

2001 004

**Almondlot Management  
Agreement**

**Timbercorp Securities Limited**

**Each Several Grower**

**2001 Timbercorp Almond Project**

**NM TAYLOR**  
L A W Y E R S

Level 7  
350 Collins Street  
MELBOURNE VIC 3000

Telephone: 9600 3525  
Facsimile: 9600 3527

# TABLE OF CONTENTS

<b>1.</b>	<b>DEFINITIONS AND INTERPRETATION.....</b>	<b>2</b>
1.1	DEFINITIONS.....	2
1.2	CONSTRUCTION.....	5
1.3	HEADINGS.....	5
1.4	GROWER AND AGREEMENT.....	5
1.5	DELEGATION.....	6
<b>2.</b>	<b>COMMENCEMENT AND TERM OF THIS AGREEMENT.....</b>	<b>6</b>
2.1	TERM.....	6
<b>3.</b>	<b>RELATIONSHIP OF THE PARTIES.....</b>	<b>6</b>
3.1	NO PARTNERSHIP ETC.....	6
3.2	PROJECT.....	6
<b>4.</b>	<b>APPOINTMENT OF THE RESPONSIBLE ENTITY.....</b>	<b>7</b>
4.1	ENGAGEMENT OF RESPONSIBLE ENTITY.....	7
4.2	RESPONSIBLE ENTITY TO CARRY OUT ORCHARD SERVICES AS INDEPENDENT CONTRACTOR.....	7
4.3	AUTHORITY TO ACT.....	7
4.4	PERFORMANCE OF OBLIGATIONS.....	7
4.5	ADDITIONAL SERVICES.....	7
4.6	ACCEPTANCE OF ENGAGEMENT.....	7
<b>5.</b>	<b>ORCHARD MANAGEMENT.....</b>	<b>8</b>
5.1	MANAGEMENT PLAN AND GOOD PRACTICES.....	8
5.2	ACTIVITIES.....	8
5.3	NO UNLAWFUL ACTS.....	9
5.4	NOTIFY LAND OWNER OF NOTICES.....	9
5.5	COMMENCEMENT OF ORCHARD SERVICES.....	9
<b>6.</b>	<b>HARVESTING.....</b>	<b>9</b>
6.1	HARVESTING.....	9
6.2	HARVESTING METHOD.....	10
6.3	DELIVERY.....	10
6.4	STORAGE.....	10
<b>7.</b>	<b>PROCESSING AND SALE.....</b>	<b>10</b>
7.1	PROCESSING OF ALMONDS.....	10
7.2	MARKETING AND SALE.....	10
7.3	GATHER IN PRODUCT OR CROP.....	10
7.4	LIEN.....	10
7.5	ACTION FOR RECOVERY OF SALE PROCEEDS.....	11
<b>8.</b>	<b>ADMINISTRATIVE SERVICES.....</b>	<b>11</b>
8.1	SERVICES.....	11
<b>9.</b>	<b>ACCESS TO ORCHARD.....</b>	<b>11</b>
9.1	RESPONSIBLE ENTITY HAS ACCESS.....	11
9.2	REMOVAL OF RESPONSIBLE ENTITY'S PROPERTY AFTER TERMINATION.....	11
9.3	ROADS AND TRACKS.....	12
9.4	GROWER'S ACCESS.....	12
9.5	WARRANTY AS TO ACCESS.....	12
9.6	FAILURE TO PERFORM IF ACCESS DENIED.....	12
<b>10.</b>	<b>NO LEASE OR LICENCE.....</b>	<b>12</b>
<b>11.</b>	<b>RESPONSIBLE ENTITY'S FEES.....</b>	<b>12</b>
11.1	ANNUAL FEE AND CHARGES.....	12

11.2	ADDITIONAL MANAGEMENT FEE .....	13
<b>12.</b>	<b>INSURANCE.....</b>	<b>13</b>
12.1	THE RESPONSIBLE ENTITY TO KEEP INSURANCE .....	13
12.2	NAMES OF POLICIES.....	13
12.3	NO PARTY MAY PREJUDICE INSURANCE POLICIES .....	13
<b>13.</b>	<b>MANAGEMENT PLAN AND REPORTS.....</b>	<b>14</b>
13.1	MANAGEMENT PLAN.....	14
13.2	RECOMMENDATION OR DIRECTION BY GROWER .....	14
13.3	CHANGES TO MANAGEMENT PLAN .....	14
13.4	PERFORMANCE OF MANAGEMENT SERVICES.....	14
13.5	REPORTS .....	14
13.6	STATEMENTS OF INCOME AND EXPENSES.....	14
<b>14.</b>	<b>DISTRIBUTIONS .....</b>	<b>15</b>
14.1	DISTRIBUTION OF PROCEEDS TO GROWERS .....	15
<b>15.</b>	<b>TERMINATION AND DEFAULT .....</b>	<b>15</b>
15.1	TERMINATION BY GROWER .....	15
15.2	TERMINATION BY RESPONSIBLE ENTITY .....	15
15.3	TERMINATION OF LICENCE AND JOINT VENTURE AGREEMENT OR TREE SUPPLY AND PLANTING AGREEMENT .....	16
15.4	RESPONSIBLE ENTITY TO RELINQUISH PROPERTY AND BOOKS AND RECORDS.....	16
15.5	EFFECT OF TERMINATION .....	16
<b>16.</b>	<b>EXCUSES FOR NON PERFORMANCE .....</b>	<b>16</b>
16.1	FORCE MAJEURE .....	16
16.2	LACK OR UNAVAILABILITY OF FUNDS .....	16
16.3	LIABILITY .....	16
16.4	DEFINITION OF FORCE MAJEURE .....	16
<b>17.</b>	<b>LIMITATION OF GROWER'S LIABILITY .....</b>	<b>17</b>
17.1	NO OBLIGATION BEYOND LICENCE FEE AND EXPENSES .....	17
17.2	LIMITATION OF LIABILITY .....	17
17.3	RESPONSIBLE ENTITY TO DISCLOSE .....	17
<b>18.</b>	<b>DISPUTES .....</b>	<b>17</b>
<b>19.</b>	<b>COUNTERPARTS .....</b>	<b>18</b>
<b>20.</b>	<b>MISCELLANEOUS .....</b>	<b>18</b>
20.1	FURTHER ASSURANCES .....	18
20.2	ENTIRE UNDERSTANDING .....	18
20.3	WAIVER AND EXERCISE OF RIGHTS.....	18
20.4	PARTIES TO GIVE EFFECT TO THE AGREEMENT .....	18
20.5	STAMP DUTY .....	18
20.6	AMENDMENTS.....	19
20.7	CONSTITUTION.....	19
20.8	GST .....	19
20.9	PROPER LAW.....	20
<b>21.</b>	<b>NOTICES .....</b>	<b>20</b>
<b>22.</b>	<b>ASSIGNMENT .....</b>	<b>20</b>
22.1	ASSIGNMENT BY RESPONSIBLE ENTITY .....	20
22.2	AGREEMENTS WITH CONTRACTORS .....	20
22.3	RESPONSIBLE ENTITY OR GRANTEE TO PAY FOR DEED.....	21
22.4	ASSIGNMENT BY GROWER.....	21
22.5	RELEASE OF LIABILITY OF GROWER.....	21

---

## Details of this Almondlot Management Agreement

### Date of the Agreement:

This Agreement is made on 30 June 2001.

