

2002 001

Custody Agreement

2002 Timbercorp Almond Project

Timbercorp Securities Limited

**Permanent Trustee Company
Limited**

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

1.	DEFINITIONS AND INTERPRETATION.....	1
1.1	DEFINITIONS.....	1
1.2	CONSTRUCTION.....	5
2.	APPOINTMENT OF PERMANENT.....	5
3.	FUNCTION AND POWERS OF PERMANENT.....	5
3.1	PERMANENT TO CUSTODIALLY HOLD SCHEME ASSETS AS AGENT FOR TSL	5
3.2	PERMANENT IS AUTHORISED TO RECEIVE AND HOLD THE SCHEME ASSETS	5
3.3	ESTABLISHMENT OF ACCOUNTS.....	5
3.4	PERMANENT MAY EXECUTE ON BEHALF OF TSL.....	6
3.5	PERMANENT MAY ENGAGE AGENTS.....	6
3.6	AGENTS ENGAGED BY PERMANENT MAY BE RELATED PARTIES.....	6
3.7	PERMANENT AUTHORISED TO COMPLY WITH LAW	6
3.8	OTHER POWERS OF PERMANENT.....	6
3.9	PERMANENT HAS ABSOLUTE DISCRETION	6
3.10	PROFESSIONAL INDEMNITY INSURANCE.....	6
4.	DUTIES OF PERMANENT	6
4.1	TSL TO MAKE ALL DECISIONS	6
4.2	PERMANENT TO NOTIFY TSL	7
4.3	PERMANENT DOES NOT ADVISE ON SCHEME ASSETS	7
4.4	PERMANENT DISCLAIMS KNOWLEDGE OF TERMS OF ISSUE	7
4.5	LEGAL PROCEEDINGS	7
4.6	PERMANENT'S SERVICES ARE NON-EXCLUSIVE	7
4.7	INSTRUCTIONS FROM AUTHORISED PERSONS.....	7
4.8	COMPLIANCE WITH SECTION 601FC(1)(i).....	7
4.9	PERMANENT NOT REQUIRED TO REVIEW TRANSACTIONS.....	7
4.10	ASIC POLICY STATEMENT 133.....	7
4.11	PERMANENT MUST NOT CREATE ENCUMBRANCES	8
4.12	EXERCISE OF RIGHT BY PERMANENT	8
4.13	CLAIMS BY THIRD PARTIES.....	8
4.14	LOSS TO THE SCHEME	8
5.	INSTRUCTIONS	8
5.1	AUTHORISED TO ACT ON INSTRUCTIONS	8
5.2	ACKNOWLEDGEMENT BY TSL	8
5.3	PERMANENT NOT LIABLE.....	9
5.4	INDEMNITY	9
5.5	ERRORS AND AMBIGUITY.....	9
5.6	NO OBLIGATION TO OBTAIN INSTRUCTIONS	9
5.7	PERMANENT MAY RECORD DISCUSSIONS	9
6.	BOOKS, RECORDS AND STATEMENTS	9
7.	FEES AND EXPENSES.....	10
8.	INDEMNITIES AND LIMITATIONS OF LIABILITY	10
8.1	INDEMNITIES AND LIMITATIONS OF LIABILITY	10
8.2	INSURANCE	11
9.	WARRANTIES AND UNDERTAKINGS BY TIMBERCORP	12
9.1	REPRESENTATIONS AND WARRANTIES BY TSL	12

9.2	UNDERTAKINGS OF TSL	12
9.3	TAXATION OF TSL	12
9.4	TSL IS BOUND IN TWO CAPACITIES.....	12
9.5	REPRESENTATIONS AND WARRANTIES BY TSL IN RESPECT OF THE SETTLEMENT	12
9.6	TSL TO NOTIFY PERMANENT OF CHANGES TO THE SCHEME	13
10.	WARRANTIES AND UNDERTAKINGS BY TIMBERCORP	13
10.1	MINIMUM TERM OF AGREEMENT	13
10.2	TERMINATION OF AGREEMENT BY THE PARTIES	13
10.3	TERMINATION DOES NOT AFFECT CLAIMS	14
10.4	VESTING ORDERS.....	14
11.	COST AND STAMP COSTS AND STAMP DUTY	14
12.	NOTICES.....	15
13.	EXERCISE OF RIGHTS	15
14.	NO WAIVER	15
15.	SURVIVAL OF INDEMNITIES	15
16.	ENFORCEMENT OF INDEMNITIES.....	15
17.	ASSIGNMENT	16
18.	CONFIDENTIALITY.....	16
19.	FURTHER ASSURANCES.....	16
20.	FORCE MAJEURE	16
20.1	DEFINITION OF "FORCE MAJEURE"	16
20.2	PERFORMANCE EXCUSED	17
20.3	LACK OF FUNDS DOES NOT EXCUSE PERFORMANCE	17
20.4	PARTY CLAIMING "FORCE MAJEURE"	17
20.5	OBLIGATIONS TO PAY MONEY.....	17
21.	ENTIRE AGREEMENT	17
22.	AMENDMENT.....	17
23.	GOVERNING LAW AND JURISDICTION	18
24.	GST 18	
	SCHEDULE 1	1
	SCHEDULE 2	1
	SCHEDULE 3	1
	SCHEDULE 4	1
	SCHEDULE 5	1
	SCHEDULE 6	1

Details of this Custody Agreement

Date of the Agreement:

This Agreement is made on

Parties to the Agreement:

1. Permanent Trustee Company Limited

ACN 000 000 993
294-296 Collins Street
MELBOURNE VIC 3000

(Permanent)

