

2002 CO9a
Public
Deed of Variation

Modifying the Almondlot Management
Agreement Between:

Timbercorp Securities Limited

Each Several Grower

**2002 Timbercorp Almond Project
Liparoo Carina Growers**

[EXECUTION COPY]

NM TAYLOR
LAWYERS

Level 7
350 Collins Street
MELBOURNE VIC 3000

Telephone: 9600 3525
Facsimile: 9600 3527

Details of this Deed of Variation

Date of the Deed:

This Deed is made on 13 June 2002.

Parties to the Deed:

1. TIMBERCORP SECURITIES LIMITED

ACN 092 311 469
Level 8, 461 Bourke Street
Melbourne Victoria 3000

(Responsible Entity)

2. Each several Grower named in the First Schedule to the Almondlot Management Agreement together with the Land Owner as joint venturers

(Grower)

Background to the Deed

- A. The Responsible Entity is the single responsible entity of the 2002 Timbercorp Almond Project (ARSN 099 611 935), being a project for the management of an almond orchard, the cultivation of almond trees and harvesting and processing of almonds for commercial gain.
- B. The Land Owner and the Grower participate in the Project as joint venturers.
- C. 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. The Licence and Joint Venture Agreement permits each Grower to use its Almondlots for the purpose of growing and cultivating almonds and the harvesting of the almonds.
- D. Each Grower has engaged the Responsible Entity under the Almondlot Management Agreement to cultivate and maintain Almond Trees on, and generally manage, the Almondlots, carry out and perform each Grower's obligations under the Licence and Joint Venture Agreement and to procure the processing and sale of the Almonds and on behalf of the Grower.
- E. The parties wish to modify the Almondlot Management Agreement to take into account the expansion of the Project in June 2002 with introduction of the Carina West Site. The modifications are substantially the same as those made by the First Supplemental Deed dated 13 June 2002 executed by the Responsible Entity that amended the Project's Constitution, including the Almondlot Management Agreement attached as the First Schedule to the Constitution.

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- F. The modifications were necessary as there is a difference of approximately 12 months between when the orchard is established on the Carina West Site, and when it was established on the old land, referred to as the Liparoo Carina Site. This difference will result in the Almond Trees on the Carina West Site and Liparoo Carina Site reaching maturity at different times.
 - G. The Responsible Entity may amend the provisions of the Almondlot Management Agreement to such extent as may be required to enable the provisions of the Almondlot Management Agreement, or the Project, to be more conveniently, advantageously, profitably or economically administered or managed provided the Responsible Entity is reasonably satisfied that the amendments do not adversely affect the rights of Growers.
 - H. The Responsible Entity may make the amendments on behalf of itself and on behalf of the Growers. Each of the Growers has appointed the Responsible Entity as its attorney to make amendments to the Almondlot Management Agreement.
 - I. The Responsible Entity has satisfied itself that the modifications contained in this Deed do not adversely affect the rights of Growers and are required to enable the provisions of the Almondlot Management Agreement, and the Project, to be more conveniently, advantageously, profitably and economically administered and managed.
 - J. Accordingly, it makes the amendments contained in this Deed on behalf of itself, and then on behalf of the Growers.
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Operative Provisions:

1. INTERPRETATION

1.1 Definitions

- (a) In this Deed, unless the context otherwise requires or implies, the following expressions have the meanings set opposite each of them:

Operative Date:	the Commencement Date of the relevant Almondlot Management Agreement;
Almondlot Management Agreement:	each of the separate Almondlot Management Agreements between the Responsible Entity and each several Liparoo Carina Grower in relation to the 2002 Timbercorp Almond Project (ARSN 099 611 935).

- (b) In this Deed, including the background and Schedule, unless a contrary intention is expressed or implied, words and expressions defined in the Almondlot Management Agreement, as modified or inserted by the Schedule to this Deed, have the same meanings when used in this Deed.

1.2 Construction

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

- (a) a reference to this or any other agreement includes a variation or replacement of it;

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- (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 Deed;
 - (j) if a party comprises two or more persons, this Deed binds them jointly and each of them severally unless a contrary intention is expressed in the Deed;
 - (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 Deed is a reference to the particular Grower named in the First Schedule to the Almondlot Management 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) This Deed is entered into in respect of each separate Almondlot Management Agreement entered into in respect of the Grower's Almondlots referred to in the First Schedule to the Almondlot Management Agreement and, must be read as if it were a separate Deed on the terms and conditions of this Deed in respect of each Almondlot Management Agreement by entered into on behalf of the Grower.

