

Aoyuan may with the consent of One Capital:

- (a) transfer, assign or otherwise deal with its interest under this deed provided that One Capital may only withhold its consent where Aoyuan is not able to satisfy One Capital (acting reasonably) that a transferee or assignee from Aoyuan is bound by the obligations of Aoyuan under this deed on and from the date of assignment or transfer (including the Mortgage); or
- (b) grant a Security Interest over its interest in this deed.

9.2 One Capital

One Capital must not sell, lease, charge, alienate or otherwise deal with or dispose of its interest in this deed.

10. Default, termination and indemnity

10.1 Default Notice

If an Event of Default occurs in respect of a Party (**Defaulting Party**), the Party not in default (**Non Defaulting Party**) must serve a written notice on the Defaulting Party specifying the Event of Default and requiring the Defaulting Party to remedy the Event of Default within a reasonable time (as determined by the Non Defaulting Party acting reasonably) (**Default Notice**).

10.2 Not remedied

If within the time period specified in a Default Notice the Defaulting Party has not remedied the Event of Default the Non Defaulting Party may terminate this deed.

10.3 Effect of termination

If this deed is terminated by Aoyuan in accordance with this clause 10, in addition to any other remedies available to Aoyuan, One Capital is not entitled to the Fee.

11. Warranties and covenants

11.1 Mutual warranties

Each Party which is a company represents and warrants to the other that:

- (a) it has been duly incorporated as a company limited by shares in accordance with the laws of its jurisdiction of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted; and
- (b) it has power to enter into and observe its obligations under this deed;
- (c) it has in full force and effect the authorisations necessary to enter into this deed and any documents related to this deed, observe obligations under them and allow them to be enforced; and
- (d) its obligations under this deed are valid and binding and are enforceable against it in accordance with its terms; and
- (e) it is solvent and there are reasonable grounds to expect that, on execution of the deed and at all material times during the currency of this deed, it will continue to be able to pay all its debts when they fall due and payable; and
- (f) its execution of this deed and performance under it will not conflict with or violate any law, judgment, ruling, order, document or agreement that binds it (including its constituent documents) or result in a default under any agreement binding it;
- (g) this deed and the transactions under it do not contravene its constituent documents or any law, regulation or official directive or any of its obligations or undertakings by which it or any of its assets are bound or cause a limitation on its powers or the powers of its directors to be exceeded; and
- (h) to its knowledge there is no pending or threatened action or proceeding affecting the Party or any of their respective assets before a court or an Authority which may materially adversely affect its ability to perform its obligations under this deed.

11.2 One Capital warranties

One Capital warrants to Aoyuan that as at the Effective Date:

- (a) it has disclosed the Aoyuan all information, correspondence and material relating to the Call Options and/or Properties of which it is aware or ought to have been aware as a prudent purchaser of the Properties;
- (b) the warranties made by One Capital in clause 11.1 are warranties made by One Capital to Aoyuan in respect of each Call Option and each Property;

- (c) it has paid all amounts due and payable by the grantee under each of the Call Options including the fees payable by the grantee under each Call Option;
- (d) it has not withheld any information within its knowledge that relates to whether:
 - (i) there is any past, present or future risk in the Properties;
 - (ii) there are no latent or patent defects in the Properties;
 - (iii) there are any affectations or proposals by any Authority in relation to the Properties;
 - (iv) there are any claims by any person in connection with the Properties or in relation to the ownership of the Properties or any one of them including by any occupant; or
 - (v) there are any claims by any person in relation to the Call Options or any one of them; and
- (e) it owns or has proper authorities or licences for the use of any documents annexed to this deed or disclosed to Aoyuan by One Capital for the purposes of this deed;
- (f) the Due Diligence Materials contain all information within the possession and control of One Capital that would be relevant to a reasonable purchaser of the Properties or any one of them;
- (g) it is the grantee under the Call Options and has the right to nominate a third party to exercise the Call Options and to exercise the Call Options; and
- (h) One Capital has not granted any Security Interest, encumbrance or any other interest whatsoever in respect of the Properties or One Capital or its rights to carry out or authorise the carrying out of any development of the Properties.

11.3 One Capital Call Option warranties

One Capital warrants to Aoyuan that at all times it has:

- (a) complied with all its obligations as grantee under the Call Options;
- (b) exercised all rights and otherwise do all things necessary to keep the Call Options valid and binding on their terms;
- (c) not done or allow anything to occur that would adversely affect the rights of the grantee under the Call Options or in respect of the Properties;
- (d) not agreed to or permitted any alteration or amendment to any right of occupancy of any of the Properties otherwise than with the approval of Aoyuan first had and obtained;

- (e) not agree to or permit the grant of any right of occupancy in respect of any of the Properties without first seeking and obtaining the approval of Aoyuan (which approval may be withheld or granted by Aoyuan subject to conditions); and
- (f) not amended or agreed to amend the terms of the Call Options or in any way altered the rights of the parties in respect of the Properties without first seeking and obtaining the approval of Aoyuan (which approval may be withheld or granted by Aoyuan subject to conditions).

11.4 One Capital intellectual property covenant

Subject to clauses 4(b)(iii) and 5(b)(iii), with effect on the date of the First Gazettal and the Second Gazettal (respectively), One Capital by this deed assigns to Aoyuan absolutely all intellectual property rights of One Capital in any material and information produced by or on behalf of One Capital in respect of or connected with the First Gazettal or the Second Gazettal or the process leading up to the First Gazettal and the Second Gazettal and indemnifies Aoyuan in respect of any third party claims made against Aoyuan in respect of those intellectual property rights.