### Parties to the Agreement:

1. Each several Grower named in the First Schedule to this Agreement together with the Land Owner as joint venturers

(Grower)

2. **TIMBERCORP SECURITIES LIMITED**

ACN 092 311 469  
Level 5, 95 Queen Street  
Melbourne Victoria 3000

(Responsible Entity)

---

## Background to the Agreement

- A. The Responsible Entity intends to establish a project for the management of an almond orchard, the cultivation of almond trees and harvesting and processing of almonds for commercial gain. The Land Owner and the Grower will participate in that project and associate themselves as joint venturers.
- B. Each Grower has been granted a licence by the Land Owner in respect of one or more Almondlots under the Licence and Joint Venture Agreement.
- C. The Licence and Joint Venture Agreement permits each several Grower to use its Almondlots for the purpose of growing and cultivating almonds and the harvesting of the almonds and each Grower intends to use its Almondlots for this purpose.
- D. The Grower has entered into a Tree Supply and Planting Agreement with the Land Owner under which the Grower has purchased Almond Trees and has engaged the Land Owner to plant the trees on the Grower's Almondlots.
- E. Each Grower wishes to engage the Responsible Entity to cultivate and maintain Almond Trees on, and generally manage, the Almondlots in accordance with the Management Plan and carry out and perform each Grower's obligations under the Licence and Joint Venture Agreement.
- F. Each Grower further wishes to engage the Responsible Entity to procure the processing of the Almonds and sell them on behalf of the Grower and for that purpose has under the Constitution authorised the Responsible Entity to enter into the Project Documents subject to the terms and conditions of this Agreement.

## The Parties Agree as Follows:

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

Unless the context is clearly to the contrary, the following words have the meanings set out opposite them:

<b>Accounts:</b>	receipt and expenditure statements and balance sheets together with statements, reports and notes (including any notes of the Responsible Entity) attached to or intended to be read with any of those statements or balance sheets;
<b>Administrator:</b>	has the meaning given to it in section 9 of the Corporations Law;
<b>Agency Account:</b>	the bank account or bank accounts kept and operated by the Responsible Entity as agent for the Growers in carrying out its duties under this Agreement with a bank nominated by the Responsible Entity;
<b>Almondlot:</b>	each separate identifiable area of the Land comprising approximately 0.25 hectares on which a Grower will carry on the business of primary production in a joint venture with the Land Owner and includes the Capital Works and the Water Licences attributed to the Project;
<b>Almonds:</b>	the almonds grown or growing on the Grower's Almondlots or the Orchard, whichever is applicable and whether harvested or unharvested;
<b>Almond Trees:</b>	the almond trees to be grown on the Orchard;
<b>Business Day:</b>	a day on which all trading banks are open for general banking business in Melbourne, Victoria;
<b>Capital Works:</b>	the infrastructure and capital works that the Land Owner has agreed to carry out, at its cost, under the Licence and Joint Venture Agreement;
<b>Commencement Date:</b>	the date of this Agreement;
<b>Constitution:</b>	the constitution which governs the Project;
<b>Controller:</b>	has the meaning given to it in section 9 of the Corporations Law;
<b>CPI:</b>	on a given day, the Consumer Price Index Groups weighted average for the 8 capital cities published on or last published prior to that day; but if that index ceases to be calculated in a manner in which it is calculated as at the date of this Agreement, CPI means the nearest equivalent consequential amendments in the application of CPI;
<b>Crop:</b>	the Almonds taken from the Almond Trees grown on the Growers' Almondlots;

<b>Financial Year:</b>	a period of 12 months ending on 30 June in any year and includes the period commencing on the date of this Agreement and terminating on 30 June 2001 and the period ending on the termination of this Agreement and commencing on the preceding 1 July;
<b>Government Agency:</b>	a government or government department, a governmental, semi-governmental or judicial person or a person (whether autonomous or not) charged with the administration of any applicable law;
<b>Grower:</b>	a several person (or if more than one person, those persons jointly) who is named or otherwise described in the First Schedule together with the Land Owner, as joint venturers under the Licence and Joint Venture Agreement;
<b>GST:</b>	has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (as amended);
<b>GST Law:</b>	the same as in the A New Tax System (Goods and Services Tax) Act 1999 (as amended);
<b>Incentive Fee Threshold:</b>	the Net Proceeds estimated in the Prospectus to be received by the Grower in accordance with clause 13.7 of the Constitution in that Financial Year, less any allowance for inflation made in the Prospectus in arriving at such estimate, but indexed to CPI from the date of this Agreement;
<b>Joint Venture:</b>	the joint venture between the Grower and the Land Owner as constituted by the Licence and Joint Venture Agreement;
<b>Land:</b>	the land on which the Project will be conducted as described in the Prospectus or such other land which is used for the Project;
<b>Land Owner:</b>	Almond Land Pty Ltd (ACN 091 460 392) of Level 5, 95 Queen Street, Melbourne in the State of Victoria;
<b>Licence and Joint Venture Agreement:</b>	the agreement of that name between the Land Owner as licensor and the Grower as licensee in relation to the Grower's Almondlots and the agreement constituting the Joint Venture;
<b>Licence Fee:</b>	the annual licence fee payable by the Grower under and in accordance with the terms and conditions of the Licence and Joint Venture Agreement;
<b>Management Fee:</b>	the fees payable to the Responsible Entity under clause 11;
<b>Management Plan:</b>	the management plan for a Financial Year prepared by, or on behalf of, the Responsible Entity;
<b>month:</b>	a calendar month;
<b>Net Proceeds:</b>	the proceeds to which a Grower is entitled in a Financial Year under clause 13.7 of the Constitution;
<b>Orchard:</b>	all of the Almondlots;
<b>Orchard Services:</b>	the services described in clauses 5 and 6;

<b>Participating Interest:</b>	<p>(a) the entitlement of the Grower to the Project assets, the Crop, the Product and the Proceeds calculated in accordance with the formula :</p> <p>A/B</p> <p>where:</p> <p><b>A:</b> is the number of Almondlots licensed to the Grower under the Licence and Joint Venture Agreement and used in the Project Operations; and</p> <p><b>B:</b> is the total number of Almondlots licensed to all of the Growers under the Licence and Joint Venture Agreement and used in the Project Operations.</p> <p>(b) In the event that there is a reduction in the area of a Grower's Almondlot or Almondlots under clause 10.4 of the Licence and Joint Venture Agreement, the Participating Interest of each Grower will be recalculated in accordance with the formula in paragraph (a) of this subclause. The recalculated Participating Interest will be applied from the date of the reduction in the area;</p>
<b>Party:</b>	any of the Growers, the Growers, the Responsible Entity or any one or more of them as the context requires;
<b>Proceeds:</b>	<p>(a) interest received on moneys in the Agency Account;</p> <p>(b) any moneys payable to a Grower under any policy of insurance in relation to the Grower's Almondlots, the Almonds or the Project;</p> <p>(c) proceeds from the sale of Crop;</p> <p>(d) proceeds from the sale of Product; and</p> <p>(e) any other monies payable to a Grower from or in relation to the Project;</p>
<b>Product:</b>	Almonds in a saleable condition;
<b>Project:</b>	the 2001 Timbercorp Almond Project promoted by the Responsible Entity relating to the management of an almond orchard, the cultivation and harvesting of Almond Trees and the processing of Almonds for commercial gain;
<b>Project Documents:</b>	the agreements entered into by the Responsible Entity under clauses 13.3 and 13.4 of the Constitution;
<b>Project Operations:</b>	the development and management of a commercial almond orchard and includes the Orchard Services, the harvesting and processing of the Almonds, delivery of the Almonds for distribution to or on behalf of the Growers in accordance with their Participating Interests and procuring the sale of Almonds;
<b>Special Resolution:</b>	a resolution passed at a meeting of Growers duly convened and held in accordance with this Agreement by a majority of Growers in number present in person or by representative, attorney or proxy whose total Participating Interests exceed 75%;
<b>Term:</b>	the term of this Agreement under clause 2.1;

<b>Tree Supply and Planting Agreement:</b>	an agreement between each Grower and the Land Owner, under which the Grower has purchased Almond Trees from the Land Owner and has engaged the Land Owner to plant the trees on the Grower's Almondlots;
<b>Water Licences:</b>	the water licences owned or acquired by the Land Owner and attributed to the Project.