2. Timbercorp Securities Limited

ACN 092 311 469
Level 8, 461 Bourke Street
MELBOURNE VIC 3000

(TSL)

Background to the Agreement

- A. TSL is, or will become, the holder of a dealer's licence issued by ASIC authorising it to operate the 2002 Almond Project.
- B. TSL proposes to issue the Prospectus which will:
 - (a) invite several persons to apply to become a Grower under the Constitution; and
 - (b) invite that person or those persons to contribute moneys to pay for cultivating and managing Almondlots.
- C. TSL has agreed to appoint Permanent as custodian to hold the Scheme Assets on the terms and conditions of this agreement

The Parties Agree as Follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this agreement, these words and phrases have the meanings set out opposite them unless the context otherwise requires:

Agency Account	the bank account or bank accounts kept and operated for the purpose of recording Proceeds and any other money that is held on behalf of Growers, other than Subscription Moneys.
Almonds	the almonds grown or growing on the Grower's Almondlots or the Orchard, whichever is applicable
Almondlot	a discrete allotment of approximately 0.25 hectares comprising part of the Orchard that has been licensed to a Grower under the Licence and Joint Venture Agreement
Almondlot Management Agreement	the Almondlot management agreement between each Grower and TSL, in relation to the management of each Almondlot and the processing of Crop and sale of Product on behalf of each Grower
ASIC	the Australian Securities and Investments Commission and such other Government Authority that performs the role undertaken by ASIC in relation to managed investment schemes at the date of this agreement
Authorised Person	the persons nominated by each of TSL and Permanent respectively who are authorised to make any written communication or take action on behalf of TSL or Permanent respectively in relation to the performance of the relevant party under this agreement. The Authorised Persons as at the date of this agreement are specified in Schedule 1 and may be varied upon written notice by the respective party to the other party
Business Day	a day on which banks are open for business in Melbourne, but excludes Saturdays, Sundays, public holidays and bank holidays
Commencement Date	the first date on which interests may be issued under the Prospectus, being the date of issue of the Prospectus
Compliance Plan	the registered compliance plan of the 2002 Almond Project
Constitution	the deed between TSL and each several Grower and constituting the 2002 Almond Project
Crop	the Almonds taken from the almond trees grown on the Growers' Almondlots;
Custodially Held	in relation to a Scheme Asset held by Permanent under this agreement means that Permanent has one or more of the following:- <ul style="list-style-type: none"> (a) legal title to the asset; (b) physical possession of the asset;

	<p>(c) direct control of the asset;</p> <p>(d) physical possession or direct control of the essential elements of title of the asset,</p> <p>where in all the circumstances this results in Permanent having effective control of the asset for the purpose of its safekeeping (whether or not Permanent also performs other services in relation to the asset)</p>
Grower	each several person (or in the case of more than one person, those persons jointly) who is named in the Constitution together with the Land Owner as joint venturers under the Licence and Joint Venture Agreement
GST	a tax, levy, duty, charge or deduction, together with any related additional tax, interest, penalty, fine or other charge, imposed by or under a GST Law
GST Law	the same as in the <i>A New Tax System (Goods and Services Tax) Act 1999</i>
GST Rate	the rate of GST under the GST Law
Indexed	adjusted on the date on which the relevant payment is due (or the date upon which the relevant calculation is made, whichever is applicable) ("the Date"), by the aggregate percentage change in the Consumer Price Index (All Groups, Weighted Average of Eight Capital Cities) for the previous four (4) quarters most recently published by the Australian Bureau of Statistics prior to the Date (or if in the relevant clause a date is provided from which the adjustment is to be made then prior to that date)
Joint Venture	the joint venture between the Grower and the Land Owner as constituted by the Licence and Joint Venture Agreement
Land Owner	Almond Land Pty Ltd (ACN 091 460 392) of Level 8, 461 Bourke Street, Melbourne Victoria 3000
Law	the Corporations Act 2001
Licence and Joint Venture Agreement	the licence and joint venture agreement 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
Orchard	all of the Almondlots
Price	in clause 24 of this agreement, has the same meaning as in the GST Law
Proceeds	<p>(a) interest received on moneys in the Agency Account;</p> <p>(b) any moneys payable to a Grower under any</p>

	<p>policy of insurance in relation to the Grower's Almondlots, the Crop, the Product or the 2002 Almond Project;</p> <p>(c) net proceeds from the sale of Product or Crop; and</p> <p>(d) any other moneys payable to a Grower from or in relation to the 2002 Almond Project.</p>
Product	Almonds in saleable condition
Prospectus	the prospectus or other disclosure document inviting applications or offers to subscribe for Almondlots in the 2002 Almond Project or offering those Almondlots for subscription and lodged by TSL for the purposes of section 718 of the Law
Responsible Entity	means TSL, in its capacity as the responsible entity of the Scheme under the Law
Scheme	the managed investment scheme relating to the 2002 Timbercorp Almond Project
Scheme Agreements	the Licence and Joint Venture Agreement, Tree Supply and Planting Agreement and Almondlot Management Agreement to be entered into by or on behalf of a Grower in relation to the 2002 Almond Project
Scheme Assets	Subscription Moneys, until they are expended, and Proceeds, until they are distributed, in accordance with the Constitution
Subscription Moneys	moneys paid by Growers in order to acquire interests in Almondlots under the Scheme
Taxes	taxes, levies, imposts, deductions, charges, withholdings and duties (including, but not limited to, stamp and transaction duties), together with any related interest, penalties, fines and other statutory charges, but does not include GST
Tree Supply and Planting Agreement	the tree supply and planting agreement between each Grower and the Land Owner, relating to the purchase of almond trees by the Grower and the planting of almond trees on the Grower's Almondlots
2002 Almond Project	the 2002 Timbercorp Almond Project, being the entire undertaking, scheme, enterprise or arrangement to which the Growers and the Growers' corresponding Almondlots relate, interests in which will be first offered in the financial year ending 30 June 2002
Value	in clause 24 of this agreement, has the same meaning as in the GST Law

