

## **SECURITY TRUST DEED**

relating to the property known as

*Unit 3 1 Samantha Place Smeaton Grange NSW 2567*  
**(‘the Underlying Property’)**

made as between

*Belcap Holdings Pty Ltd ACN 621 716 023*  
as trustees of the  
*Belcap Superannuation Fund*  
**(‘the RSF Trustee’)**

and

*Belcap Property Nominee Pty Ltd ACN 621 717 324*  
**(‘the Security Trustee’)**



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## SECURITY TRUST DEED

Date ..... 6 OCTOBER 2017 .....

**This Deed is made**

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**BETWEEN**

Belcap Holdings Pty Ltd ACN 621 716 023 of  
Suite 309, Level 3, 351 Oran Park Drive  
Oran Park NSW 2570

**('the RSF Trustee')**

**AND**

Belcap Property Nominee Pty Ltd ACN 621 717 324 of  
Suite 309, Level 3, 351 Oran Park Drive  
Oran Park NSW 2570

**('the Security Trustee')**

## Background

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- A. The RSF Trustee is the trustee of Belcap Superannuation Fund which is a complying self-managed superannuation fund as defined in section 17A of the *Superannuation Industry (Supervision) Act 1993* (Cth) (**'the SIS Act'**).
- B. The RSF Trustee wishes to purchase a property, known as Unit 3 1 Samantha Place Smeaton Grange NSW 2567 (**'the Underlying Property'**).
- C. The RSF Trustee is to provide the whole of the purchase price and any other costs referable to the acquisition (including the stamp duty) of the Underlying Property.
- D. The Security Trustee will obtain the legal title in, and become the registered proprietor of, the Underlying Property and will hold the Underlying Property under the terms of this Deed.
- E. The Underlying Property is to be held under a bare trust relationship by the Security Trustee.
- F. The RSF Trustee will hold a beneficial interest in the Underlying Property at all times.

## The parties agree

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### 1. Definitions

In this Deed unless the contrary intention appears:

- 1.1 **'Beneficial Interest'** means the beneficial interest of the RSF Trustee in the Underlying Property as contemplated by section 67A of the SIS Act.
- 1.2 **'Deed'** means this deed.
- 1.3 **'GST'** means goods and services tax which is levied or may be levied as a consequence of an application of *A New Tax System (Goods and Services Tax Act) 1999* (Cth).
- 1.4 **'Party'** means a party to this Deed.
- 1.5 **'Underlying Property'** has the meaning given to it in **clause B** of the Background.

### 2. Interpretation

In this Deed unless the contrary intention appears:

- 2.1 the **singular** includes the plural and vice versa;
- 2.2 a **gender** includes all other genders;
- 2.3 where a **word or phrase** is defined, its other grammatical forms have a corresponding meaning;
- 2.4 a reference to a **person** includes any corporation, partnership, joint venture, trust, association, government, or public authority and vice versa;

- 2.5 a reference to a **clause** or **annexure** is to a clause of or annexure to this Agreement;
- 2.6 a reference to a **request** or **notice** means a request or notice in writing;
- 2.7 a reference to any **party** to this or any other document includes the party's successors and permitted assigns;
- 2.8 a reference to a **document** is to that document as amended, novated, supplemented, varied or replaced from time to time and includes any annexures, schedules and appendices to that document, except to the extent prohibited by that document;
- 2.9 a reference to any **legislation** or legislative provision includes any statutory modification, substitution or re-enactment and any subordinate legislation issued under that legislation or provision;
- 2.10 a reference to **conduct** includes any act, omission, representation, statement or undertaking whether or not in writing;
- 2.11 mentioning anything after **include**, **includes** or **including** does not limit what else might be included;
- 2.12 a reference to a **person** that comprises two or more persons means those persons jointly and severally;
- 2.13 the **headings** are for convenience only and do not affect the interpretation of this Deed;
- 2.14 a reference to a **month** means a calendar month;
- 2.15 a reference to **dollars** means Australian dollars;
- 2.16 a reference to **time** means Sydney time;
- 2.17 the **Background** is correct and forms part of this Deed.

### 3. **Background**

The Parties hereby declare that the matters described in the Background are true and correct in every material particular and form part of this Deed.

