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## LOAN DEED

BETWEEN

**BEENLEIGH STEEL FABRICATIONS PTY LTD  
ACN 010 942 999**

**(Lender)**

AND

**BERRINBA SUPERANNUATION PTY LTD  
ACN 645 744 501**

as trustee for  
Berrinba Superannuation Fund

**(Borrower)**

AND

**BERRINBA SUPERANNUATION HOLDINGS PTY LTD  
ACN 645 736 778**

**(Bare Trustee)**

**LIMITED RECOURSE LOAN FOR THE PURPOSES OF  
SECTION 67A OF THE SUPERANNUATION INDUSTRY  
(SUPERVISION) ACT 1993**

THIS DEED is made on the 2ND day of DECEMBER 2020

**BETWEEN** BEENLEIGH STEEL FABRICATIONS PTY LTD ACN 010 942 999 c/- 41  
Magnesium Drive Crestmead QLD 4132 (**Lender**)

**AND** BERRINBA SUPERANNUATION PTY LTD ACN 645 744 501 c/- 41  
Magnesium Drive Crestmead QLD 4132 as trustee for Berrinba  
Superannuation Fund (**Borrower**)

**AND** BERRINBA SUPERANNUATION HOLDINGS PTY LTD ACN 645 736 778 c/-  
41 Magnesium Drive Crestmead QLD 4132 (**Bare Trustee**)

## RECITALS

- A. The Borrower, through the Bare Trustee, proposes to acquire certain real property situated at 500-506 Wembley Road Berrinba QLD 4117, being the whole of the land described in Lot 10 on RP 70918 Title Reference 12800071 (**Property**).
- B. The Borrower will beneficially own the Property under a Deed of Bare Trust and Nomination pursuant to which the Bare Trustee will hold legal title to the Property as bare trustee for the Borrower.
- C. The Lender has agreed to lend the Principal Sum to the Borrower on the terms of this Deed to partially fund the acquisition of the Property.
- D. The advance of the Principal Sum by the Lender to the Borrower is to be secured for the benefit of the Lender by the granting of the Security by the Borrower / Bare Trustee.

## TERMS

### 1. RECITALS

The parties confirm that the Recitals to this Deed are true and correct and shall form part of this Deed.

### 2. LOAN

#### 2.1 Loan

The Lender agrees to lend the Borrower the amount of One Million Five Hundred and Forty Thousand Dollars (\$1,540,000) on the terms of this Deed (**Principal Sum**).

#### 2.2 Timing

The Lender will advance the Principal Sum to the Bare Trustee on the settlement date for the Property.

#### 2.3 Purpose

The Principal Sum must be applied to the acquisition of the Property.

#### 2.4 Term

The term of the loan is 15 years commencing on the settlement date for the Property (**Term**).

#### 2.5 Interest

The Borrower must pay interest on the Principal Sum outstanding to the Lender:

- 2.5.1 at the Higher Rate except the Lender must accept interest at the Lower Rate in lieu of the Higher Rate for any period in which the Borrower has observed and performed its obligations under this Deed (other than payment of interest at the Higher Rate);

2.5.2 accruing daily at the Higher Rate or the Lower Rate (as the case may be), applied to the daily balance of the Principal Sum on the basis of a 365 day year.

2.5.3 payable monthly in arrears in accordance with clause 2.6 below.

2.5.4 In this clause 2.5:

**Higher Rate** means 200 basis points (2%) greater than the Lower Rate;

**Lower Rate** means:

- (a) on and from the settlement date for the Property to the initial Review Date, 5.1%; and
- (b) on and from each Review Date pending the next Review Date the higher of the then current Reserve Bank of Australia Indicator Lending Rate for banks providing:
  - (i) *standard variable housing loans for investors* for the month of May; or
  - (ii) *standard variable housing loans for owner-occupiers* for the month of June.

**Review Date** means 1 July of each year during the Term.

## 2.6 Repayment of Principal and Interest

2.6.1 The Borrower must repay to the Lender equal monthly instalments of principal and interest sufficient to repay the whole of the Principal Sum and interest thereon no later than the end of the Term (being such instalment amounts as at any time last estimated by the Lender and notified to the Borrower), commencing one calendar month following the settlement date and then paid on the same date in each calendar month for the duration of the Term.