1.2 Construction

In this agreement, unless the context otherwise requires:

- (a) words importing one gender include the other genders;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a party is a reference also to that party's respective successors or assigns;
- (d) a reference to a person includes an individual, firm, company, corporation or unincorporated body or persons, or any state or government or any agency thereof (in each case, whether or not having separate legal personality) and reference to a company includes a person;
- (e) headings are for convenience only and do not affect interpretation;
- (f) references to sections, clauses and schedules are references to sections, clauses and schedules of this agreement; and
- (g) a reference to any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued relating to it.

2. APPOINTMENT OF PERMANENT

- (a) TSL appoints Permanent to provide custodial services on the terms and conditions of this agreement.
- (b) Permanent accepts its appointment and agrees to provide custodial services to TSL on the terms and conditions of this agreement.
- (c) Permanent acknowledges that TSL will assess Permanent's performance on a regular basis in accordance with the methods and standards identified in Schedule 2.

3. FUNCTION AND POWERS OF PERMANENT

3.1 Permanent to Custodially Hold Scheme Assets as Agent for TSL

Subject to the provisions of this agreement, Permanent agrees to Custodially Hold the Scheme Assets as agent for TSL in relation to the Scheme.

3.2 Permanent is Authorised to Receive and Hold the Scheme Assets

TSL authorises Permanent to:

- (a) receive and hold the Scheme Assets and all income accruing in respect of them and any document of title to them in safe custody;
- (b) if directed by TSL and if duly appointed as attorney for and on behalf of the Growers, execute as attorney for and on behalf of the Growers, such of the Scheme Agreements as are entered into by the Growers; and
- (c) retain in safe custody executed copies of the Scheme Agreements.

3.3 Establishment of Accounts

Permanent may establish such accounts in the name of TSL designating the Scheme Assets or, if otherwise instructed by TSL, some other name, with any bank or company

approved by TSL and operate on the account in accordance with instructions from TSL.

3.4 Permanent May Execute on Behalf of TSL

Permanent may execute or make on behalf of TSL any certificates, declarations or affidavits which are required to receive into or transfer out of its custody any Scheme Assets.

3.5 Permanent May Engage Agents

Permanent may appoint or engage at TSL's expense accountants, auditors, barristers, solicitors, advisers, consultants, brokers, counterparties, couriers or other persons where it considers their appointment or engagement necessary or desirable for the purpose of exercising its powers or performing its duties under this agreement. Permanent is not liable for any loss, damage or expense suffered or incurred as a result of any act or omission whatever (including a negligent act or omission) of a person appointed or engaged under this clause 3.5.

3.6 Agents Engaged by Permanent May Be Related Parties

Persons appointed or engaged in accordance with clause 3.5 may be related to or associated with Permanent and may be paid and receive their normal fees or commissions.

3.7 Permanent Authorised to Comply with Law

Permanent is authorised to comply with any obligations imposed on it by law.

3.8 Other Powers of Permanent

Permanent may do any other things which it considers necessary, desirable, incidental to or in furtherance of the matters referred to in this clause or clause 4.

3.9 Permanent has Absolute Discretion

Subject to this agreement, Permanent has absolute discretion as to the exercise of all powers, authorities and discretions vested in it under this agreement.

3.10 Professional Indemnity Insurance

Permanent warrants that, throughout the term of this agreement, it will maintain professional indemnity insurance and fidelity insurance for an acceptable amount and on usual terms with a reputable insurer against each of the following:

- (a) any liability which Permanent may incur in relation to the provision of the custodial services; and
- (b) any liability which Permanent may incur in relation to its obligations under this agreement.

4. DUTIES OF PERMANENT

4.1 TSL to Make All Decisions

TSL is responsible for taking all decisions in relation to the Scheme Assets and properly communicating to Permanent instructions in relation to the Scheme Assets. Subject to this agreement, Permanent must act on TSL's instructions in relation to any Scheme Asset. If Permanent does not have any instructions, Permanent is required, subject to this agreement, not to make any payment or take any other action in relation to any matter concerning any Scheme Assets.

4.2 Permanent to Notify TSL

Permanent must promptly forward to or notify TSL of all forms of proxy, notices of meetings and other material letters, notices or announcements received by Permanent relating to the Scheme Assets.

4.3 Permanent Does Not Advise On Scheme Assets

Permanent is not responsible for reviewing or advising TSL on the Scheme Assets or any part of them nor for any action or omission pursuant to a decision taken or mistakenly not taken by TSL.

4.4 Permanent Disclaims Knowledge of Terms of Issue

Permanent disclaims any knowledge of the terms on which Almondlots are issued.

4.5 Legal Proceedings

Permanent is not obliged to institute or defend legal proceedings unless requested by TSL and indemnified by TSL to its satisfaction.

4.6 Permanent's Services are Non-Exclusive

The services of Permanent under this agreement are not exclusive. Permanent is free to provide similar services to others and is not obliged to disclose to TSL anything which comes to its notice in the course of providing services to others or otherwise than in the performance of this agreement.

4.7 Instructions from Authorised Persons

Permanent is not obliged to see whether, in exercising any of its powers or performing any of its duties under this agreement in accordance with the instructions from an Authorised Person, the Authorised Person is acting in proper exercise or performance of his powers or duties.