## 1.2 Construction

In this Agreement, unless expressed or implied to the contrary:

- (a) a reference to this or any other agreement includes a variation or replacement of it;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of it;
- (c) the singular includes the plural and vice versa;
- (d) if a word is defined, cognate words have corresponding definitions;
- (e) a reference to a person includes a firm, body corporate, an unincorporated association or an authority;
- (f) a reference to a person includes the person's legal personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns and transferees;
- (g) a reference to a gender includes the other genders;
- (h) a reference to "\$" or "dollars" is a reference to Australian dollars;
- (i) a reference to a clause, recital or schedule is to a clause, recital or schedule in or to this Agreement;
- (j) if a party comprises two or more persons, this Agreement binds them jointly and each of them severally;
- (k) if any of the persons comprising the Grower is a trustee, this Agreement binds that person in its capacity as a trustee and personally; and
- (l) the word **"include"** or **"includes"** is to be read as if the expression "(but is not limited to)" immediately followed such word and the word **"including"** is to be read as if the expression "(but not limited to)" immediately followed such word.

## 1.3 Headings

Headings are for convenience of reference only and do not affect the interpretation of this Agreement.

## 1.4 Grower and Agreement

- (a) The term "Grower" in this Agreement is a reference to the particular Grower named in the Schedule to this Agreement and, unless the context otherwise requires, includes the Land Owner pursuant to the Joint Venture, in respect of the Almondlots that have been allotted to them.
- (b) The term "Growers" in this Agreement is a reference to all Growers that hold Almondlots in the Project in joint venture with the Land Owner and according to the context, the term "Growers" may also include the Grower.



- 
- (c) This Agreement is entered into in respect of the Grower's Almondlots referred to in Schedule 1 and, must be read as if it were a separate Agreement on the terms and conditions of this Agreement in respect of each Almondlot held by the Grower.

## **1.5 Delegation**

The Responsible Entity will be entitled to:

- (a) delegate any of its obligations under this Agreement to; and
- (b) exercise any of its rights under this Agreement, through its employees, agents and contractors but any delegation by the Responsible Entity does not release the Responsible Entity from liability under this Agreement.

---

## **2. COMMENCEMENT AND TERM OF THIS AGREEMENT**

### **2.1 Term**

- (a) This Agreement will commence on the Commencement Date.
- (b) Subject to clauses 15.1 to 15.3, this Agreement will continue until the earlier of:
  - (i) termination of the Grower's Participating Interest in the Project;
  - (ii) 30 June 2019; and
  - (iii) termination of the Project.

---

## **3. RELATIONSHIP OF THE PARTIES**

### **3.1 No Partnership etc**

The relationship amongst the Growers, between the Growers and the Responsible Entity and between the Grower and the Responsible Entity is not, is not intended to be, is not deemed to be and is not to be treated as, a partnership or association or, other than the relationship between the Land Owner and a Grower, a joint venture.

### **3.2 Project**

The Parties expressly agree and acknowledge that:

- (a) the rights, duties, obligations and liabilities of the Growers are in every case several and not joint or joint and several;
  - (b) each Party is an independent contracting party; and
  - (c) no Party has any authority or power for or on behalf of any other Party to enter into any contract, to pledge any credit, to incur any liabilities, to assume any obligations or to make any warranties or representations whatsoever except as specifically provided by this Agreement.
-

---

## **4. APPOINTMENT OF THE RESPONSIBLE ENTITY**

### **4.1 Engagement of Responsible Entity**

The Grower engages the Responsible Entity on the terms and conditions set out in this Agreement generally to manage and administer the Project, manage, direct and conduct the Project Operations on behalf of the Grower and perform the Orchard Services.

### **4.2 Responsible Entity to Carry out Orchard Services as Independent Contractor**

The Parties agree that the Responsible Entity will carry out the Orchard Services as an independent contractor and not as agent of the Grower.

### **4.3 Authority to Act**

The Responsible Entity does not have any authority to act for, or to assume any obligation or liability on behalf of, the Grower or the Growers except such authority as is conferred on the Responsible Entity by this Agreement or the Constitution.

### **4.4 Performance of Obligations**

Subject to this Agreement, the Responsible Entity must use reasonable endeavours to perform all its functions, and exercise its powers under this Agreement and conduct the Project Operations:

- (a) in a commercially reasonable manner;
- (b) honestly;
- (c) generally in accordance with good horticultural management and environmental practices which are generally recognised and adopted in Australia and are known and acceptable to the Responsible Entity and suitable for use on the Orchard; and
- (d) in the best interests of all the Growers and not in the interests of the Responsible Entity if those interests are not the same as those of the Growers.

The phrase "commercially reasonable manner" means, in any particular circumstances, a manner which the Responsible Entity honestly believes is commercially reasonable in those circumstances (having regard where appropriate to the fact that the Responsible Entity has to meet the costs of conducting the Project Operations out of the fees paid to it). Subject to paragraph (d) of this subclause, the phrase does not require the Responsible Entity to have regard to the interests of any person other than itself.

### **4.5 Additional Services**

In addition to the activities set out in clause 4.1 and without limiting the generality of clause 4.1, the Responsible Entity must, at its own expense, provide all necessary administrative, supervisory and consulting services.

### **4.6 Acceptance of Engagement**

The Responsible Entity accepts its engagement on the terms of this Agreement.

---

---

## **5. ORCHARD MANAGEMENT**

### **5.1 Management Plan and Good Practices**

The Responsible Entity will cultivate and manage the Orchard in accordance with:

- (a) the Management Plan; and
- (b) good horticultural and environmental practices.

The initial Management Plan for the Financial Year ended 30 June 2001 will be prepared within 30 days of the commencement of this Agreement and attached to this Agreement.

### **5.2 Activities**

Without limiting the generality of clause 5.1, the Responsible Entity will carry out the following activities:

- (a) prune the Almond Trees by mechanical or other methods;
- (b) as permitted by law, eradicate vermin which have caused or may cause damage to the Almond Trees or the Grower's Almondlots and put in place measures to control such vermin;
- (c) provide the Orchard with necessary irrigation water made available by the Land Owner through the Water Licences, operate the irrigation system licensed to Growers on the Grower's Almondlots at various times in order to irrigate the Grower's Almondlots;
- (d) at its discretion, conduct tests to ascertain the availability of nutrients in the soil on the Grower's Almondlots and, based on the results, take whatever action is required to maintain the growth rate and productivity of the Almond Trees;
- (e) fertilise the Grower's Almondlots as required, in accordance with good horticultural practices, to maintain satisfactory rates of growth and productivity of the Almond Trees;
- (f) in its absolute discretion and without needing the Grower's consent, destroy any of the Almond Trees or Almonds which have contracted an exotic, noxious or incurable disease;
- (g) keep the improvements on the Grower's Almondlots in good and substantial repair;
- (h) maintain fire breaks in accordance with regulatory and insurance requirements and good horticultural practices;
- (i) maintain the Grower's Almondlots in accordance with good horticultural practices including using soil management technique methods to reduce erosion and maintain soil quality;
- (j) as far as reasonably possible, keep the Grower's Almondlots free from competitive weeds or other vegetation which may affect the growth or yield of the Almond Trees;
- (k) protect the Almond Trees from insect infestation, disease and competition from competing growth using good horticultural practices, including applying herbicides or pesticides to the Grower's Almondlots and spraying under the Almond Trees as permitted by law;
- (l) keep proper and accurate records of all fertilisers, nutrients and other chemicals applied to the Grower's Almondlots or Almond Trees;

