

# G MALANA SUPERANNUATION FUND

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## Loan Agreement

Supplied By

ABN :

Phone No : 0433003816

## Loan Agreement

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Date of Agreement : 26-10-2018

Between

G MALANA SUPERANNUATION FUND

13/6 KENT STREET

BLACKTOWN, NSW 2148

( "Lender" )

And

CHELO MANARANG

17 TENNYSON STREET

WETHERILL PARK, NSW, 2164

( "Borrower" )

Words with an \* are defined in the definitions section of this agreement.  
Generally, defined words only have an \* the first time they appear in this agreement.  
The parties to this agreement agree to the terms and conditions set out in the agreement.  
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### WARNING

The copyright in this Agreement is owned by Batallion Legal. No part of this agreement can be copied without the express authority of the proprietor. **If you alter or copy this Agreement, legal action may be taken against you.** This agreement has certain unique clauses and is created for certain defined purposes and for the parties mentioned above. If you copy this Agreement for another purpose and for other parties, some of the clauses of the Agreement may not be valid in their present form. **VER 16/01**

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**THIS LOAN AGREEMENT MADE AT 13/6 KENT STREET, BLACKTOWN, NSW 2148 ON 26-10-2018**

**PARTIES**

BETWEEN:

**G MALANA SUPERANNUATION FUND**

13/6 KENT STREET  
BLACKTOWN, NSW 2148  
("Lender")

AND

**CHELO MANARANG**

17 TENNYSON STREET  
WETHERILL PARK, NSW 2164  
("Borrower")

**RECITALS:**

- A The lender has agreed, at the request of the Borrower to provide a loan facility to the Borrower, in the sum of \$65,787.00 (Sixty five thousand seven hundred eighty seven dollars and zero cents).
- B The Lender and the Borrower have agreed to enter into this agreement to set out the terms and conditions of the loan facility.

**THE PARTIES HEREBY AGREE:**

**Definitions for this Loan Agreement**

In this Agreement, unless the context or subject matter otherwise require:

**Advance** means an amount of \$65,787.00 (Sixty five thousand seven hundred eighty seven dollars and zero cents) provided or, where the context requires, to be provided under this agreement by the Lender to, or at the direction of, the Borrower;

**Business day** means, in respect of each payment or other transaction or calculation which needs to be made or done under this agreement or for the purposes of this agreement, a day on which business by and between banks may be carried on in Sydney;

**Default Interest rate** means a rate of Fifteen percent (15%) per annum;

**Draw down date** means the date of the Agreement.

**Event of default** means any of the event, omission or occurrence specified in the clause 9(b);

**Interest rate** means a rate of 10% per annum payable at the end of the lending period.

**Loan** means at any time and from time to time, the principal amount of the advance outstanding at that time;

**Repayment date** means 30-05-2024 or such other date as the Lender and the Borrower agree in writing, subject to the provisions of this agreement relating to accelerated repayment of the loan.

## **Interpretation**

- Words importing the singular number include the plural and vice versa. Any gender includes the other genders. Any reference to a person includes a reference to a corporation, firm, authority, government, or governmental agency.
- A reference to legislation or to a legislative provision includes all regulations, orders, proclamations, notices or other requirements under that legislation or legislative provision, it also includes any amendments, modifications or re-enactment of that legislation or legislative provision and any legislation or legislative provision substituted from and any statutory instrument issued under, that legislation or legislative provision.
- The clause headings in, and index to, this agreement are for reference purposes only and do not in any way influence or affect the meaning of this agreement.
- A reference to any deed, agreement, license, document or other instrument (including this agreement) includes a reference to that deed, agreement, license, document or other instrument as renewed, extended, novated, varied or substituted from time to time.
- A reference to any party to this agreement or to any other deed, agreement, license, document or other instrument required under this Agreement or for the purposes of this Agreement includes that party's executors, administrators, substitutes, successors and permitted assigns.
- Where under or pursuant to this agreement or anything done under this agreement the day on or by which any act, matter or thing is to be done is not a business day such act, matter or thing must be done on the immediately preceding business day.
- References to clauses are references to Clauses of this Agreement.
- A reference to winding up or bankruptcy includes bankruptcy, winding up, liquidation, dissolution, becoming an insolvent under administration (as defined in S9 of the Corporations Law) and to the circumstances and events giving rise to or contributing to such condition or matters.