4.8 Compliance with Section 601FC(1)(i)

To the extent required by section 601FC(1)(i) of the Law as modified by any relief granted by ASIC, Permanent must ensure that the Scheme Assets are:

- (a) clearly identified as property of the Scheme; and
- (b) held separately from Permanent's own assets, the assets of any other scheme or any other assets held by Permanent in any other capacity whatsoever.

4.9 Permanent Not Required to Review Transactions

Permanent is not responsible for checking or ascertaining the value of any property or whether the price to be paid for any property is proper or reasonable or whether any transaction which it is instructed to effect accords with the Constitution, Compliance Plan, Prospectus, investment policy or limit for the time being established for or in force in relation to the Scheme.

4.10 ASIC Policy Statement 133

- (a) Permanent must notify TSL in writing immediately if Permanent becomes aware that it no longer satisfies the requirements of ASIC Policy Statement 133.
- (b) Permanent must provide to TSL within 4 months after the end of its financial year a certificate signed by two directors stating that Permanent has met the requirements of ASIC Policy Statement 133 during that financial year and must (if TSL reasonably requires such certificate) provide a certificate signed by Permanent's external auditor confirming that, in the auditor's opinion,

Permanent continues to meet the financial requirements of ASIC Policy Statement 133.

4.11 Permanent Must Not Create Encumbrances

Permanent must not give a charge, mortgage, lien or other encumbrance over, or in relation to, Scheme Assets other than in respect of expenses and outlays made within the terms of this agreement but not including unpaid custodian fees.

4.12 Exercise of Right by Permanent

Permanent must not exercise any right in the nature of a charge, mortgage, lien or other encumbrance over or in relation to Scheme Assets in relation to unpaid custodian fees under clause 7.1 of this agreement, but otherwise Permanent is entitled to exercise any rights in relation to the Scheme Assets available to it at law in the nature of a charge, mortgage, lien or other encumbrance and is additionally granted by this agreement rights of lien and set off as against the Scheme Assets in relation to any liability, loss, cost, claim or expense incurred or arising on account of the Scheme in the proper performance of Permanent's powers or duties under this agreement.

4.13 Claims by Third Parties

Subject to clause 8.1, in the event that Permanent has breached a term of this agreement which entitles TSL to exercise its rights against Permanent, the existence of such rights does not entitle TSL to prevent Permanent from relying on the provisions of this agreement to seek indemnification or other rights in order to meet or satisfy any claim or demand made by a third party in relation to Permanent.

4.14 Loss to the Scheme

Permanent agrees to compensate the Scheme by making a payment to the Agency Account in the event of Permanent being required by law to make such payment if there is a loss to the Scheme as a result of Permanent failing in its obligations under this agreement.

5. INSTRUCTIONS

5.1 Authorised to Act on Instructions

Permanent is authorised to act, or cause any other person to act, on:

- (a) instructions which bear or purport to bear the signature or a facsimile of the signature of any of TSL's Authorised Persons;
- (b) instructions provided by electronic means, including instructions transmitted by email, whether using security codes or not; and
- (c) instructions provided by any other procedures as may be agreed from time to time between TSL and Permanent.

5.2 Acknowledgement by TSL

TSL acknowledges that:

- (a) instructions given over the internet (that is, by email) do not pass over a secure system;
- (b) instructions given over the internet may be intercepted, varied or tampered with;
- (c) fraudulent or other unauthorised instructions may be transmitted via email; and

accordingly, TSL agrees that all risks of sending instructions or notices by email, including the risk of unauthorised instructions or fraud, lie with TSL alone.

5.3 Permanent Not Liable

Permanent is not liable for acting on any instructions which appear to it to have been properly and regularly signed, transmitted electronically from an address which appears properly authorised to send instructions, or given and is under no duty to enquire whether any such instructions have been so signed, transmitted or given. However, Permanent may require written confirmation from TSL before acting on any instructions.

5.4 Indemnity

TSL indemnifies Permanent against any damage, loss, cost or expense which Permanent may suffer or incur (whether directly or indirectly and whether foreseeable or not) as a result of or in connection with:

- (a) Permanent acting upon any instructions purporting to be from TSL or any person authorised by TSL to give instructions;
- (b) Permanent not acting upon any instructions purported to be from TSL or any person authorised by TSL to give instructions where Permanent, in its absolute discretion, considers or suspects that such instructions have been transmitted to it fraudulently, mistakenly or without authority or if the instructions contain material omission or errors.

5.5 Errors and Ambiguity

Permanent will use its best endeavours to clarify any error or ambiguity which is readily apparent on the face of any instructions with TSL before acting on instructions. However, Permanent is not liable for acting on any instructions given in accordance with this clause 5 which contain any error or ambiguity.

5.6 No Obligation to Obtain Instructions

Nothing in this clause 5 obliges Permanent to obtain instructions where the other provisions of this agreement do not impose any such obligation.

5.7 Permanent May Record Discussions

Permanent may record electronically telephonic discussions relating to this agreement or any transaction effected under it.

6. BOOKS, RECORDS AND STATEMENTS

Permanent must:

- (a) properly maintain adequate books and records relating to the Scheme Assets in accordance with generally accepted accounting principles to the extent such principles are relevant;
- (b) provide TSL with the reports and statements relating to the Scheme Assets described in Schedule 3 at the intervals mentioned in Schedule 3;
- (c) provide any auditor of TSL with any reasonably available information in Permanent's possession about the Scheme Assets which the auditor requires to enable it to perform any audit or investigation involving the Scheme Assets; and
- (d) upon any reasonable request by TSL, provide to TSL any documentation, for

review by TSL, to ensure that the Scheme Assets are held in accordance with this agreement and the Law.