- 
- (m) regularly inspect and repair all stakes, fences and irrigation equipment on the Grower's Almondlots;
  - (n) inspect and, where appropriate, retie the Almond Trees to stakes and attach Almond Trees to trellising in accordance with good horticultural practices;
  - (p) replant any of the Almond Trees in need of replacement in accordance with the terms of any agreement made with suppliers of the Almond Trees;
  - (q) on behalf of the Grower, oversee the establishment of the Grower's Almondlots and construction of the Capital Works by the Land Owner and planting of the Growers' Almond Trees in accordance with good horticultural and environmental practices and in accordance with the Land Owner's obligations under the Licence and Joint Venture Agreement and the Tree Supply and Planting Agreement;
  - (r) comply with the Grower's licence obligations under the Licence and Joint Venture Agreement (except for those relating to payment of fees);
  - (s) not discriminate between Growers in the supply of water under the Water Licences;
  - (t) each Financial Year, commencing the Financial Year ending 30 June 2001, prepare, or arrange for the preparation of, the Management Plan for the Project, including a horticultural plan for the Orchard, horticultural program, operational plan and annual financial and operational budgets in relation to these horticultural matters, review the Management Plan and, if necessary, make amendments to it;
  - (u) provide any other service or thing which, in the reasonable opinion of the Responsible Entity, is incidental or ancillary to the ongoing management of the Grower's Almondlots; and
  - (v) comply with all laws and regulations relating to the use and occupancy of the Grower's Almondlots.

### **5.3 No Unlawful Acts**

The Responsible Entity must not do or allow any unlawful act to be done on or adjacent to the Orchard and nothing in this Agreement or in the Management Plan for any Financial Year will require the Responsible Entity to do so.

### **5.4 Notify Land Owner of Notices**

The Responsible Entity must give the Land Owner a copy of any notice (other than rates notices) which it receives from any Government Agency with respect to the Grower's Almondlots or the Orchard within seven days after receipt of the notice.

### **5.5 Commencement of Orchard Services**

The Responsible Entity must commence to carry out or cause the commencement of the carrying out of the Orchard Services on behalf of the Grower on the Commencement Date.

---

## **6. HARVESTING**

### **6.1 Harvesting**

Each year during the Term the Responsible Entity will, in accordance with good horticultural practices, test the maturity of the Almonds to determine whether the

---

Almond Trees are ready for harvesting and, having done so, will harvest the mature Almond Trees.

## **6.2 Harvesting Method**

Harvesting must be done by the Responsible Entity in accordance with good horticultural practices by any method (including machine harvesting) deemed appropriate by the Responsible Entity.

## **6.3 Delivery**

The Responsible Entity will promptly deliver all harvested Almonds to a delivery point or points to enable the Almonds to be processed and sold.

## **6.4 Storage**

Until the harvested Almonds are delivered, the Responsible Entity will store them in an appropriate manner to minimise the deterioration of the Almonds' quality. The Almonds may be stored on the Orchard or any other premises whether or not owned or operated by the Responsible Entity.

---

# **7. PROCESSING AND SALE**

## **7.1 Processing of Almonds**

The Responsible Entity will procure the processing of the Crop into Product and will enter into a Project Document as agent and attorney for the Grower.

## **7.2 Marketing and Sale**

The Responsible Entity will:

- (a) sell the Product, using its reasonable endeavours to seek to maximise returns, and on such terms and conditions as the Responsible Entity in its absolute discretion determines and, for this purpose, will enter into a Project Document for the sale of the Product as agent and attorney for the Grower; and
- (b) in the event that Responsible Entity determines that any part of the Crop should not be processed into Product, put such Crop to commercial use, using its reasonable endeavours to seek to maximise returns, on such terms and conditions as the Responsible Entity determines in its absolute discretion and, for this purpose, will enter into any agreement as agent and attorney for the Grower.

## **7.3 Gather In Product or Crop**

Prior to the sale of the Product or Crop, the Responsible Entity may gather in all of the Growers' Product or Crop and the Responsible Entity may store, market and sell the Product or Crop gathered in without having regard to the quantity or quality of the particular Product or Crop from the particular Almondlots. The proceeds of sale of the Product or Crop gathered in will be divided pro rata according to the Growers' Participating Interests in the Product or Crop.

## **7.4 Lien**

- (a) The Grower acknowledges and agrees with the Responsible Entity that the Responsible Entity can call for a first and paramount lien at any time in respect of the Grower's Participating Interest in the Almonds until such time as any

---

outstanding fees or expenses due and payable to the Responsible Entity under this Agreement have been paid.

- (b) The Responsible Entity is authorised to sell or cause to be sold any of the Grower's Participating Interest in the Almonds over which the Responsible Entity has the lien for the purpose of applying the sale proceeds in payment of any outstanding fees or expenses due to the Responsible Entity.

## **7.5 Action for Recovery of Sale Proceeds**

In the event that a payment due by a purchaser of the Product or Crop under an agreement for the sale of the Product or Crop is overdue, the Grower authorises the Responsible Entity to take any action which it reasonably considers to be necessary for the purpose of recovering any such outstanding payments or any Product or Crop from the purchaser.

---

# **8. ADMINISTRATIVE SERVICES**

## **8.1 Services**

The Responsible Entity agrees to provide the following administrative services throughout the term of the Agreement:

- (a) prepare reports to Growers on the allocation and location of Growers' Almondlots;
  - (b) prepare reports to Growers detailing the work to be done on each Grower's Almondlot;
  - (c) prepare reports to Growers on the matters described in clauses 13.5 and 13.6;
  - (d) prepare a statement to the Grower to assist with income tax preparation;
  - (e) record the Grower's transactions and make payments on behalf of the Grower;
  - (f) general administrative management of the Project;
  - (g) review the sales and marketing plan for the Project; and
  - (h) co-ordinate visits of Growers to inspect their Almondlots.
- 

# **9. ACCESS TO ORCHARD**

## **9.1 Responsible Entity has Access**

The Responsible Entity and its invitees will be entitled to such access to the Grower's Almondlots and Almond Trees as is necessary or desirable to perform the Responsible Entity's obligations under this Agreement.

## **9.2 Removal of Responsible Entity's Property after Termination**

The Responsible Entity may remove from the Grower's Almondlots such plant and equipment, implements, furniture and other items brought onto the Grower's Almondlots within one month after the termination of this Agreement and may enter the Grower's Almondlots for the purpose of removing such items.

---

### **9.3 Roads and tracks**

- (a) The Responsible Entity is entitled (but has no obligation) to construct and maintain roads and tracks on the Grower's Almondlots primarily and principally to provide access to and from the Orchard from a public road for the:
  - (i) cultivation, maintenance and tending of the Almond Trees and the Almonds;
  - (ii) harvesting of the Almonds; and
  - (iii) removal of the Almonds.
- (b) Where the Responsible Entity has removed any material for road building purposes, the Responsible Entity must use reasonable endeavours to return the surface of the land to an appearance as close as possible to the appearance of the surface of surrounding land.

### **9.4 Grower's Access**

Provided the Grower first gives the Responsible Entity 7 days' prior notice in writing, the Responsible Entity must permit the Grower or its duly authorised representatives to have access, at the Grower's expense and risk, at all reasonable times to the Grower's Almondlots and the facilities located on them.

### **9.5 Warranty as to Access**

The Grower warrants that it has the right to grant access to the Grower's Almondlots for the performance by the Responsible Entity of its obligations, and the exercise by the Responsible Entity of its rights under this Agreement will not constitute a trespass against, or an interference with the rights of, the owner of the land, any of the Growers or any person who derives title through or under the owner.