2. AMENDMENTS

2.1 Deed is Supplemental

This Deed is supplemental to the Almondlot Management Agreement and except as otherwise provided in this Deed, the Almondlot Management Agreement remains in full force and effect.

2.2 Amendments to the Almondlot Management Agreement

The Almondlot Management Agreement is amended and varied as set out in the Schedule.

2.3 Ratification and Confirmation

In all other respects, the parties to the Almondlot Management Agreement confirm and ratify the terms and conditions of the Almondlot Management Agreement.

2.4 Operative Date

The alterations made by this Deed as set out in the Schedule take effect on and from the Operative Date.

3. MISCELLANEOUS

3.1 Counterparts

This Deed may consist of a number of counterparts and if so the counterparts taken together will constitute the one instrument.

3.2 Parties to Give Effect to the Deed

Each party to this Deed 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 Deed in connection with any document being amended and varied to which it is also a party.

3.3 Governing Law And Jurisdiction

- (a) The laws of Victoria govern this Agreement.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria.

Executed as a Deed

EXECUTED by ALMOND LAND PTY)
LIMITED in accordance with section)
127(1) of the Corporations Act by:)

Signature

Signature

Full Name

Full Name

Position Held

Position Held

EXECUTED by TIMBERCORP)
SECURITIES LIMITED in accordance)
with section 127(1) of the Corporations)
Act by:)

Signature

Signature

Full Name

Full Name

Position Held

Position Held

EXECUTED by TIMBERCORP)
SECURITIES LIMITED as attorney for)
and on behalf of each several grower in)
accordance with section 127 of the)
Corporations Act:)

Signature

Signature

Full Name

Full Name

Position Held

Position Held

SCHEDULE

ALMONDLOT MANAGEMENT AGREEMENT AMENDMENTS

1. The following words are added at the end of the definition of "Participating Interest" in clause 1.1:

“(c) For the purposes of clauses 7.3 and 7.4, and in the circumstances where duty on an agreement is payable by reference to the value or quantity of the Product or Crop, the Grower's Participating Interest is modified in accordance with clause 23.4(c).”

2. The following definitions replace the corresponding definition in clause 1.1:

“Almond Trees:	the almond trees planted or to be planted on the Orchard;
Capital Works:	the infrastructure and capital works, including the planting of the Almond Trees, that the Land Owner has carried out and any other works that the Land Owner may be required in the future to carry out, including the works that the Land Owner will carry out on Carina West, at its cost, in accordance with clause 2.3 of the Licence and Joint Venture Agreement;
Incentive Fee Threshold:	for each Almondlot, is the Carina West Incentive Fee Threshold or the Liparoo Carina Incentive Fee Threshold, as the case requires;”

3. The following definitions are inserted in clause 1.1 in alphabetical order:

“Carina West Almondlot:	an Almondlot on the Carina West Site;
Carina West Almonds:	the almonds grown on the Orchard on the Carina West Site, and in relation to a Carina West Grower, means the almonds grown on the Grower's Carina West Almondlots, whether or not harvested;
Carina West Crop:	the Carina West Almonds taken from the Almond Trees grown on the Growers' Carina West Almondlots;
Carina West Grower:	a several person (or if more than one person, those persons jointly) who is named or otherwise described in the First Schedule in respect of Almondlots on the Carina West Site and “Carina West Growers” means all of the persons so named or described;

Carina West Incentive Fee Threshold:	the Net Proceeds estimated in the Supplementary Prospectus to be received by the Carina West Grower in accordance with clause 13.7 of the Constitution in that Financial Year, less any allowance for inflation made in the Supplementary Prospectus in arriving at such estimate, but Indexed from 30 June 2002;
Carina West Proceeds:	<ul style="list-style-type: none"> (a) proceeds from the sale of the Carina West Crop; (b) proceeds from the sale of the Carina West Product; and (c) any other monies payable to a Carina West Grower from or in relation to the Project where it is fair to differentiate between Carina West Growers and the Liparoo Carina Growers in respect of those monies;
Carina West Product:	Almonds in a saleable condition harvested from the Almond Trees on the Carina West Site;
Carina West Site:	has the same meaning as in the Supplementary Prospectus;
Liparoo Carina Almondlot:	an Almondlot on the Liparoo Carina Site;
Liparoo Carina Almonds:	the almonds grown on the Orchard on the Liparoo Carina Site, and in relation to a Liparoo Carina Grower, means the almonds grown on the Grower's Liparoo Carina Almondlots, whether or not harvested;
Liparoo Carina Crop:	the Liparoo Carina Almonds taken from the Almond Trees grown on the Growers' Liparoo Carina Almondlots;
Liparoo Carina Grower:	a several person (or if more than one person, those persons jointly) who is named or otherwise described in the First Schedule in respect of Almondlots on the Liparoo Carina Site and " Liparoo Carina Growers " means all of the persons so named or described;
Liparoo Carina Incentive Fee Threshold:	the Net Proceeds estimated in the Prospectus to be received by the Liparoo Carina 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 from 30 June 2002;
Liparoo Carina Proceeds:	<ul style="list-style-type: none"> (a) proceeds from the sale of Crop;