7. FEES AND EXPENSES

- (a) TSL agrees to pay to Permanent during the continuance of this agreement fees in the amounts described and at the times set out in Schedule 4.
 - (b) Permanent is entitled to recover from TSL the amount of all Taxes and bank charges, and all other liabilities, costs, charges and expenses which it suffers or incurs in connection with the performance of its duties and the exercise of its powers under this agreement including, without limitation, settlement, delivery, registration and transactions charges and foreign currency costs and charges including any reasonable expenses incurred as a result of TSL requesting a certificate pursuant to clause 4.11.
-

8. INDEMNITIES AND LIMITATIONS OF LIABILITY

8.1 Indemnities and limitations of liability

Without limiting any other indemnity or limitation of liability in this agreement, and without prejudice to any indemnity allowed by law, but subject to this agreement and to any law to the contrary, and to the maximum extent permitted by law, it is agreed and declared that:

- (a) TSL indemnifies Permanent against any liability, demand, loss, costs, charges and expenses which may be incurred by Permanent in connection with:
 - (i) this agreement and the acts and omissions of Permanent in performing services pursuant to this agreement, except those attributable to the gross negligence, fraud or wilful default of Permanent;
 - (ii) all actions, suits, claims and demands which may be brought against Permanent by reason of Permanent complying with any instruction by an Authorised Person, including, without limitation, any direction by TSL under paragraph 3.2(b); and
 - (iii) neglect or fraud on the part of TSL or any of its employees, servants or agents;
- (b) Permanent indemnifies TSL in its own capacity and in its capacity as Responsible Entity of the Scheme against any liability, demand, loss, costs, charges and expenses which may be incurred by TSL or the Scheme as a result of:
 - (i) any gross negligence, fraud or wilful default on the part of Permanent or any of its employees, servants or agents; or
 - (ii) Permanent acting outside the scope of its appointment under this agreement or in breach of this agreement.
- (c) Permanent does not incur any liability in respect of any thing done or not done in reliance on any instructions, notice, resolution, direction, consent, certificate, receipt, affidavit, statement, holding out, plan or reorganisation, or other document or information which Permanent reasonably believed to be genuine or to have been passed, signed or endorsed by the proper parties, where

liability but for this provision would attach because that document or matter was not in fact genuine or so passed, signed or endorsed;

- (d) Permanent does not incur any liability in respect of any failure to do any thing which, because of any present or future law or of an order or judgment of any court, it is hindered, prevented or forbidden from doing;
- (e) Permanent is not liable to account to TSL or otherwise for any payments to any fiscal authority for Taxes with respect to Scheme Assets or with respect to any transaction under this agreement despite that any such payment ought not or need not have been made;
- (f) Permanent may act on the opinion or advice of, statements of or information obtained from barristers, solicitors, bankers, accountants, brokers or other persons believed by it in good faith and on reasonable grounds to be expert in relation to the matters on which they are consulted, and Permanent is not liable for anything done or not done by it in good faith in reliance on that opinion, advice, statements or information;
- (g) where Permanent relies in good faith under clause 8.1(f) on any opinion, advice, statements or information from any barrister, solicitor or other expert it is not responsible for any misconduct, mistake, oversight, error of judgment, forgetfulness or want of prudence on the part of any such barrister, solicitor or other expert;
- (h) in the event of the liquidation, dissolution or bankruptcy of any person, or if for any other reason it becomes impossible or impracticable to carry out the provisions of this agreement in respect of that person or otherwise, Permanent is not under any liability because of any error of law made by it, or of any thing done or not done by it in good faith;
- (i) Permanent is entitled to rely on statements or information from TSL as to the validity of any signature on any transfer, form of application, request or other document which Permanent reasonably believed to be genuine;
- (j) Permanent is not responsible for the loss of any property during transmission between TSL and Permanent or Permanent and a third party or fraud on TSL by a third party; nor for the corruption or loss of any data that is transmitted electronically or to which access is given by Permanent to TSL or vice versa;
- (k) Permanent is not liable for any act or omission that is reasonably believed by Permanent to be in accordance with local market practice;
- (l) Permanent is not liable for the failure of any person to carry out any agreement or obligation on that person's part;
- (m) despite any other provision of this agreement, Permanent's liability is limited to the property for the time being comprised in the Scheme Assets except for a liability arising as a result of Permanent's own negligence, wilful default or fraud; and
- (n) Permanent is not liable for any loss, damage or expense suffered or incurred as a result of any delay in executing an instrument where the delay has occurred as a result of Permanent waiting for the receipt of the written confirmation from TSL pursuant to clause 5.3.

8.2 Insurance

Permanent is not responsible for insuring the Scheme Assets or any part of them.

9. WARRANTIES AND UNDERTAKINGS BY TIMBERCORP

9.1 Representations and Warranties by TSL

TSL represents and warrants to Permanent that:

- (a) it has the power to enter into and perform this agreement and has obtained all necessary consents to enable it to do so;
- (b) the entry into and performance of this agreement by TSL does not constitute a breach of any obligation (including, but not limited to, any statutory, contractual or fiduciary obligation) or default under any agreement or undertaking by which TSL is bound;
- (c) property transferred or delivered by TSL to Permanent from time to time to form part of Scheme Assets will be the property of the Scheme and, unless the consent of Permanent is obtained prior to the transfer, free from any mortgage, charge, lien, pledge, encumbrance or other security interest; and
- (d) it will, at all times during the term of this agreement, hold any licences or approvals required to be held by it under any law governing its activities relating to this agreement and comply with all conditions of any such licence or approval.