2.6.2 The Borrower may repay the whole or any part of the Principal Sum at any time during the Term without penalty.

2.6.3 The Principal Sum becomes due and payable on the happening of any of the following (**Event of Default**):

- (a) the Borrower fails to pay any interest or repayments under this Deed and such failure continues for more than 14 days;
- (b) the Security becomes unenforceable for any reason;
- (c) there is a material adverse change, in the Lender's reasonable opinion, to the business or financial condition of the Borrower;
- (d) the Borrower becoming bankrupt or being subject to any other form of insolvency administration;
- (e) the Borrower dies or becomes incapable of managing their own affairs; or
- (f) any distress, execution or other legal process (including foreclosure under a mortgage) is levied against the Property.

## 3. SECURITY

The Bare Trustee shall provide to the Lender a first ranking mortgage over the Property in a registrable form satisfactory to and in favour of the Lender signed and delivered by the Bare Trustee prior to the making of the Loan under Clause 2.1 (**Security**).

#### **4. LIMITED RECOURSE**

The Borrower's liability under this Deed is limited to the Lender's rights under the Security of enforcement / recovery. If the amounts available to pay or satisfy the Loan and any other amounts outstanding under this Deed on enforcement of the Security are insufficient to pay or satisfy such outstanding amounts in full, the Lender has no recourse to any other assets of the Borrower or Bare Trustee.

#### **5. ACKNOWLEDGEMENTS**

The parties each acknowledge and agree that:

- 5.1 the Borrower has entered into this Deed as trustee of a regulated superannuation fund in accordance with the governing rules of the fund, the investment strategy of the fund and the provisions of the *Superannuation Industry (Supervision) Act 1993 (SIS Act)*;
- 5.2 the Borrower has appointed the Bare Trustee as its bare trustee and nominee for the purpose of acquiring and holding legal title to the Property in order to satisfy the requirements of section 67A of the SIS Act in relation to the borrowing evidenced by this Deed;
- 5.3 the Bare Trustee is authorised by the Borrower to grant the Security and shall do so; and
- 5.4 the Borrower will not direct the Bare Trustee to transfer legal title to the Property to the Beneficiary until such time as the Principal Sum is fully repaid and the Security is released.

#### **6. GENERAL**

##### **6.1 Costs**

Subject to Clause 4, the Borrower shall pay to the Lender all costs charges and expenses of and incidental to the exercise or enforcement of its rights or remedies contained in or implied by this Deed.

##### **6.2 Non-Merger**

The provisions of this Deed shall continue to subsist and have effect notwithstanding completion of any transaction contemplated by this Deed.

##### **6.3 No Waiver**

No failure or delay on the part of a party to exercise any right or remedy under this Deed shall operate as a waiver of such right or remedy nor shall any single or partial exercise of any such right or remedy preclude any further exercise of it or the exercise of any other right or remedy.

##### **6.4 Time of the Essence**

Time shall be of the essence as regards any date or period determined under this Deed.

##### **6.5 Severance**

If any provision of this Deed is invalid and not enforceable in accordance with its terms, all other provisions which are self-sustaining and capable of separate enforcement are and continue to be valid and enforceable in accordance with their terms.

##### **6.6 Notices**

A notice required or authorised to be given or served on a party under this Deed must be in writing and may be given or served by facsimile, post or hand delivered to that party at its facsimile number or address as the party may have last notified the other party in writing.

**6.7 Successors**

A reference to a party includes a reference to that party's executors, administrators, successors, substitutes and assigns.

**6.8 Applicable Law**


This Deed is governed by the law of South Australia and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Queensland.

**6.9 Entire Agreement**


This Deed contains the entire agreement between the parties in respect of its subject matter and may only be varied by Deed executed by the parties.

**EXECUTED** as a Deed

EXECUTED by  
**BEENLEIGH STEEL FABRICATIONS PTY LTD**  
**ACN 010 942 999** )

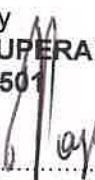
  
.....  
Signature of Director / Sole Director and Secretary

**FRANK BOYES**  
.....  
Name


  
.....  
Signature of Director / Secretary

**MARK FINNEY**  
.....  
Name

EXECUTED by  
**BERRINBA SUPERANNUATION PTY LTD**  
**ACN 645 744 501** )

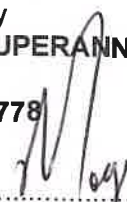
  
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Signature of Director / Sole Director and Secretary

**FRANK BOYES**  
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Name

  
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**MARK FINNEY**  
.....  
Name