

2002. 011  
Public  
**LEASE - Liparoo**

## **2002 Almond Projects**

**Almond Land Pty Ltd**

**Timbercorp Securities Limited**

**NM TAYLOR**  
LAWYERS

Level 7  
350 Collins Street  
MELBOURNE VIC 3000

Telephone: 9600 3525  
Facsimile: 9600 3527

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## Details of this Lease

### Date of the Lease:

This Lease is made on 11 September 2001

**1. ALMOND LAND PTY LTD**

ACN 091 460 392  
Level 8, 461 Bourke Street  
Melbourne, Victoria, 3000  
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**(Lessor)**

**2. TIMBERCORP SECURITIES LTD**

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

**(Lessee)**

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## Background

- A. The Lessor is, or is entitled to be, the registered proprietor of the Land.
- B. The Lessor wishes to grant a lease of the Land that is used for each relevant Project to the Lessee for the Term described in clause 3 on the terms and conditions contained in this Lease.

## The Parties Agree as Follows:

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

In this Lease, unless the context or contrary intention appears, the following words and expressions have the meanings set opposite them:

<b>Almondlot Management</b>	the agreement of that name as defined in the Constitution;
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<b>Agreement:</b>	
<b>Business Day:</b>	any day other than a Saturday, Sunday or a public holiday on which banks are open for business with the public in Melbourne;
<b>Constitution:</b>	the Constitution of the 2002 Timbercorp Almond Project ;
<b>Grower:</b>	the Grower as defined in the Constitution or an Information Memorandum;
<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>2002 Information Memorandum</b>	the information memorandum dated 11 September 2001 in relation to the 2002 Timbercorp Almond Project (Private Offer No. 1);
<b>Land:</b>	that part of the land described in the Schedule that will be used for the Project;
<b>Licence and Joint Venture Agreement:</b>	the agreement of that name as defined in the Constitution or the 2002 Information Memorandum;
<b>Project:</b>	the 2002 Timbercorp Almond Project and/or the 2002 Timbercorp Almond Project (Private Offer No. 1);
<b>Project Manager</b>	the project manager for the time being of a Project;
<b>Project and Management Agreement</b>	the agreement of that name as defined in the 2002 Information Memorandum;
<b>Responsible Entity:</b>	the responsible entity or project manager for the time being under the Constitution;
<b>Sublease:</b>	the sublease entered into between the Lessee as Sublessor and the Lessor as Sublessee in respect of part of the Land;
<b>Term:</b>	the term of this Lease, as described in clause 3;

## 1.2 Interpretation

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

- (a) a reference to this or any other document 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;

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- (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 a clause, recital or schedule is to a clause, recital or schedule in or to this Lease;
  - (i) if a party comprises two or more persons, this Lease binds them jointly and each of them severally
  - (j) if any of the persons comprising the Grower is a trustee, this Lease binds that person in its capacity as a trustee and personally;
  - (k) 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; and
  - (l) the recitals form part of this agreement.

### **1.3 Headings**

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

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## **2. CAPACITY AND LIABILITY OF THE LESSEE**

### **2.1 Capacity of Lessee**

The parties acknowledge that:

- (a) the Lessee has entered into this Lease in its capacity as:
  - (i) Responsible Entity under the Constitution of a Project; and
  - (ii) as representative of Growers of the 2002 Timbercorp Almond Project (Private Offer No. 1).
- (b) the Lessee has full, complete and valid authority and power to enter into this Lease under the terms of the Constitution of a Project.

### **2.2 Benefit to Lessee**

The parties to this Lease acknowledge and agree that every agreement and condition in this Lease for the benefit of the Lessee benefits the Lessee:

- (i) personally;
- (ii) in its capacity as Responsible Entity under the Constitution; and
- (iii) in its capacity as representative of Growers under the 2002 Timbercorp Almond Project (Private Offer No. 1).

### **2.3 Limitation of liability**

The parties agree that the Lessee will in no circumstances be required to satisfy any liability of the Lessor for breach of any obligation pursuant to or in respect of this Lease out of any funds, property or assets other than the assets held as the responsible entity under the Constitution under the Lessee's control and in its possession and available to be properly resorted to by the Lessee.

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### **3. TERM**

The Lessor grants the following Lease to the Lessee:

- (a) in respect of the 2002 Timbercorp Almond Project, a lease over the Land used for that Project for a period commencing on the date of this Lease and, subject to clause 12, expiring on 30 June 2022; and
- (b) in respect of the 2002 Timbercorp Almond Project (Private Offer No. 1), a lease over the Land used for that Project for a period commencing on the date of this Lease and, subject to clause 12, expiring on 30 June 2022.

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### **4. RENT**

If demanded by the Lessor, the Lessee must pay to the Lessor an amount of \$1.00 per annum for the term of this Lease.

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### **5. RATES, TAXES AND CHARGES**

The Lessor must pay all charges and assessments levied upon the Land including, but not limited to:

- (a) local authority rates;
- (b) sewerage rates; and
- (c) State and other land tax.

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### **6. USE OF LAND**

The Lessee must only use the Land in accordance with the Constitution, Almondlot Management Agreement, Project and Management Agreement and Licence and Joint Venture Agreement (as applicable). The Lessee may only use the Land in any other manner with the prior and express written consent of the Lessor, which consent may be given or refused at the absolute discretion of the Lessor.

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### **7. GOVERNMENT REQUIREMENTS**

The Lessor must comply with all statutes, ordinances, orders or regulations of any Commonwealth, State or local authority affecting or relating to the Land.