9.2 Undertakings of TSL

TSL undertakes:

- (a) to provide Permanent on request with any documents, information or instructions reasonably required by Permanent to enable it to perform obligations imposed on Permanent under this agreement or by law;
- (b) to perform its obligations pursuant to this agreement as soon as reasonably practicable and in accordance with the requirements of the Constitution and the Law;
- (c) to give Permanent notice of any communication from the ASIC forthwith upon receipt which relates to the possibility or likelihood of TSL being suspended or removed in relation to the Scheme or that affects or might affect Permanent in relation to the performance of its obligations or exercise of its powers under this agreement or otherwise;
- (d) to give Permanent prompt notice of any alteration to the Constitution.

9.3 Taxation of TSL

TSL undertakes on Permanent's request to provide and certify to Permanent any information in relation to TSL's status or assessability for taxation purposes in any country which is relevant to the performance of this agreement.

9.4 TSL is Bound in Two Capacities

TSL acknowledges that it enters into this agreement both in its individual capacity and in its capacity as responsible entity for the Scheme and all agreements, warranties and obligations of TSL in this agreement bind TSL in both capacities.

9.5 Representations and Warranties by TSL in Respect of the Settlement

TSL warrants that:

- (a) it is the only responsible entity of the Scheme and no action has been taken or is proposed to remove it as responsible entity of the Scheme;
- (b) the copy of the Constitution provided by TSL to Permanent discloses all the

terms and conditions of the Scheme and it is not in default under the terms of the Constitution or the Law in relation to the Scheme; and

- (c) it has a right to be fully indemnified out of the Scheme Assets in respect of all obligations and liabilities which it incurs under this agreement.

9.6 TSL to Notify Permanent of Changes to the Scheme

TSL agrees to inform Permanent promptly if:

- (a) the terms of the Scheme are varied;
- (b) there is any change of responsible entity of the Scheme;
- (c) there is any change of status for taxation purposes of the Scheme; or
- (d) the Scheme is terminated.

10. WARRANTIES AND UNDERTAKINGS BY TIMBERCORP

10.1 Minimum Term of Agreement

Subject to clauses 10.2 and 10.3, this agreement continues for the minimum term specified in Schedule 5 and after the expiry of the minimum term continues on the same terms and conditions unless terminated by either party upon giving to the other party notice for no less than the notice period specified in Schedule 5. Such notice period may expire at any time after the end of the minimum term.

10.2 Termination of Agreement by the Parties

A party may terminate this agreement by notice to the other party:-

- (a) if a receiver or a receiver and manager of the undertaking (or any part thereof) of the other party is appointed either in relation to the capacity in which it acts pursuant to this agreement or where such receiver or receiver and manager is reasonably likely to affect materially such other party's performance pursuant to this agreement; or
- (b) if the other party:
 - (i) goes into liquidation (other than for the purposes of a reconstruction or amalgamation on terms previously approved in writing by the other party) either in relation to the capacity in which it acts pursuant to this agreement or where such liquidation is reasonably likely to affect such other party's performance pursuant to this agreement;
 - (ii) is subject to a scheme of compromise or arrangement with its creditors or has an administrator appointed to its affairs either in relation to the capacity in which it acts pursuant to this agreement or where such scheme or administration is reasonably likely to affect such other party's performance pursuant to this agreement;
 - (iii) ceases to carry on business in relation to its activities as responsible entity in relation to the Scheme in the case of TSL (in which case Permanent may terminate this agreement in relation to the Scheme) or as a provider of custodial services in the case of Permanent;
 - (iv) breaches any provision of this agreement in a material respect or fails to observe or perform any representation, warranty, indemnity or undertaking pursuant to this agreement in a material respect PROVIDED THAT if the breach or failure is capable of remedy in the

reasonable opinion of the party not in default, this agreement may not be terminated unless the party in default is given a period of no less than 14 days within which to remedy the breach or failure and if not remedied within such period the party not in default may terminate this agreement;

- (v) sells or transfers or makes any agreement for the sale or transfer of its principal business and undertaking, or of a beneficial interest therein, other than to a related body corporate for the purposes of a corporate reconstruction upon at least 7 days' notice to the other party; or
- (c) by Permanent if ASIC or a Court having jurisdiction makes a written order vesting any property of TSL in relation to the Scheme in ASIC or some other body other than TSL.

10.3 Termination Does Not Affect Claims

The termination of this agreement does not affect any claim which either party may have against the other.

- (a) Subject to this agreement, on termination of this agreement Permanent must, at the expense of TSL, promptly transfer the Scheme Assets to or according to the instructions of TSL (subject to any contrary direction given to Permanent which has the lawful effect of overriding this provision) and TSL agrees promptly to accept the transfer or give the necessary instructions for the transfer of those assets. Permanent must also, at the expense of TSL, promptly deliver any documents evidencing title to those assets which it is holding, to or according to the instructions of TSL. Despite the provisions of this clause, Permanent may retain any assets which it is lawfully permitted to retain in the exercise of its rights under this agreement.
- (b) Upon termination of this agreement pursuant to clause 10.2(c), Permanent will act upon the instructions of ASIC or an entity properly appointed in relation to the Scheme to the exclusion of the rights of TSL and will deal with the Scheme Assets and all books, records, or other material held by it in relation thereto in accordance with the instructions of ASIC or such other entity to the exclusion of any orders, requests or directions from TSL.

10.4 Vesting Orders

Despite any other provision of this agreement, if ASIC or a Court having jurisdiction has made a written order vesting the property of TSL in relation to the Scheme in another person, Permanent may upon the receipt of notice of such vesting order, disregard any future instructions of TSL in relation to the Scheme and any existing instructions of TSL in relation to the Scheme which have not been fully performed and take instructions in relation to any matter affecting the Scheme from ASIC or such other person.