	(b) proceeds from the sale of Product; and (c) any other monies payable to a Liparoo Carina Grower from or in relation to the Project where it is fair to differentiate between Liparoo Carina Growers and the Liparoo Carina Growers in respect of those monies;
Liparoo Carina Product:	Almonds in a saleable condition harvested from the Almond Trees on the Liparoo Carina Site;
Liparoo Carina Site:	the Land excluding the Carina West Site;
Supplemental Deed:	the first supplemental deed dated 13 June 2002 executed by the Responsible Entity and amending the Project's Constitution;
Supplementary Prospectus:	the third supplementary prospectus lodged with ASIC on or about the date of the Supplemental Deed which discloses to prospective Growers the addition of the Carina West Site to the Project;"

4. Clause 20.5 is replaced with the following:

- "(a) The Responsible Entity will pay the stamp duty payable in relation to this Agreement.
- (b) The Grower will pay any duty payable in proportion to its Participating Interest in relation to any agreement executed pursuant to this Agreement, unless the duty on the agreement is payable by reference to the value or quantity of the Product or Crop, in which case the Grower will pay the duty in proportion to its Participating Interest as calculated under paragraph 23.4(c)."

5. The following clause 23 is inserted after clause 22:

"23. SEPARATE TREATMENT FOR DIFFERENT CLASSES OF GROWERS

23.1 Clause 23 Prevails to the Extent of any Inconsistency

This clause 23 prevails over any other provision in this Agreement to the extent of any inconsistency.

23.2 Activities

The Responsible Entity must, in addition to the activities specified in clause 5.2, oversee the:

- (a) establishment of the Carina West Growers' Almondlots;
- (b) the construction of the Capital Works by the Land Owner on

Carina West Growers' Almondlots; and

- (c) the planting of the Almond Trees on the Carina West Growers' Almondlots,

in accordance with good horticultural and environmental practices and the Land Owner's obligations under the Licence and Joint Venture Agreement.

23.3 Harvesting, Delivery and Storage of Carina West and Liparoo Carina Almonds

The Responsible Entity must, when harvesting, delivering and storing Almonds in accordance with clause 6, harvest, deliver and store the Carina West Almonds in such a manner that they are kept separate from the Liparoo Carina Almonds.

23.4 Processing and Sale of Carina West and Liparoo Carina Almonds

- (a) The Responsible Entity must, when gathering in, storing, marketing and selling the Growers' Product or Crop under clause 7, gather in, store, market and sell the Carina West Product and the Carina West Crop separately from the Liparoo Carina Product and the Liparoo Carina Crop.
- (b) Paragraph 23.4(a) does not require the Responsible Entity to have regard to the quantity or quality of the particular Product or Crop from the particular Almondlots on the Carina West Site or the Liparoo Carina Site.
- (c) For the purposes of clause 7.3, 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 calculated in accordance with the following sub-paragraphs:
 - (i) the Participating Interests of Carina West Growers in the Product or Crop are to be calculated by substituting the words "Almondlots", "Crop", "Product" and "Proceeds" in the definition of "Participating Interest" with the words "Carina West Almondlots", "Carina West Crop", "Carina West Product" and "Carina West Proceeds";
 - (ii) the Participating Interests of Liparoo Carina Growers in the Product or Crop are to be calculated by substituting the words "Almondlots", "Crop", "Product" and "Proceeds" in the definition of "Participating Interest" with the words "Liparoo Carina Almondlots", "Liparoo Carina Crop", "Liparoo Carina Product" and "Liparoo Carina Proceeds".
- (d) The Responsible Entity's lien in sub-clause 7.4 is over the Grower's Participating Interest as calculated under paragraph 23.4(c)."

[end of the Schedule]