### **1. Conditions precedent to Lender's obligation :**

The Lender's obligation to provide the loan to, or at the direction of, the Borrower is subject to and conditional upon:

- (a) **execution of agreement:** the Lender having received evidence satisfactory to the Lender that the Borrower has validly entered into, and become bound by the terms of, this agreement and that this agreement has, where necessary, been duly stamped;
- (b) **no default:** no event of default or event which, with the giving of notice or lapse of time or both, would be an event of default under this agreement having occurred and, continuing to subsist: and
- (c) **representations and warranties:** the representations and warranties of the Borrower contained in clause 8 being true and correct on the draw down date.

## 2. Provision of advance :

Subject to the prior and continuing satisfaction of the conditions precedent set out in clause 1, the Lender shall, upon request by the Borrower, provide the advance to the Borrower by way of cash advance on the draw down date on the terms and subject to the conditions set out in the agreement. The advance will be provided to the Borrower by the way of cheque drawn by the Lender payable to the Borrower or as the Borrower directs in writing.

## 3. Payment of Interest :

### a) *Rate of interest*

Interest is payable by the borrower on the loan at the interest rate and will be calculated on the daily balance of the loan on the basis of a 365 day year.

### b) *Payment of Interest*

The Borrower must pay interest at the time of repayment of loan.

### c) *Default Interest*

Where any sum, or any part of any sum, payable by the Borrower under this agreement is not paid to, or as directed by, the Lender on or before its due date of payment, default interest will accrue on the outstanding amount. Accrued default interest must be paid by the borrower to the lender upon demand by the Lender. Default interest will be calculated at the default interest rate for the period for which the outstanding amount is overdue. Accordingly, default interest will accrue on and from the due date for payment of the outstanding amount up to but excluding its date of payment. It will be computed on daily basis for actual days

elapsed and will be compounded on the last day of each month.

#### **4. Other Payments :**

##### *Costs and Expenses*

Whether or not the Borrower satisfies any or all of the conditions precedent set out in the Clause 1, the Borrower must, on demand by the Lender, pay to, or as directed by, the Lender, and indemnify the Lender against, all costs, losses, charges, expenses, liabilities, damages, fees and disbursements (including all reasonable legal costs on a solicitor and own client basis) paid or incurred by the Lender of or incidental to:

- the negotiation, preparation, execution and (if applicable), stamping and registration of this agreement;
- any breach of, or default under, this agreement by the Borrower (including the fees of all professional consultants properly incurred by the Lender in consequence of or in connection with, any such breach or default);
- the exercise or attempted exercise of any right, power, privilege, authority or remedy of the Lender under or by virtue of this agreement; and
- all taxes (excluding any income tax payable by the lender), outgoings, penalties, fines, demands, charges or costs, stamp and other duties and assessments imposed by any court or by any Federal, State or Municipal, statutory or other authority or otherwise (including any related bank charges, financial institutions duties and debits taxes) directly or indirectly upon this agreement or the security or any receipt or payment under this agreement.

#### **5. Repayment :**

- a) The Borrower must repay and finally discharge the loan on the repayment date. The Borrower must also pay any interest accrued on the loan and not then paid, and all other amounts payable under this agreement and unpaid, to the Lender on or before the repayment date.
- b) The Lender agrees that the Borrower may repay the whole or any part of the loan then outstanding at any time and from time to time on the following terms and subject to the following conditions:-
  - each prepayment must be a minimum amount of One Thousand Dollars (\$1,000) and
  - the Borrower must give the Lender not less than One Calendar Month's written notice of the Borrower's intention to make such prepayment.

#### **6. Method of Payment :**

*a) Place of payment*

All payments to be made under this agreement by the Borrower to the Lender must be paid to the Lender to a banking account nominated by the Lender or to such other place as the lender may from time to time direct in writing. Any payment made in any other way (and any payment sent by mail) will be at the Borrower's risk until it is actually received by the Lender.

*b) No Set-off or counterclaim*

Notwithstanding any term, whether express or implied, in this agreement or any rule of law or course of conduct to the contrary, payments under this agreement must be made by the Borrower without set-off or counterclaim and free and clear or, and without, any deductions whatsoever.

**7. Sole agreement :**

The covenants and provisions contained in this agreement exclusively and completely state the rights of the borrower with respect of the loan. This agreement supersedes all negotiations and prior agreements, whether written or oral, in respect of the loan.