11. COST AND STAMP COSTS AND STAMP DUTY

- (a) Each party agrees to bear its own legal and other costs and expenses in connection with the preparation, execution and completion of this agreement and of other related documentation, except for stamp duty.
- (b) TSL agrees to bear any stamp duty payable or assessed in connection with this agreement and the transfer of any property to Permanent to form part of the Scheme Assets.

12. NOTICES

Any notice under this agreement must be in writing and:

- (a) may be sent to the address, or facsimile number set out in Schedule 6 or to any other address or facsimile number that either party may specify in writing to the other;
- (b) is taken to have been given or made:
 - (i) in the case of delivery in person: when delivered to the address set out in Schedule 6;
 - (ii) in the case of delivery by post: on the second Business Day after posting;
 - (iii) in the case of delivery by facsimile: on production of a transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the correct number, but if the notice is taken to have been given or made on a day which is not a Business Day or is later than 5.00pm (local time) it will be taken to have been duly given at the commencement of the next Business Day.

13. EXERCISE OF RIGHTS

A party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that or of any other right, power or remedy. Failure by a party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

14. NO WAIVER

No failure to exercise or any delay in exercising any right, power or remedy under this agreement operates as a waiver. No single or partial exercise of any right, power or remedy precludes any other or further exercise of that right or any other right, power or remedy.

15. SURVIVAL OF INDEMNITIES

Each indemnity in this agreement is a continuing obligation, separate and independent from the other obligations of the parties and survives termination of this agreement.

16. ENFORCEMENT OF INDEMNITIES

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity conferred by this agreement.

17. ASSIGNMENT

A party may not assign any of its rights or obligations under this agreement without the prior written consent of the other party.

18. CONFIDENTIALITY

- (a) All information exchanged between the parties under this agreement or during the negotiations preceding this agreement is confidential to the party supplying the information and may not be disclosed to any person except:-
 - (i) to employees, legal advisers, auditors and other consultants of either party or its related bodies corporate requiring the information for the purposes of this agreement;
 - (ii) with the consent of the party who supplied the information;
 - (iii) if the information is, at the date this agreement is entered into, lawfully in the possession of the recipient of the information through sources other than the party who supplied the information;
 - (iv) if required by law or a stock exchange;
 - (v) if strictly and necessarily required in connection with legal proceedings relating to this agreement; or
 - (vi) if the information is generally and publicly available other than as a result of breach of confidence by the person receiving the information.
 - (b) A party disclosing information under clause 18.1(a) or clause 18.1(b) must use all reasonable endeavours to ensure that persons receiving confidential information from it do not disclose the information except in the circumstances permitted in clause 18.1.
-

19. FURTHER ASSURANCES

Each party agrees on the request of the other party to do everything reasonably necessary to give effect to this agreement and the transactions contemplated by it (including the execution of documents) and to use all reasonable endeavours to cause relevant third parties to do likewise.

20. FORCE MAJEURE

20.1 Definition of "Force Majeure"

For the purposes of this agreement, "Force Majeure" means:

- (a) Act of God, fire, explosion, earthquake, landslide, flood, wash-out, lightning, storm or tempest;
- (b) strikes, lockouts, stoppages or restraints of labour or other industrial disturbances;
- (c) war, acts of public enemies, riot or civil commotion or sabotage;
- (d) breakdown of or accident to plant, machinery or equipment except where such breakdown is due to a failure by the party claiming Force Majeure to maintain

-
- the plant, machinery and equipment in a proper manner;
 - (e) restraints, embargoes or other unforeseeable actions of the government of Victoria or of the Commonwealth of Australia; or
 - (f) any Act of Parliament, regulation, by-law, order, ordinance or rule.

20.2 Performance Excused

A party to this agreement will be excused from performance of and will not be liable to the other party for any failure in the fulfilment of any obligation imposed upon it by this agreement if and only to the extent and for the time that such performance or fulfilment is prevented by Force Majeure or the consequences of Force Majeure which the party claiming Force Majeure could not have prevented or overcome by exercising a reasonable standard of care and prudence.

20.3 Lack of Funds Does Not Excuse Performance

Performance or fulfilment of an obligation will not 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.

20.4 Party Claiming "Force Majeure"

A party claiming the benefit or protection of clause 20.2 must:

- (a) promptly give notice to the other party of the occurrence and circumstances in respect of which the claim arises, and of the probable extent to which that party will be unable to perform or be delayed in performing its obligations under this agreement;
- (b) take all reasonable steps to ameliorate and remedy the consequences of that occurrence without delay; and
- (c) resume performance in full of its obligations under this agreement as soon as reasonably practicable.

20.5 Obligations to Pay Money

Any obligation to pay money is not excused by Force Majeure, save for any obligation of Permanent to pay money in circumstances where Permanent is entitled to an indemnity from TSL under paragraph 8.1(a) of this agreement and there are insufficient Scheme Assets to pay such money.

21. ENTIRE AGREEMENT

This agreement contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct by them or prior agreement between them with respect to its subject matter.

22. AMENDMENT

This agreement may be amended only by another document signed by both the parties.

23. GOVERNING LAW AND JURISDICTION

This agreement and the transactions contemplated by this agreement are governed by the laws of Victoria. The parties submit irrevocably and unconditionally to the non-exclusive jurisdiction of the courts of Victoria and courts of appeal from them in relation to any matter or dispute concerning this agreement or the transactions contemplated by this agreement.