### **9.6 Failure to Perform if Access Denied**

The Responsible Entity will not be liable for any failure to perform its obligations under this Agreement which arises because it is denied access to, or possession or occupation of, the Orchard or any part of it.

---

## **10. NO LEASE OR LICENCE**

This Agreement does not create or confer any leasehold or proprietary interest or licence in favour of the Responsible Entity concerning the Growers' Almondlots.

---

## **11. RESPONSIBLE ENTITY'S FEES**

### **11.1 Annual Fee and Charges**

The Responsible Entity will be paid the following management fees and charges in respect of the Orchard Services and all other services to be provided under this agreement as follows:

- (a) in respect of services to be provided in the period commencing on the Commencement Date and ending on 30 June 2001 (the "first Financial year") an amount of \$4,644.44 per Almondlot payable in advance on or before the Commencement Date; and

- 
- (b) in respect of services to be provided in the period 1 July 2001 to 30 June 2002 - \$1,527.78 per Almondlot payable on 30 September 2001; and
  - (c) in respect of services to be provided in the period 1 July 2002 to 30 June 2003 - \$1,527.78 per Almondlot payable on 30 September 2002; and
  - (d) thereafter, in respect of services to be provided in each subsequent Financial Year during the Term, an amount per Almondlot calculated by the Responsible Entity as the reasonable costs of managing the Almondlot payable on 30 September during that Financial Year.

## **11.2 Additional Management Fee**

The Responsible Entity will be entitled to be paid the following additional management fees in a Financial Year out of, and immediately prior to, any distribution: —

- (a) from 30 September 2003, the estimated costs of operating the Almondlots (which will include an allocation of overhead costs incurred by the Responsible Entity or its contractors that will not exceed \$50 per Almondlot indexed to CPI (adopting year 2001 as the base year)) together with 6% of the proceeds of the sale of Crop and Product in that Financial Year, and
- (b) 25% of so much of the annual Net Proceeds in a Financial Year as exceeds the Incentive Fee Threshold. But, if in the immediately preceding Financial Year, the Net Proceeds were less than the Incentive Fee Threshold the sum of the deficit must be deducted from the Net Proceeds when calculating the fee payable to the Responsible Entity under this paragraph in respect of the Financial Year to which reference is first made.

After the actual costs for a Financial Year have been determined by the Responsible Entity, the Responsible Entity will, when notifying the Grower under paragraph (a) of the projected costs for the succeeding Financial Year, notify the Grower of those actual costs per Almondlot, and either deduct the surplus per Almondlot from, or add the excess per Almondlot to, the fees payable for the next Financial Year, depending on whether they are more or less than the costs calculated by the Responsible Entity under paragraph (a).

---

## **12. INSURANCE**

### **12.1 The Responsible Entity to Keep Insurance**

The Responsible Entity will be responsible for obtaining and keeping or procuring some other person to procure and keep policies of insurance, on behalf of the Grower with a reputable insurer against damage to the Orchard, which is caused by fire or other insurable risks, including public risk and occupier's liability provided that the cost of any such insurance is economically justified and it does not include crop insurance (unless specifically agreed between the Responsible Entity and the Grower from year to year).

### **12.2 Names of Policies**

All such policies of insurance must be in the names of or note the interests of the Responsible Entity, the Land Owner and the Grower.

### **12.3 No Party may prejudice Insurance Policies**

No Party will at any time during the Term permit or suffer to be done (and nothing in this Agreement will require the Responsible Entity to permit or suffer to be done) any act, matter or thing upon the Orchards whereby any insurances in respect of the



---

Orchard or any Grower's Almondlots (or any part thereof) may be prejudiced or rendered void or voidable, or whereby the rate of premium on any insurance policy will be liable to be increased.

---

## **13. MANAGEMENT PLAN AND REPORTS**

### **13.1 Management Plan**

- (a) In performing its obligations under this Agreement, the Responsible Entity must observe and act in accordance with, the Management Plan.
- (b) Despite the preceding paragraph, the Responsible Entity is not required to follow or comply with the Management Plan to the extent that a written recommendation or direction from the Grower under clause 13.2 requires the Responsible Entity to do something which is not in accordance with the Management Plan.

### **13.2 Recommendation or Direction by Grower**

The Responsible Entity must consider any recommendation or direction made by a Grower and where it is satisfied that any such recommendation or direction is in the interests of the Growers and the Project generally, the Responsible Entity must use its best endeavours to carry out the recommendation or direction in accordance with the terms and conditions set out in this Agreement.

### **13.3 Changes to Management Plan**

At any time during the Financial Year to which a Management Plan relates, the Responsible Entity may make changes to that Management Plan.

### **13.4 Performance of Management Services**

The Responsible Entity will have complete discretion as to the manner and method of conducting the Project Operations, subject to the express terms of this Agreement.

### **13.5 Reports**

Within 4 months after the end of each Financial Year during this Agreement the Responsible Entity will send a report (**Annual Report**) to the Grower that addresses and contains information concerning the following matters:

- (a) the results of the harvest of Almonds;
- (b) the condition of the Orchard, the Grower's Almondlots and Almond Trees;
- (c) any other matters which the Responsible Entity considers material concerning the Orchard, the Grower's Almondlots or the Project and which ought reasonably to be made known to the Grower; and
- (d) any other matter reasonably requested by the Grower.

### **13.6 Statements of Income and Expenses**

Within 4 months after the end of each Financial Year, commencing at the end of the Financial Year in which the Almond Trees start to produce Crop, the Responsible Entity will send to each Grower an annual statement of income and expenses relating to the management of the Almondlots and the sale of each Grower's Product or Crop during the relevant Financial Year.

---

---

## **14. DISTRIBUTIONS**

### **14.1 Distribution of Proceeds to Growers**

Subject to this Agreement, the Responsible Entity must pay to each Grower the amount of Proceeds standing to the credit of the Grower in the Agency Account in accordance with the Constitution.

---

## **15. TERMINATION AND DEFAULT**

### **15.1 Termination by Grower**

The Grower may terminate this Agreement by notice in writing to the Responsible Entity:

- (a) immediately, if the Responsible Entity:
  - (i) goes into liquidation other than for the purposes of reconstruction or amalgamation or a Controller or Administrator is appointed in relation to the undertaking of the Responsible Entity or any part of its undertaking;
  - (ii) ceases to carry on business; or
  - (iii) fails or neglects to pay any monies due to any Grower, or is in default of any material obligation under this Agreement and such default continues for a period of 3 months after receipt by the Responsible Entity of written notice from the Growers or a Grower specifying the default and requesting that the default be remedied (except where the Responsible Entity has advised the Growers or the Grower, whichever is the case, of a plan of remedial action to satisfy any such duty and has substantially completed such plan); or
- (b) 6 months (or such shorter period as the Responsible Entity and the Growers agree) after the Growers by Special Resolution at a meeting of Growers resolve to terminate the engagement of the Responsible Entity under the Agreement.

### **15.2 Termination by Responsible Entity**

- (a) The Responsible Entity may terminate this Agreement, with immediate effect, if the Grower fails to make a payment within the required time under this Agreement or commits a material breach of this Agreement and fails to remedy the breach or make reasonable compensation in money within 30 days after the Responsible Entity has served a written notice on the Grower specifying the breach and requiring the Grower to remedy the breach.
- (b) If this Agreement is terminated under paragraph 15.2(a) then:
  - (i) the Grower loses all rights as a participant in the Project;
  - (ii) the Grower remains liable for payment of all fees in respect of work done by the Responsible Entity, and
  - (iii) the procedure for the consequences of termination as set out in clause 18 of the Constitution must be followed.