**8. Representations and warranties :**

*Borrower's representations and warranties*

The Borrower represents and warrants to the Lender that:

- he has full power and authority to enter into this agreement and to do all things required by the agreement
- except as disclosed in writing to the lender and dispensed with in writing by the Lender, the Borrower is not in default or difficulty under any deed, agreement or other document or obligation to which he is a party or by which he is bound, or in respect of any financial commitment or obligation (including obligations under guarantees or other contingent liabilities) which default or difficulty is reasonably likely to adversely affect the ability of the Borrower to comply with his obligations under this agreement.
- The Borrower is in full and ongoing compliance with all legislation and regulations to which the Borrower may at any time and from time to time be subject;
- No event of default or event which, with the giving of notice or the lapse of time or both, would be an event of default has occurred and, having occurred, is continuing to subsist ;
- Except as disclosed in writing to the Lender and dispensed with in writing by the Lender, no litigation or administrative or other proceedings before, or of, any court or governmental authority or agency or other tribunal have, to the



knowledge of the Borrower, been initiated or threatened against the Borrower or any of the Borrower's assets which would or might have a material adverse effect upon the business, assets or financial condition of the Borrower; and,

- The Borrower does not have, and will not during the currency of this agreement have, any right of set off or counterclaim or any right to rescind or any other claim with respect to this agreement by way of cross action against the lender.

## **9. Default and termination :**

### *a) Consequences of default*

If any of the events described in clause 9(b) occurs, the loan together with all interest accrued on the loan and not then paid and all other amounts payable under this agreement and unpaid shall, at the option of the Lender and notwithstanding any delay or previous waiver of the right to exercise that option, immediately become due and payable without the necessity for any demand or notice to the Borrower.

### *b) Events of default*

Each of the following events is an event of default:

- i. If the Borrower fails to repay the loan on the repayment date or fails to pay any other money payable under this agreement on the due date for payment of that money and such failure continues for more than Three (3) calendar Months; or
- ii. if the borrower fails to perform or observe any of the covenants of provisions of this agreement on the part of the borrower to be performed or observed ( other than a failure of the type contemplated by clause 9(b)(i) and (if capable of remedy) such default continues more than ten (10) business days (or such longer period as the lender in its absolute discretion permits) after notice from the lender requiring the borrower to remedy the default, unless the non-performance or non-observance has been waived or excused by the lender in writing; or
- iii. if the lender ascertains that the borrower has made any false, inaccurate or misleading statement having, in the lender's opinion, a material effect on the provision by the lender of the advance or the maintenance of the loan or in relation to the making of this agreement or any related or collateral document; or
- iv. if there is a material adverse change, in the lender's opinion, in the business or financial condition of the borrower.

### *c) Acceptance of money*

The lender may exercise its rights under clause 9(a):

- notwithstanding acceptance of any part of any of the amounts payable under this agreement after the occurrence of any event of default;
- notwithstanding the occurrence of any previous or other event of default; and
- without the necessity for any notice to, or of any consent or concurrence on the part of, the borrower or any other person.

**10. Application of money :**

All the money received by the lender under or by the virtue of clause 9(a) will be applied in the following order and manner:

- a) first, in payment of all costs, charges and expenses properly incurred in, or incidental to, the exercise or performance, or attempted exercise or performance, of any of the powers or authorities conferred on by the lender by this agreement or otherwise arising in relation to this agreement;
- b) second, in or towards payment of such other properly incurred costs, charges and expenses in the relation to the enforcement of this agreement or the security as the lender thinks fit to pay;
- c) third, in or towards payment to the lender of interest on the loan, including default interest;
- d) fourth, in or towards repayment to the lender of the loan; and
- e) fifth, in or towards payment to, or at the direction of, the lender of any other amount or amounts payable by the borrower under this agreement.

**11. Protection of Lender :**

- a) *No requirement for the notice or for the enforcement of security.*

It is not incumbent on the lender to give any notice of its rights under this agreement to the borrower unless the lender thinks fit. The lender is not liable for any omission to give any notice.

- b) *Lender not liable for losses*

The lender is not answerable for any involuntary losses or irregularities, which may occur in, or by, the exercise or non-exercise of any of the powers, rights or remedies conferred on the lender by this agreement.

- c) *Discretion on consent*

In any case where, under or pursuant to this agreement, the doing or execution of any act, matter or thing by the borrower is dependant upon the consent or approval of the lender, such consent or approval may be given conditionally or unconditionally or may be withheld by the lender in its absolute uncontrolled discretion, unless this agreement expressly provides otherwise.

d) *Borrower's risk*

Whenever the borrower is obliged or required under this agreement to do or effect any act, matter or thing, then the doing of such act, matter or thing will, unless this agreement expressly provides otherwise, be at the sole risk and expense of the borrower.

e) *Illegality and impossibility*

If after the date of this agreement:

- i. any order of the court of competent jurisdiction; or
- ii. any change in, or extension of, or application of, any applicable law or regulation, whether or not having the force of law; or
- iii. the official interpretation of any applicable law or regulation by any governmental or other authority, monetary or banking agency or central bank charged with the administration of that law or regulation, makes it unlawful, or impossible (in the lender's opinion) for the lender to give effect to or maintain its obligation under this agreement, the lender will, by notice to the borrower, declare that the lender's obligation to provide the advance or to maintain the loan (as the case requires) is terminated forthwith. If the advance has been provided the borrower must then, within the lesser of thirty (30) business days of receiving that notice and the period of any maximum grace period allowed by any relevant law or regulation for compliance by the lender with its obligations, prepay the loan, together with all interest accrued on the loan and not then paid and all other amounts payable under this agreement and unpaid, without premium or penalty.