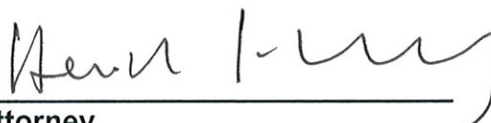
24. GST

- (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 pay 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 shall 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.
- (c) The GST payable under paragraph (b) shall be 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.
- (d) The Supplier must, in respect of a 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 that the Recipient may obtain an input tax credit for the amount of GST payable on the taxable supply.

EXECUTED as an Agreement.

Each attorney executing this Agreement states that he or she has no notice of revocation or suspension of his or her power of attorney.

SIGNED for and on behalf of)
PERMANENT TRUSTEE COMPANY)
LIMITED by its Attorney pursuant to a)
Power of Attorney dated)
31/7/2001 and who declares that)
he has not received any notice of the)
revocation of such Power of Attorney.)



Attorney

Name (please print)
S. SILAVECKY
MANAGER
Permanent Trustee Co Ltd

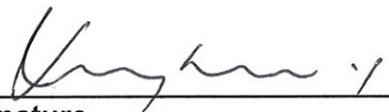


Witness

ALBERTA LIPOLD

Name (please print)

EXECUTED by TIMBERCORP
SECURITIES LIMITED by authority of its
Directors:



Signature


John Vaughan

Name (please print)

Name (please print)

Director

Office Held



Signature

Sol Rabinowicz

Name (please print)

Name (please print)

Director

Office Held

SCHEDULE 1

Authorised Persons (Clause 1.1)

Timbercorp Securities Limited

TSL's Authorised Persons are:

- Robert J. Hance
- Sol Rabinowicz
- John M Vaughan
- Gideon Meltzer

Permanent Trustee Company Limited

Permanent's Authorised Persons are:

- Stenick Silavecky
- Ken Boyce

SCHEDULE 2

Methods and Standards For Assessing Permanent's Performance

Methods

1. Meetings

The First Compliance Officer of TSL, as appointed under the Compliance Plan, and a senior representative of Permanent will meet quarterly to discuss the operation and workability of this agreement and other issues which either party considers relevant.

Meetings between TSL and Permanent may also take place at any other times as shall be determined between the parties.

2. Reports and Statements

The reports and statements, described in Schedule 3, which Permanent is required under clause 6(b) to provide to TSL, must be prepared in a timely manner and will be used by TSL as a method of assessing Permanent's performance.

3. Certificates

The certificates which Permanent is required to provide to TSL under clause 4.10 of this agreement will be a method used by TSL to assess Permanent's performance.

4. Appointment of Representative

Permanent must nominate an officer to act as its representative in relation to the performance of Permanent's duties under this agreement, and to be readily available to communicate directly with, and provide any information required by, TSL in relation to Permanent's functions under this agreement.

5. Spot Checks

Spot checks of Permanent's records relating to the Scheme Assets may be made by a representative of TSL at such times as TSL shall determine upon giving Permanent reasonable notice.

Standards

1. General Compliance

Permanent must at all times comply with the Constitution, all ASIC Policy Statements relating to the performance of its duties under this agreement and any other directives given to Permanent by TSL in accordance with this agreement.

2. Scheme Assets

Permanent must at all times:

- (a) hold and apply Subscription Moneys; and
- (b) hold and distribute Proceeds,

in accordance with the Scheme Agreements and this agreement, and with any directives given to Permanent by TSL under this agreement.

3. Instructions By TSL

Permanent must act in accordance with any instructions given to it by TSL under clause 5 of this agreement.

4. Scheme Agreements

Each Scheme Document must be identified with a unique number and stored in a security packet. All security must be arranged in numerical order. Storage of the security packets must satisfy the following criteria:

- All security packets must be stored in a fire rated security vault area.
- All security packets must be segregated from other documents held by the Custodian.
- Access to the security area must be restricted to only those persons who are required to have access, and such access is to be electronically monitored.
- Details of all documents in security packets (including location and movements of documents) must be entered on a database with tracking capabilities to identify all documents relative to the 2002 Almond Project and provide immediate auditing, if required.

SCHEDULE 3

Reports and Statements (Clause 6.1(ii))

1. Reports

Permanent is required to provide to TSL, at six-monthly intervals, a report containing:

- (a) a statement signed by Permanent that Scheme Assets have been properly paid over in accordance with the Scheme Agreements; and
- (b) details of any distributions of Proceeds which have been made during the preceding six-month period.

The requirement to prepare this report arises only if there have been any payments or distributions of Scheme Assets during the relevant six-month period.

2. Statements

Permanent must arrange for TSL to receive directly from the bank account at which the Scheme assets are held, bank statements relating to the account on a monthly basis, or at such other times as determined by TSL.

SCHEDULE 4

Fees (Clause 7.1)

1. **Initial Fee:**
 - \$20,000 for processing up to 1,500 Growers; and
 - \$1,000 per each additional 100 Growers.

2. **Ongoing Annual Fee:** \$ 3,000 (Indexed).

3. **Termination Fee:** 0.1% of Proceeds with a minimum of \$50,000 (Indexed)

SCHEDULE 5

Minimum Term and Notice Period (Clause 10.1)

The minimum term is the period commencing on the Commencement Date and ending on the termination of the 2002 Timbercorp Almond Project pursuant to clause 26 of the Constitution.

For the purposes of clause 10.1, the notice period is 90 days, or such shorter period as agreed between the parties.

SCHEDULE 6

Address and Facsimile Numbers (Clause 12)

Permanent's Address	294-296 Collins Street, Melbourne, VIC 3000
----------------------------	---

Permanent's Facsimile:	(03) 9927 4959
-------------------------------	----------------

TSL's Address	Level 8, 461 Bourke Street, Melbourne, VIC 3000
----------------------	---

TSL's Facsimile:	(03) 9670 4271
-------------------------	----------------