

1/11/2016  
(2017) \$400K

**LOAN AGREEMENT**

**BETWEEN**

**LEWIS ST PROJECTS**

-----  
(CAN 610 651 628)

"FP"

**AND**

**ROZEK SUPERANNUATION FUND**

-----  
(CAN 45 569 189 867)

"SP"

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**AGREEMENT** dated 1<sup>st</sup> NOV 2016

**BETWEEN:**

The party referred to at Item 1 of the Schedule ("**FP**")

**AND:**

The party referred to at Item 2 of the Schedule ("**SP**")

**INTRODUCTION**

- A. The FP intends to purchase real estate referred to at Item 3 of the Schedule.
- B. The SP agrees to provide the FP the amount referred to at Item 4 of the Schedule to facilitate the purchase and development of the real estate.
- C. The SP expects a return on the capital sum provided to the FP.

**TERMS**

**PART 1 - PRELIMINARY**

1. **Dictionary**

In this document:

"**Bank Cheque**" means a cheque drawn by an authorised deposit-taking institution (within the meaning of the Banking Act 1959) upon itself.

"**Business Day**" means a day that is not a Saturday, Sunday or public holiday in South Australia.

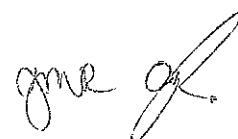
"**Payment Date**" means the date referred to at Item 6 of the Schedule.

"**Settlement Date**" means the date referred to at Item 5 of the Schedule.

2. **Interpretation**

In this document:

- 2.1 neuter includes masculine and feminine;
- 2.2 singular includes plural and vice versa;
- 2.3 reference to a person includes a corporation and partnership and vice versa;
- 2.4 headings do not affect interpretation;
- 2.5 no rule of construction applies to the disadvantage of a party because that party put forward this document or any portion of it;



2.

- 2.6 if a provision of this document would, but for this clause, be unenforceable:
  - 2.6.1 the provision must be read down to the extent necessary to avoid that result;
  - 2.6.2 if the provision cannot be read down to that extent, it must be severed without affecting the validity and enforceability of the remainder of this document;
- 2.7 reference to a party:
  - 2.7.1 if more than 1 means each of them jointly and severally;
  - 2.7.2 includes a successor to the rights or obligations of that party under this document;
- 2.8 reference to legislation includes:
  - 2.8.1 the legislation as amended;
  - 2.8.2 any substituted legislation;
  - 2.8.3 any sub-ordinate legislation under that legislation;
  - 2.8.4 any orders under that legislation;
- 2.9 another grammatical form of a defined word has a corresponding meaning;
- 2.10 unless otherwise stated, reference to a section is to a section of the Corporations Law;
- 2.11 subject to the previous clause, an expression used or defined in the Corporations Law has the same meaning in this document;
- 2.12 the introduction is correct and forms part of this document.

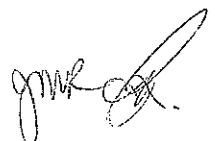
3. **Conditions precedent**

The Agreement is conditional upon the real estate at Item 3 being purchased by FP.

4. **Fulfilment of conditions precedent**

Each party must use its best reasonable efforts to fulfil each of the above conditions including that:

- 4.1 a party must immediately make all necessary applications and supply all necessary information;
- 4.2 each party must supply to the other party copies of those applications and that information;
- 4.3 neither party may hinder the fulfilment of a condition;



3.

4.4 each party may make submissions to other interested persons, even if the other party makes the application or supplies the information.

**5. Failure of conditions precedent**

5.1 If the above condition is not fulfilled either party may end the further performance of this document by written notice to the other.

5.2 If either FP or SP does so:

5.2.1 FP must immediately repay the sum at Item 4 of the Schedule without deduction;

5.2.2 neither party has further rights against the other party under this document, except:

(a) in respect of default in using best reasonable efforts to fulfil a condition; and

(b) in respect of obligations of confidentiality.

**PART 2 – OPERATIVE PROVISIONS**

**6. Agreement**

6.1 The SP agrees to provide the FP the amount referred to at Item 4 of the Schedule.

6.2 The FP agrees to purchase and develop the real estate referred to at Item 3 of the Schedule.

6.3 In addition to the return of the capital payment referred to at Item 4 of the Schedule, the FP agrees to compensate and pay the SP a sum calculated by reference to Item 7 of the Schedule due on the payment date or such other date agreed in writing by the parties.

**PART 3 – SUPPLEMENTARY PROVISIONS**

**7. Other provisions**

7.1 The FP agrees that the SP has an equitable interest in the real estate property at Item 3 of the Schedule following the expiration of 30 days from the settlement date.

7.2 If the FP is unable to complete the development of the real estate for any reason, the SP shall have an equitable interest in the said real estate for an amount no greater



than the sum referred to at Item 4 of the Schedule, being the capital sum contributed by the SP, and shall not receive further compensation howsoever.