11.5 Aoyuan Call Option warranties

Aoyuan warrants to One Capital that it will:

- (a) on and from the Effective Date, comply with the obligations of One Capital under the Call Options; and
- (b) not do anything to adversely affect the validity and enforceability of the Call Options.

11.6 One Capital Indemnity

One Capital indemnifies Aoyuan for any Costs, loss, damage or liability incurred by Aoyuan as a result of any breach by One Capital of the warranties and covenants contained in clauses 11.1, 11.2, 11.3 and 11.8.

11.7 Aoyuan indemnity

Aoyuan indemnifies One Capital for any Costs, loss, damage or liability incurred by Aoyuan as a result of any breach by Aoyuan of the warranties contained in clauses 11.1 and 11.4.

11.8 Illegality

- (a) One Capital warrants and covenants to Aoyuan that:
 - (i) it will not participate in any illegal practices or other activities that may have an adverse effect on the reputation of Aoyuan in relation to any matter dealt with in this deed;

- (ii) it will ensure that its personnel, and subsidiary and related companies, do not participate in any illegal practices or other activities that may have an adverse effect on the reputation of Aoyuan in relation to any matter dealt with in this deed;
- (iii) it will take reasonable steps to ensure that its employees, officers, agents, partners, sub-contractors, suppliers and consultants do not participate in any illegal practices or other activities that may have an adverse effect on the reputation of Aoyuan in relation to any matter dealt with in this deed.

12. General clauses

12.1 Relationship

Nothing contained or implied in this document constitutes a party the partner, agent or legal representative of another party for any purpose or creates any partnership, agency or trust. No party has any authority to bind another party in any way.

12.2 Confidentiality

- (a) All Parties agree to keep confidential the terms of this deed and the content of all negotiations leading to its preparation and will not disclose or discuss any of that information without the prior written approval of other Party, except:
 - (i) as specifically provided by this deed;
 - (ii) to the extent permitted or required by law;
 - (iii) to the extent required by a Party's financiers or intended financiers in relation to the provision of finance for completion of the transaction provided for by this deed;
 - (iv) to the extent required to instruct the Party's professional advisers in relation to the preparation and completion of this deed;
 - (v) where the information is available generally, but not if it is because a person has contravened a confidentiality obligation under this clause.
- (b) If completion of this deed does not occur, each Party must return to the other or others and ensure that any person who receives information by the Party's authority returns the information to the person who provided it.
- (c) Despite anything contained in this clause 12.1, the Parties will, acting reasonably, without delay and in good faith) agree a public announcement concerning the transactions contemplated in this deed.
- (d) The obligations of this clause survive termination of this deed.

12.3 Entire Agreement

- (a) This deed and any annexures is the entire agreement of the Parties in relation to the agreement to nominate the Call Options.
- (b) All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this deed.

12.4 Counterparts

This deed may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

12.5 Further assurance

Each Party will do, sign, execute and deliver and will procure that each of its employees and agents does, signs, executes and delivers, all agreements, documents, instruments and acts reasonably required of it by notice from another Party to effectively carry out and give full effect to this deed and the rights and obligations of the Parties under it.

12.6 Amendment

This deed may only be amended or supplemented in writing signed by the Parties.

12.7 Assignment

Subject to any express provision in this deed, a Party may not assign its rights, powers or remedies under this deed without the consent of the other Parties.

12.8 Waiver

- (a) The non-exercise of or delay in exercising any power or right of a Party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right.
- (b) A power or right may only be waived in writing, signed by the Party to be bound by the waiver.

12.9 Notices

- (a) All notices required or permitted to be given by one Party to another under this deed must be in writing, addressed to the other Party or their solicitor; and:
 - (i) delivered to that Party's address or their solicitor's; or
 - (ii) transmitted by facsimile transmission to that Party's address or their solicitor's.

- (b) A notice given to a Party under clause 12.9(a) is treated as having been given and received:
- (i) if delivered to a Party's address or their solicitor's on the day of delivery if a Business Day, otherwise on the next following Business Day; and
 - (ii) if transmitted by facsimile to a Party's address or their solicitor's and a correct and complete transmission report is received, on the day of transmission if a Business Day, otherwise on the next following Business Day.
- (c) For the purposes of this clause the address of a Party or their solicitor is set out below of which that Party or their solicitor may from time to time give notice to each other Party or their solicitor.

Party Name: One Capital

Address: Suite 3C, 124 Forest Road, Hurstville

Party Name: Aoyuan

Address: Suite 1705, Level 227 Elizabeth Street, Sydney

12.10 Governing Law

This deed is governed by the law in force in New South Wales.

12.11 Jurisdiction

The Parties submit to the exclusive jurisdiction of the courts of New South Wales and any court that may hear appeals from those Courts in respect of any proceedings in connection with this deed.

12.12 Execution by Attorney

Any attorney who executes this deed on behalf of a Party declares that the attorney has no notice of the revocation of the power of attorney under the authority of which the attorney executes this deed and no notice of the death of the grantor.

12.13 Costs

Each Party must pay its own Costs in relation to the preparation, negotiation and finalisation of this deed.

Signing page

Executed as a deed

**Executed by The One Capital Group Pty
Limited ABN 39 600 814 131** in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) by:

Signature of Sole Director and Secretary

WENSHENG LIU

Full name (print)

**Executed by Prime Hurstville Pty
Limited ABN 44 615 377 672** in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) by:

Signature of Director

Full name (print)

Signature of Director/Company Secretary

Full name (print)

Executed by Wensheng Liu in the
presence of:

Signature of witness

ELAINE TANG

Full name of witness (print)

Signature of **Wensheng Liu**

Address of witness (print) GREEN VALLEY 2168