---

### **15.3 Termination of Licence and Joint Venture Agreement or Tree Supply and Planting Agreement**

This Agreement terminates in respect of the Grower immediately if the Licence and Joint Venture Agreement or Tree Supply and Planting Agreement is terminated in respect of the Grower for any reason.

### **15.4 Responsible Entity to Relinquish Property and Books and Records**

Provided that the Growers have paid all of the fees and other moneys due to the Responsible Entity and it is not otherwise in breach of any of its obligations under this Agreement, the Responsible Entity must relinquish custody and control to the Growers or as the Growers direct, of all property of the Growers held by the Responsible Entity under this Agreement and all books and records and documents kept under this Agreement upon cancellation of the engagement of the Responsible Entity or termination of this Agreement, other than those which the Responsible Entity is required by law to keep.

### **15.5 Effect of Termination**

The termination of this Agreement (whether under this clause or under any other clause) will terminate the rights and obligations of the Parties under this Agreement except to the extent that those rights and obligations are expressed to survive termination. The termination of this Agreement will not prejudice any right, power or remedy to the extent that it accrued prior to or on termination.

---

## **16. EXCUSES FOR NON PERFORMANCE**

### **16.1 Force Majeure**

A Party will not have any obligation to observe or comply with the terms of this Agreement to the extent that the observance of, or compliance with, those terms is prevented by Force Majeure.

### **16.2 Lack or unavailability of funds**

Performance or fulfilment of an obligation is not to be taken to be prevented by Force Majeure if it is prevented by lack of funds or by inability to use available funds resulting from Force Majeure.

### **16.3 Liability**

A Party's failure to observe or comply with the terms of this Agreement will not give rise to any liability to the other Party for any direct or indirect consequential or special loss or damage of any kind to the extent that the failure to observe or comply with those terms is attributable to Force Majeure.

### **16.4 Definition of Force Majeure**

For the purposes of this Agreement, "Force Majeure" means any event or circumstance not reasonably within the control of the Responsible Entity or which the Responsible Entity is not reasonably able to prevent. It includes:

- (a) pestilence, vermin, disease, fire, acts of God, landslide, earthquake, flood, washout, lightning, storm, drought, seasonal and climatic conditions and the elements;
- (b) strikes, lock-outs, bans, work limitations, boycotts and industrial disturbances

- 
- or action;
- (c) act of the enemies, wars, blockades, insurrection, riots and civil disturbances;
  - (d) orders of any court or the order, act or omission or failure to act of any government or governmental authority or instrumentality (including any failure to grant or any withdrawal of any licences, consent or authority);
  - (e) epidemic or quarantine;
  - (f) shortage or unavailability of equipment, materials or labour or any restriction on equipment, materials or labour or on the use of equipment, materials or labour;
  - (g) delays in transportation or communication; and
  - (h) breakage or breakdown of, or damage to, equipment or machinery, or the necessity to repair equipment or machinery to prevent its breakdown.

Each of these paragraphs and each of the terms within each paragraph is construed separately and independently. None of them is to limit the generality of any other.

---

## **17. LIMITATION OF GROWER'S LIABILITY**

### **17.1 No obligation beyond Licence Fee and Expenses**

Despite anything else contained in this Agreement the Grower is not obliged to contribute any money in respect of the Project Operations beyond the Licence Fee and the fees payable by the Grower under the Constitution, the Licence and Joint Venture Agreement, the Tree Supply and Planting Agreement and this Agreement.

### **17.2 Limitation of Liability**

Despite anything else contained in this Agreement, the liability of the Grower is absolutely limited to the Licence Fees, the fees and costs paid or payable to the Responsible Entity under the Licence and Joint Venture Agreement, Tree Supply and Planting Agreement and this Agreement and to any Proceeds of the Grower.

### **17.3 Responsible Entity to disclose**

In any contract which the Responsible Entity enters into on behalf of the Grower, to the extent practicable, the Responsible Entity must disclose that:

- (a) it is contracting as agent for the Grower;
  - (b) the liability of the Grower in respect of the Project Operations and the Licence and Joint Venture Agreement is limited to the amount of money contributed by the Grower as provided in this clause 17; and
  - (c) the Grower is under no liability to the other party to the contract or to any of its servants or agents, whether in contract or otherwise, beyond the money contributed by the Grower as provided in clause 17.2 and to any Proceeds of the Grower.
- 

## **18. DISPUTES**

If a dispute arises under this Agreement it must be referred for resolution under the dispute resolution provisions of the Constitution.

---

## **19. COUNTERPARTS**

- (a) This Agreement may consist of a number of counterparts and if so the counterparts taken together will constitute the one instrument.
- (b) The Grower covenants with the Responsible Entity that it will at the request of the Responsible Entity execute any further counterparts in the form or to the effect of this Agreement, which counterparts may include a lesser or greater number of Growers to those executing this instrument so long as in no circumstances will the rights or entitlement of any Grower be diminished.
- (c) The Parties agree that by their execution of any counterpart of this Agreement they will be and remain liable to each of the other Parties despite that any other person intended to be a Party does not sign or execute this or any other counterpart of the Agreement.

---

## **20. MISCELLANEOUS**

### **20.1 Further Assurances**

Each Party must execute all Agreements and take all other action necessary or desirable to give full effect to this Agreement.

### **20.2 Entire Understanding**

This Agreement contains the entire understanding between the Parties concerning the subject matter contained in it. All previous representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Agreement and have no effect, other than any agreement executed by the Parties that is clearly intended to be supplemental to this Agreement or in substitution for it.

### **20.3 Waiver and Exercise of Rights**

- (a) A single or partial exercise or waiver of a right relating to this Agreement does not prevent any other exercise of that right to exercise of any other right.
- (b) No Party is liable for any loss or expense of another Party caused or partly caused by the waiver, exercise or failure to exercise a right.

### **20.4 Parties to Give Effect to the Agreement**

- (a) Each Party must exercise all powers as are available to it, do all such acts and things and sign, execute and deliver all documents as may be necessary or reasonably required to give full effect to this Agreement.
- (b) If any Party immediately after being requested by the other Parties, or those of them entitled to request fails to do the act or thing, the defaulting Party irrevocably appoints each of the other Parties as its attorney for the purpose of giving effect to this clause.
- (c) The defaulting Party indemnifies the other Parties and holds them harmless from and against all actions, suits, demands and claims consequent upon the exercise of the power granted under this Agreement.

### **20.5 Stamp Duty**

The Responsible Entity will pay the stamp duty payable in relation to this Agreement. The Grower will pay any duty payable in proportion to its Participating Interest in

relation to any Agreement executed pursuant to this Agreement.

## **20.6 Amendments**

- (a) This Agreement may be amended by another document in writing and duly signed by the parties to this Agreement.
- (b) Subject to paragraph (c), the Responsible Entity may amend the provisions of this Agreement to such extent as may be required to:
  - (i) satisfy the requirements of any statute, ordinance, rule, regulation or by-law which may be passed and which affects the Project;
  - (ii) comply with the effect of any judicial decision; or
  - (iii) enable the provisions of this Agreement, or the Project, to be more conveniently, advantageously, profitably or economically administered or managed.
- (c) Prior to making any amendment under paragraph (b), the Responsible Entity must be reasonably satisfied that the amendment does not adversely affect the rights of Growers.
- (b) The Responsible Entity may make the amendments on behalf of itself, and then on behalf of the Growers. To give effect to this clause, each of the Growers appoints the Responsible Entity as its attorney to make amendments to this Agreement.

If the Responsible Entity cannot be satisfied that the amendments can be made in accordance with the paragraph (c), then amendments may only be made in accordance with paragraph (a) of this clause.