### 4. **Bare Trust**

- 4.1 The Parties declare and acknowledge that:
- 4.1.1 The RSF Trustee is to provide the whole of the purchase price and any other costs referable to the acquisition (including the stamp duty) of the Underlying Property.
- 4.1.2 The Security Trustee will obtain the legal title and become the registered proprietor of the Underlying Property.

4.1.3 The Underlying Property is to be held under a bare trust relationship by the Security Trustee for the benefit of the RSF Trustee.

4.1.4 The RSF Trustee will at all time have the Beneficial Interest in the Underlying Property.

**5. Beneficial Interest in the Underlying Property to subsist in the RSF Trustee**

5.1 The RSF Trustee is absolutely entitled to the Beneficial Interest in the Underlying Property held by the Security Trustee on behalf of the RSF Trustee.

5.2 The Underlying Property is held by the Security Trustee for the benefit of the RSF Trustee subject to a bare trust relationship.

5.3 To the maximum extent permitted by the law, the Security Trustee has no right to indemnification with respect to the Underlying Property.

5.4 For the avoidance of doubt, and to the maximum extent permitted by the law, subsection 59(4) of the *Trustee Act 1925* (NSW) has no application to the bare trust relationship as between the Security Trustee and the RSF Trustee with respect to the Underlying Property.

**6. Rent and other distributions from the Underlying Property**

6.1 Any rent or other distributions referable to, and paid with respect to the Underlying Property will be derived by the RSF Trustee.

6.2 The RSF Trustee may direct the Security Trustee to pay any amount due to the RSF Trustee under clause 6.1 to a third party, on behalf of the RSF Trustee.

**7. The RSF Trustee is the purchaser of the Underlying Property**

Both the Security Trustee and the RSF Trustee declare and acknowledge that the Security Trustee holds the Underlying Property in the capacity of bare trustee for the RSF Trustee and that the real purchaser of the Underlying Property is the RSF Trustee

**8. Government taxes, charges and stamp duty**

8.1 The Security Trustee will not be responsible for the payment of any stamp duty, GST or any other tax or impost imposed by any authority as the result of the transfer of the Underlying Property.

8.2 The Security Trustee shall be reimbursed by the RSF Trustee requesting or causing a transfer of the Underlying Property of any stamp duty, GST or other tax paid by the Security Trustee as a consequence of the transfer of the Underlying Property.

**9. Change of Security Trustee and amendment of Deed**

9.1 The power of removing and appointing the Security Trustee and amending this deed is vested in the RSF Trustee.

- 9.2 The Security Trustee may resign as bare trustee on giving not less than two (2) weeks notice addressed to the RSF Trustee

**10. Apparent purchaser provisions**

Both the Security Trustee and the RSF Trustee declare and acknowledge that section 55 of the *Duties Act 1997* (NSW), applies to the relationship as between the Security Trustee and the RSF Trustee with respect to the Underlying Property. Specifically:

- 10.1 The Security Trustee acknowledges that it is the 'apparent purchaser', as contemplated by section 55 of the *Duties Act 1997* (NSW), with respect to the Underlying Property;
- 10.2 The Underlying Property is to be held upon bare trust by the Security Trustee for the RSF Trustee, with the RSF Trustee the 'real purchaser', as contemplated by section 55 of the *Duties Act 1997* (NSW), with respect to the Underlying Property; and
- 10.3 All of the money for the acquisition of the Underlying Property (including stamp duty) has been or will be provided by the RSF Trustee.


**11. Governing Law**

This Deed shall be governed by and construed in accordance with the laws of New South Wales.

**Executed as a Deed**


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EXECUTED AS THE RSF TRUSTEE

Signed for and on behalf of )  
Belcap Holdings Pty Ltd )  
ACN 621 716 023 )  
in accordance with section 127 of the )  
Corporations Act 2001 )  
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\_\_\_\_\_)  
Marcus Antony Auckland - director/sole )  
director )

  
\_\_\_\_\_)  
Michelle Mary Auckland - director )

EXECUTED AS THE SECURITY TRUSTEE

Signed for and on behalf of )  
Belcap Property Nominee Pty Ltd )  
ACN 621 717 324 )  
in accordance with section 127 of the )  
Corporations Act 2001 )  
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Marcus Antony Auckland - director/sole )  
director )

  
\_\_\_\_\_)  
Michelle Mary Auckland - director )