**12. Joint and individual liability:**

The obligations imposed on a borrower under this loan agreement are a joint obligation of all of them and a several obligation of each of them.

**13. Power of Attorney :**

The borrower irrevocably appoints:

- a) the lender and its successors and assigns; and
- b) every director, secretary and officer of the lender whose title includes the word manager,  
severally the attorney of the borrower with the power, at the expense of the borrower, at any time and from time to time,
- c) after the occurrence of an event of the default or an event which, with the giving of notice or the lapse of time or both, would be an event of default; or
- d) after the borrower has failed to comply with any of the borrower's obligation under this agreement or the security or under any agreement or instrument required

under for the purpose of this agreement or to which this agreement is collateral, upon request by the lender, to do all acts and things and to execute all documents as may, in lenders opinion be reasonably necessary or desirable or expedient to give effect to any right or power conferred on the lender by this agreement.

**14. General :**

*a. Non-merger*

None of the terms or condition of this agreement, nor any act, matter or thing done under or by virtue of, or in connection with, this agreement will operate as a merger of any rights and remedies of the lender in or under this agreement or otherwise. All such rights and remedies of the lender will continue in force and effect.

*b. Reimbursement of Lender*

To the extent permissible at law, the borrower must, forthwith upon demand, pay to the lender an amount equivalent to any moneys paid by the lender in respect of any liability imposed on the borrower under or by virtue of this agreement, notwithstanding that any statute, ordinance, proclamation, rule, order, regulation, moratorium or decree of any governmental or other authority, present or future, directly or indirectly, imposes such liability upon the lender.

*c. Severability and survival of covenants*

If any provision of this agreement is, or at any time becomes, prohibited by, or unlawful under, any applicable law, regulation or other condition actually applied or otherwise becomes void or unenforceable, it will be severed from this agreement and rendered ineffective so far as is possible without modifying the remaining provisions of this agreement. The remaining provisions will to the extent permitted by the relevant law, regulation or condition, continue in force and effect.

Any prohibited, unlawful, void or unenforceable provision will be replaced forthwith by an allowable, lawful, effective and enforceable provision which so far as possible achieves the same economic benefit or burden for the lender and the borrower as the prohibited, unlawful, void or unenforceable provision was intended to achieve. All obligations of the borrower under this agreement will survive the expiration or termination of this agreement to the extent required for their full observation and performance.

*d. Prohibition on oral amendments*

Neither this agreement nor any provision of this agreement may be amended, modified, waived, discharged or terminated orally.

*e. Defective execution*

If there is any defect in the execution of this agreement by the borrower or the lender, that part may be re-executed or ratified. That re-execution or ratification will relate back to the original purported execution by that party.

*f. Counterparts*

This agreement may be executed in any number of counterparts all of which, when taken together, will constitute one and the same instrument.

*g. Notices*

Any notice or demand to be given under, or in relation to, this agreement will be deemed to be duly given or made if it is in writing and in the case of the borrower, left at, or sent by prepaid post to, the borrower at its place of business known to the officer sending such notice or demand and in the case of the lender, if it is in writing and left at, or sent by prepaid post to the lender at its address set out in this agreement. Any notice or demand sent by post will be deemed to have been received by the party to whom it is addressed on the day which in the normal course of post it would have been delivered.

**15. Governing law and submission to jurisdiction:**

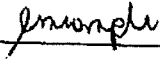
This agreement will be construed and governed in accordance with the state laws of New South Wales.

**Execution:**

Executed as an agreement Dated 26-10-2018

Signed by:

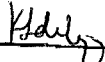
  
\_\_\_\_\_  
GENEROSE MALANA  
Trustee

  
\_\_\_\_\_  
ERICK COMPLE  
Trustee

All trustees for and on behalf of  
G MALANA SUPERANNUATION FUND  
As Lender

  
CHELO MANARANG  
As Borrower

In presence of witness:

  
\_\_\_\_\_  
Signature of witness

KARISMA DELA PENNA, Level 1 Phillip St. Parramatta NSW 2150  
Full Name & address of witness