## **20.7 Constitution**

The rights and obligations of the parties under this Agreement are subject to the terms and conditions of the Constitution.

## **20.8 GST**

- (a) If any supply made by a party ("Supplier") to the other ("Recipient") under this Agreement is a taxable supply (according to GST Law) so that the Supplier is liable to GST, the parties agree that the consideration payable for that taxable supply represents the value of the taxable supply (the "GST Exclusive Amount") and not the price for that taxable supply.
- (b) In addition to the GST Exclusive Amount for a taxable supply under this Agreement, the Recipient must pay to the Supplier a further amount in respect of the taxable supply calculated as an amount equal to the GST Exclusive Amount multiplied by the GST rate in force from time to time.
- (c) The GST payable under paragraph (b) is payable by the Recipient without deduction or set-off of any other amount, at the same time and on the same basis as the GST Exclusive Amount is payable by the Recipient under this Agreement.
- (c) The Supplier must, in respect of each taxable supply made by it under this Agreement, issue to the Recipient a valid tax invoice in the prescribed form for the amount of GST referable to the taxable supply, in order to enable the Recipient to obtain an input tax credit for the amount of GST payable on the taxable supply.

---

## **20.9 Proper Law**

This Agreement is governed by and to be interpreted in accordance with the laws of Victoria and the parties to this Agreement submit to the non-exclusive jurisdiction of the courts of Victoria, Australia and courts of appeal from them for determining any dispute concerning this Agreement or the transactions contemplated by this Agreement.

---

## **21. NOTICES**

**21.1** Any notice to be given under or in connection with this Agreement must be in writing and may be signed by an authorised representative of the party giving the notice. The notice may be served by:

- (a) hand delivery;
- (b) post or registered or certified mail, or
- (c) fax

to such address or fax number of the party to whom the notice is directed as the addressee may notify prior to such notice being given.

**21.2** Any notice will be effective and will be deemed to be received:

- (a) if hand delivered, then upon delivery;
  - (b) if posted, then 48 hours after the notice has been properly posted if that falls on a business day, and if not, on the first business day afterwards; and
  - (c) if sent by fax, then at the date and time of transmission as shown by the confirmation report from the sender's fax machine indicating that the notice has been received in full by the recipient's fax machine.
- 

## **22. ASSIGNMENT**

### **22.1 Assignment by Responsible Entity**

Subject to clause 22.2, the Responsible Entity may freely assign any of its rights and interests under this Agreement so long as the Responsible Entity does not assign its interest in this Agreement in any way without first entering a deed with the person with whom the Responsible Entity is dealing ("the Grantee"). The deed must contain a covenant by the Grantee in favour of the Grower to observe and perform all or any of the covenants:-

- (a) contained or implied in this Agreement and the Licence and Joint Venture Agreement; and
- (b) required to be observed or performed by the Responsible Entity.

### **22.2 Agreements with Contractors**

The Responsible Entity may only assign its rights and interests in this Agreement to the Grantee if, at the same time, it assigns to the Grantee all its rights and interests in any contract under which the Responsible Entity has delegated some or all of its obligations under this Agreement, and for this purpose, the Responsible Entity has obtained the written consent to the assignment from the contractor.

### **22.3 Responsible Entity or Grantee to pay for deed**

The cost of any deed required under clause 22.1 must be paid by the Responsible Entity or the Grantee, but not the Grower.

### **22.4 Assignment by Grower**

Subject to the requirements of the Constitution, the Grower may not assign its rights under this Agreement unless the Grower first obtains a deed of covenant signed by the proposed assignee in favour of the Responsible Entity stating that the assignee will at all times during the Term observe and perform all and any of the terms and conditions of this Agreement, the Constitution, the Licence and Joint Venture Agreement and the Tree Supply and Planting Agreement applying to the Grower.

### **22.5 Release of liability of Grower**

Once the Grower has perfected an assignment of its interest in this Agreement in accordance with clause 22.3, the Grower no longer remains liable under this Agreement in respect of any act done or omitted to be done after the assignment is effected.

## **Executed as an Agreement**

EXECUTED by TIMBERCORP )  
SECURITIES LIMITED by authority )  
of its directors: )  
)



Director



Director/Secretary



EXECUTED by TIMBERCORP )  
SECURITIES LIMITED as agent )  
and attorney for and on behalf of )  
each several grower by authority )  
of its directors: )



\_\_\_\_\_  
Director



\_\_\_\_\_  
Director/Secretary

EXECUTED by ALMOND LAND )  
PTY LTD by authority of its )  
directors: )



\_\_\_\_\_  
Director



\_\_\_\_\_  
Director/Secretary

# ALMOND ORCHARD MANAGEMENT PLAN

PARTIES:                      ALMOND MANAGEMENT PTY LTD  
                                     SELECT HARVESTS LTD

## 2001 TIMBERCORP ALMOND PROJECT

Prepared by  
Select Harvests Limited

**March 2001**

**Table of Contents**

1.0	Introduction .....	1
2.0	Orchard Services .....	1
2.1	Horticultural Planning .....	2
2.1.1	Overhead Spray program .....	2
2.1.2	Weed Spray Program .....	2
2.1.3	Fertigation Program .....	2
2.1.4	Pruning .....	3
3.0	Irrigation Applications and Management .....	3
4.0	Manpower Requirements.....	4
4.1	Liparoo Site .....	4
4.2	Carina Site.....	5
5.0	Farm Equipment .....	5
5.1	Equipment Maintenance .....	5
6.0	Reporting .....	6

Appendix 1. FARM PROGRAM 2001/02

Appendix 2. BLOCK LAYOUT DESIGNS

---

## 1.0 Introduction

Select Harvests Limited (SHV) has been engaged by Almond Management Pty Ltd (AMPL) as an independent contractor to carry out a range of services as defined in the Almond Orchard Management Agreement between the two companies, in consideration for the payment of fees as set out in the agreement.

This Management Plan outlines the Orchard Services to be provided in the year ended 30.6.2002.

The establishment of the orchards is subject to a separate agreement between the parties and the works to be carried out are detailed in an establishment plan attached to that agreement. The irrigation equipment and infrastructure will be installed by contractors and is scheduled to be completed by the end of May 2001

The project once established will consist of 1,134 hectares of almond orchards with planting to commence in June 2001.

The project will be located on two sites consisting of:

- 139 hectares at Carina and,
- 995 hectares at Liparoo.

Description of land:

- **Liparoo**

The Liparoo almond orchard project will be established on the land situated on the Huttah-Robinvale Road, Liparoo known as all that piece of land in the Parish of Liparoo being Crown Allotment 6 and being all of the land more particularly described in Certificate of Title Volume 9861 Folio 747 and Lot 2 on Plan of Subdivision 442 837A and being all of the land described in Certificates of Title Volume 10554 Folio 880.

- **Carina**

The Carina almond project will be established on a portion of land in the Parish of Bumbang being part of the land more particularly described in Certificate of Title Volume 10530 Folio 483, part of Lot 3 on Plan of Subdivision 429212T.

## 2.0 Orchard Services

The orchard services for which Select Harvests is responsible have been set out in clause 4 of the Almond Orchard Management Agreement and are summarised as follows;

- Cultivation
- Orchard Maintenance

- Management services
  - Harvest
- Nb. Harvest will occur in future years.

## **2.1 Horticultural Planning**

The following section outlines the key horticultural activities to be performed in the orchards. Appendix 1 schedules proposed fertigation and spray programs for the 2001 plantings.