- 7.3 The SP shall not impede or prevent the sale of the said real estate to an unrelated third party for fair market value.

#### **PART 4 - MISCELLANEOUS**

**8. No waiver**

A party waives a right under this document only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

**9. Time of the essence**

9.1 Time is of the essence as regards any date or period under this document.

9.2 If the parties agree in writing to alter a date or period, time is of the essence as regards the altered date or period.

**10. Force majeure**

A party is not liable for failure to perform this document to the extent and for so long as its performance is prevented or delayed because of circumstances outside the party's direct control and without fault or negligence by that party, but only if that party:

10.1 immediately gives written notice to the other party; and

10.2 does everything reasonable to remedy the cause quickly.

**11. Assignment**

11.1 A party may assign its benefits or obligations under this document only with the prior written consent of the other party.

11.2 A party must not unreasonably withhold its consent to an assignment.

**12. Notice**


12.1 Notice can only be in English, in writing and signed by the party or its agent ("**the Sender**").

12.2 Notice can only be given to a party ("**the Recipient**"):

12.2.1 personally;

12.2.2 by registered post to the recipient's last known place of business or residence. Notice by post is deemed to be received at the time at which the letter would be delivered in the ordinary course of post;

12.2.3 as permitted by the Corporations Law or any other statute.



12.3 Where two or more people comprise a party, notice to one is effective notice to all.

**13. Other matters**

The parties must do everything reasonably required by SP to carry out this document.

**14. Entire document**

14.1 This document is the whole contract between the parties about its subject matter.

14.2 The only terms implied in this document are those implied by mandatory operation of law.

14.3 This document supersedes any prior contract or obligation between the parties about its subject matter.

**15. Amendment**

This document can be amended only by written agreement of all parties.

**16. Governing law**

16.1 This document is governed by the laws in South Australia.

16.2 The courts of South Australia or the Federal Court of Australia (Adelaide Registry) have non-exclusive jurisdiction in connection with this document.

16.3 The parties submit to the jurisdiction of those courts and any courts which have jurisdiction to hear appeals from those courts.

**17. Costs**

17.1 A party must pay its own costs of negotiation, preparation and execution of this document and any document required by this document.

17.2 SP must pay within the statutory time stamp duty and other government fees and charges in respect of this document and any further document required by this document.

**18. Counterparts**

18.1 This document may be executed in several counterparts.

18.2 Each executed counterpart is deemed an original of this document.

A handwritten signature in black ink, appearing to be 'JMR' followed by a stylized flourish.

**EXECUTED** unconditionally as an agreement

**SIGNED** by [ Julie Anne Rozek ] )  
in the presence of: )

..... *JmRozek* .....

..... *B. Budgen* .....

Witness

..... *Brad Budgen* .....

Name of Witness

**SIGNED** by [ Michael Rozek ] )  
in the presence of: )

..... *M. Rozek* .....

..... *B. Budgen* .....

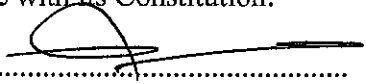
Witness

..... *Brad Budgen* .....

Name of Witness



EXECUTED by [LEANS ST PROSPECT] )  
in accordance with its Constitution: )



.....  
Director

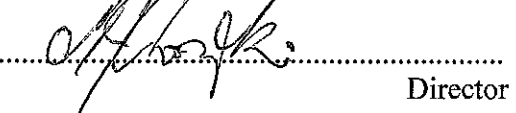
ROBERT DeSUSCIO  
Name of Director

.....  
Director/Secretary

.....  
Name of Director/Secretary

Rozek Superannuation

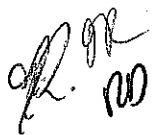
EXECUTED by [ Fund ] )  
in accordance with its Constitution: )

  
Director

Michael Rozek  
Name of Director

gmRozek  
Director/Secretary

Julie Anne Rozek  
Name of Director/Secretary



## **SCHEDULE**

### **Item 1**

First Party Name and address: LEWIS ST PROJECTS PTY LTD  
LEVEL 1/27 RUNDLE ST KENT TOWN SA 5067

### **Item 2**

Second Party Name and address: ROZEK SUPERANNUATION FUND  
8 GRANDVIEW DRIVE SEACOMBE HEIGHTS

### **Item 3**

Real Estate description: TO FUND DEVELOPMENT AT 70 LEWIS RD GLYNDE SA 5070

### **Item 4**

Capital amount contributed by SP: \$400,000.00

### **Item 5**

Settlement Date: FRIDAY 1<sup>TH</sup> NOVEMBER 2016

### **Item 6**

Payment Date: 14 MONTHS FROM DATE SPECIFIED IN ITEM 5

### **Item 7**

Payment calculation (in addition to capital): 18%