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### **8. INSPECTION OF LAND**

The Lessor may, at all reasonable times, enter upon the Land and view its state of repair.

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## **9. QUIET ENJOYMENT**

The Lessee may, during the term of this Lease, possess the Land without interruption from the Lessor or any person claiming through it, except to the extent that the interruption is expressly permitted by this Lease.

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## **10. ASSIGNMENTS, SUBLEASES, MORTGAGES AND LICENCES**

### **10.1 Assignment by Lessee**

Subject to clause 10.2, the Lessee must not assign its interest under this Lease or transfer, sublet or part with possession of the relevant Land or any part of the Land without the prior written consent of the Lessor, which consent is not to be unreasonably withheld.

### **10.2 Lessor consents to Lessee sub-letting**

The Lessor consents and authorises the Lessee to sublease relevant Land back to the Lessor under the Sublease. Upon the Sublease terminating for whatever reason, the Lessor irrevocably authorises and consents to the granting or continuation (or both) by the Lessee of a right to occupy or use the Land granted under the relevant Licence and Joint Venture Agreement.

### **10.3 Lessee must not mortgage its interest**

The Lessee must not mortgage, charge or otherwise encumber its estate or interest in this Lease without prior written consent of the Lessor. The consent may be granted conditionally or refused if the security documents entitle a mortgagee of the land to enter into possession of the Land. In any other case, the consent must not be unreasonably withheld by the Lessor.

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## **11. DEFAULT AND RE-ENTRY**

### **11.1 Default by Lessee**

The Lessor and the Lessee covenant and agree the following are events of default under this Lease:

- (a) the rent remains unpaid for a period of six months after demanded under clause 4; or
- (b) the Lessee commits, permits or suffers to occur any material breach or default in the due and punctual performance of any of its obligations under this Lease.

### **11.2 Re-entry by Lessor**

The Lessor will have the right to re-enter the Land if an act of default in clause 11.1 has not been rectified by the Lessee to the Lessor's reasonable satisfaction within three months of the Lessee receiving written notice from the Lessor requesting such rectification.

### **11.3 Re-entry does not prejudice Lessor's rights**

Should the Lessor exercise its rights under clause 11.2, it will do so without prejudice to any action or other remedy which the Lessor has for arrears of rent or breach of

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covenant or for damages as a result of any breach of the terms of this Lease by the Lessee.

#### **11.4 Lessor discharged from obligations**

Where the Lessor exercises its rights under clause 11.2, and upon re-entry by the Lessor, the Lessor will be freed and discharged from any action, suit, claim or demand by, or obligation, to the Lessee under or by virtue of this Lease.

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### **12. TERMINATION**

If a Project ends then:

- (a) this Lease is automatically terminated in respect of that Project; and
  - (b) both the Lessor and the Lessee give to the other of them a power of attorney to do all things and sign all documents necessary to give effect to a termination under this clause only.
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### **13. LESSOR'S RISK**

The Lessor is to assume all risk of loss, damage or injury by fire or otherwise to person or the Lessor's property by reason of the condition of the Land or any plant, equipment, fixtures or fittings on the Land.

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### **14. LEGAL COSTS**

The Lessor must pay the reasonable costs of the Lessee's solicitors of and incidental to the preparation, execution, stamping and registration of this Lease including all registration fees and stamp duty payable and including the cost of obtaining any necessary consents.

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### **15. NOTICES**

**15.1** Any notice to be given under or in connection with this Lease 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.

**15.2** 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



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confirmation report from the sender's fax machine indicating that the notice has been received in full by the recipient's fax machine.

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## **16. PROPER LAW**

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

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## **17. SEVERANCE**

This Lease, so far as possible, must be constructed to give validity to all of its provisions. Any provision found to be prohibited by law will be ineffective so far as it is prohibited without invalidating any other part of this Lease.

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## **18. ENTIRE AGREEMENT**

Each party acknowledges that this Lease is not entered into in reliance on any representation or warranty, expressed or implied, whether oral, in writing or contained in any brochure, advertisement or otherwise, except as may be specifically set out in this Lease.

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## **19. GST**

- (a) If any supply made by the Lessor ("Supplier") to the Lessee ("Recipient") under this Lease is a taxable supply (according to GST Law) so that the Lessor 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 Lease, the Lessee must pay to the Lessor 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) is payable by the Lessee 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 Lessee under this Lease.
- (d) The Lessor must, in respect of a taxable supply made by it under this Lease, issue to the Lessee a valid tax invoice in the prescribed form, for the amount of GST referable to that 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 a Deed**

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



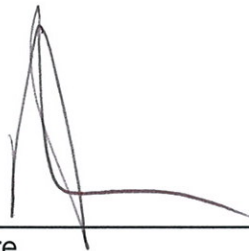
Signature

(Robert J Hance)

Full Name

Director

Position Held



Signature

Darren Lipton

Full Name

Director

Position Held

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



Signature

(Robert J Hance)

Full Name

Director

Position Held



Signature

Sol Rabinowicz

Full Name

Director

Position Held

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## **SCHEDULE**

### **DESCRIPTION OF THE LAND**

#### **(Clause 1.1)**

That part of the land described as Hattah-Robinvale Road, Liparoo in the State of Victoria comprising:

1. Crown Allotment 6 and being all of the land more particularly described in Certificate of Title Volume 9861 Folio 747; and
2. Lot 2 on Plan of Subdivision 442837A and being all of the land described in Certificate of Title Volume 10554 Folio 880,

which is delineated in colour on the attached plan.