### **2.1.1 Overhead Spray program**

The aim of the overhead spray program is to apply fungicide sprays in a timely manner to maintain a continuous barrier to the inoculation of leaf tissue by bacteria and fungal spores. The fungal sprays used are protective and not curative and therefore form part of a prevention program. Fungicide spraying usually occurs through winter and spring months to prevent the development of “shot hole” and “blossom blight”.

Nutrient sprays are included within the spray program and are designed to boost levels of minor and trace elements especially through periods of stress. The final component of the spray program is the application of zinc sulphate to defoliate leaves and to add trace elements of zinc. This occurs in early May and is done to prevent infection of new leaf tissue in spring by prune rust.

### **2.1.2 Weed Control Program**

The control of weeds via a weed spray and slashing program is required to ensure the effectiveness of irrigation and fertiliser programs. Weed spraying occurs from May (post harvest) through to January (pre harvest). Control of weeds is especially important in young orchards.

The weed control program involves;

- i) Herbicide spraying of tree rows
- ii) Slashing or mulching of mid rows
- iii) Spot spraying of mid rows
- iv) Mowing where required

### **2.1.3 Fertigation Program**

The fertigation program is designed to stimulate growth and structure in young trees. This program is complimented by the foliar spray program.

The fertigation program commences in September following the stabilisation of tree roots following planting. The programmed N:K is aimed at facilitating root development to accommodate future tree growth.

The fertigation program continues through the growing season of mid-October through to mid-April with a balance of N:P:K.

In the later part of summer, nitrogen inputs are increased to induce good tree growth and potassium is increased to develop strength in the trees.

In late March and April inputs are reduced as the tree shuts down for the Winter period.

#### **2.1.4 Pruning**

Pruning is required in a new orchard to shape and train the trees and stimulate growth.

The First year program consists of;

- Tree top pruning to commence after planting which is followed by spring growth
- September – bud rubbing is carried out to select primary limbs to define tree shape
- November – following 300/400mm of growth in leaders they are cut at the top to facilitate a forking process from the cut.

The timing of the above is dependent on tree growth and seasonal conditions. Rapid tree growth could see a further pruning brought forward from the next year's program.

### **3.0 Irrigation Applications and Management**

Irrigation management consists of;

- Soil moisture monitoring
- Water application scheduling
- Application of water
- Maintenance of equipment

Irrigation application is expected to commence in August. At that time we will undertake testing of the system and determine a cleaning program for fillers etc.

Site verification for moisture monitoring will be carried out and a program established to commence accurate moisture readings. An initial program will be established for scheduling and application of water on an irrigation block basis.

The timing and duration of applications will be determined using moisture monitoring results, soil characteristics, climatic conditions and irrigation results. Adequate time will be given for staff training with the new irrigation system, moisture monitoring, scheduling and applications.

Sufficient water is required to provide for the dam fill, irrigation testing and initial water application to 30/6/2000.

Estimated water usage;

- To 30<sup>th</sup> June 2001      XXML/Hectare = XXXX
- To 30<sup>th</sup> June 2002      XXML/Hectare = XXXX

Factors which will impact on water usage outside of management control are;

1. Rainfall
2. Wind
3. Temperature
4. Tree growth rate

Increases or decreases to proposed water use could occur because of the influence of these factors.

The ongoing maintenance program involves the following;

7

- i) Dripperline, submain and mains flushing
- ii) Dripperline checks
- iii) In-line filter cleaning

This will be scheduled as required over the irrigation season.

## **4.0 Manpower Requirements**

### **4.1 Liparoo Site**

The Liparoo site will have a dedicated management team.

#### Staff

Farm Manager

Second in Charge/Maintenance Manager

Water Master  
Four leading hands  
Permanent staff  
Casual staff  
Contract labour

## **4.2 Carina Site**

The Carina site will form part of an overall area of approximately 1100 acres which will have a dedicated management team.

Staff  
Farm Manager  
Second in Charge  
Two leading hands

In addition it will be serviced by shared service for the Carina site for maintenance and water management. The management structure will be reviewed at both properties on a regular basis and may change from time to time.

The orchards will utilise a combination of permanent and casual staff to carry out the farm program depending on seasonal requirements. In addition contract labour will be used for a number of seasonal programs eg. harvest, pruning etc..

## **5.0 Farm Equipment**

SHV will provide the necessary farm equipment to carry out the farm program. There will be a combination of equipment dedicated to the specific site where appropriate, and shared equipment with other locations for less frequently used equipment.

### **5.1 Equipment Maintenance**

The maintenance department is responsible for the up keep and maintenance of all farm equipment, the hulling and cracking plant and motor vehicles to ensure smooth operation of the farm programs as well as to minimise downtime. They are to ensure that the above equipment is at all times in the best possible condition and ready for use when scheduled.

The maintenance program uses a combination of in-house work, outsourcing of large jobs and external service contracts for some items of equipment. We have a major workshop at Kyndalyn Park which services our harvesting equipment and the hulling and cracking plant. This facility has two permanent staff and uses contractor labour during harvest and processing to ensure 24 hour service.



There is an additional workshop at the Carina facility with two permanent staff. The Liparoo site will have a maintenance facility to service the site.

## **6.0 Reporting**

Under the Almond Orchard Management Agreement SHV has committed to provide reports to AMPL on the following basis;

- Annual management plan
- Six monthly report

Half yearly reporting will focus on providing an update on activities performed and will indicate the progress and condition of the orchard.

## **APPENDIX 1**

### **OCHARD FERTILISER & SPRAY PROGRAM FY2002**

**ALMONDS AUSTRALIA LIPAROO & BLOCK 13 PROGRAM 2001-02 SEASON.(2001 PLANTINGS)****Fertiliser Program**

Shot No.	Fertigation Dates	Fertiliser
1	Mid Sept note: starting date will depend on good early growth	N:K
2	Early Oct	N:P:K
3	Mid Oct	N:P:K
4	Early Nov	N:P:K
5	Mid Nov	N:P:K
6	Early Dec	N:P:K
7	Mid Dec	N:P:K
8	Early Jan	N:P:K
9	Mid Jan	N:P:K
10	Early Feb	N:P:K
11	Mid Feb	N:P:K
12	Early March	N:P:K
13	Mid March	N:P:K
14	Early April	N:P:K
15	Mid April	N:P:K

**Orchard Program**

Spray No.	Spray Dates	Overhead Spraying
1	Early Sep note: starting date will depend on good early growth	Cover 1 Fungicide,Foliar
2	Late Sep	Cover 2 Fungicide,Foliar
3	2nd week Oct note: dates may vary depending on weather conditions	Cover 3 Fungicide,Foliar
4	3rd week Nov	Cover 4 Fungicide,Foliar
5	December Additional Zinc maybe required.	Booster 1 Foliar
6	January Additional Zinc maybe required.	Booster 2 Foliar
7	February Additional Zinc maybe required.	Booster 3 Foliar
8	Late March - Early April	Booster 4 Foliar
9	Early May	Zinc Sulphate Leaf drop spray Zinc Copper 1

**Weedspray Program**

Spray No.	Spray Dates	Weedspray
1	July ( Late July)	Undertree Knock down,contact
2	Mid - Late August	Undertree Knock down,contact
3	September	Undertree Knock down,contact
4	October	Undertree Knock down,contact
5	November	Undertree Knock down,contact
6	December	Knock down,contact
7	January	Undertree Knock down,contact
7A	January or May Backup Spray	Under tree Systemic
1	January	Spot spray Systemic
8	February	Undertree Knock down,contact
2	February	Spot spray Systemic
9	March	Undertree Knock down,contact
10	April	Undertree Knock down,contact
11	May	Undertree Knock down,contact
12	June	Undertree Knock down,contact

## **APPENDIX 2**

### **BLOCK LAYOUT DESIGNS**

#### **LIPAROO & CARINA**

