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(Public)
Box

CARINA (BLOCK 13)

ALMOND LAND PTY LTD

TIMBERCORP SECURITIES LIMITED

**VARIATION AND PARTIAL SURRENDER OF SUBLEASE
2002 ALMOND PROJECTS**

CORRS CHAMBERS WESTGARTH

Bourke Place
600 Bourke Street
MELBOURNE VIC 3000

AUSTRALIA

Telephone (03) 9672 3000

Facsimile (03) 9602 5544

DX 336 MELBOURNE

Ref: TB/UG

M/979444

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THIS SURRENDER OF SUBLEASE is made on the date set out in the **schedule**

BETWEEN **ALMOND LAND PTY LTD** ACN 091 460 392 of Level 8, 461 Bourke Street, Melbourne, 3000 ("**Sublessor**")

AND **TIMBERCORP SECURITIES LIMITED** ACN 092 311 469 of Level 8, 461 Bourke Street, Melbourne, 3000 ("**Sublessee**")

RECITALS

- A The Sublessor is, or will be, the registered proprietor of the Land.
- B The Sublessor and the Sublessee are the Sublessor and Sublessee respectively under the Sublease.
- C The Sublessor and the Sublessee have agreed that the Sublease be surrendered in respect of the Surrendered Land on the terms set out in this document.
- D The Sublessor and the Sublessee have agreed that the Sublease continue in full force and effect in respect of the Remaining Land, but subject to the variations set out in this document.

IT IS AGREED

1 INTERPRETATION

1.1 Definitions

In this document:

"**Land**" has the same meaning as in the Sublease.

"**Sublease**" means the sublease described in the **schedule**.

"**Sublease Obligations**" means every obligation, express or implied, of a party under or by virtue of the Sublease.

"**Sublessee**" includes the Sublessee in each capacity specified in **clause 2.1(a)** of the Sublease (to the extent the Sublessee is actually entitled to contract in that capacity).

"**Plan**" means the plan in **annexure 1**.

"**Remaining Land**" means that part of the Land coloured ~~red~~^{blue} on the Plan, being land used for the 2002 Timbercorp Almond Project (Public Offer). ~~red~~

"**Surrender Date**" means the surrender date set out in the **schedule**.

"**Surrendered Land**" means that part of the Land coloured blue on the Plan, being land used for the 2002 Timbercorp Almond Project (Private Offer No. 1).

1.2 Interpretation

Unless the context requires otherwise:

- (a) the headings appearing in this document are not to be taken into account in the interpretation of this document and are included for ease of reference only;
- (b) any obligation imposed by this document on more persons than one binds them jointly and severally;
- (c) the singular includes the plural and vice-versa and a gender both other genders;
- (d) a reference to legislation includes that legislation as modified from time to time and legislation replacing it and subordinate legislation made under it;
- (e) a reference to a document (including this document) includes that document as modified from time to time and any document replacing it;
- (f) where the due date for discharge of any financial obligation falls on a Saturday Sunday or Public Holiday for the City of Melbourne the date for discharge of that obligation is postponed to the next date which is not a Saturday Sunday or Public Holiday for the City of Melbourne;
- (g) each obligation imposed on a party by this document is a separate covenant in favour of the other party;
- (h) sums of money are expressed in Australian currency; and
- (i) wherever any form of the word "include" appears it is interpreted as if followed by the words "(without limitation)".

1.3 Headings

The clause headings appearing in this document are inserted for convenience of reference and do not affect its construction.

1.4 Governing law

This document is governed by and is to be construed in all respects in accordance with the law of Victoria.

2 SURRENDER OF LEASE

2.1 Surrender

The Sublessee surrenders the Sublease in respect of the Surrendered Land as from midnight on the Surrender Date and the Sublessor accepts the surrender subject to the Sublessee's compliance with its obligations under this document.

2.2 Vacation of Premises

The Sublessee must deliver up possession of the Surrendered Land on the Surrender Date.

2.3 Release by Sublessor

- (a) The Sublessor releases the Sublessee from all of the Sublessee's Sublease Obligations in respect of the Surrendered Land falling due for performance after the Surrender Date.
- (b) Any release or indemnity given by the Sublessee to the Sublessor in the Sublease is not affected by this document or the surrender of the Sublease but continues to operate in respect of any event occurring on or before the Surrender Date.

2.4 Release by Sublessee

The Sublessee releases the Sublessor from all of the Sublessor's Sublease Obligations in respect of the Surrendered Land falling due for performance after the Surrender Date.

3 REMAINING LAND

3.1 Variations to Sublease

The Sublessor and the Sublessee agree that with effect from midnight on the Surrender Date the Sublease is varied in the manner set out in the document in **annexure 2** so that the terms of the Sublease will be those terms set out in **annexure 2**.

3.2 Sublease Remains in Full Force and Effect

The Sublessor and the Sublessee agree that subject to:

- (a) the variations effected by **clause 3.1**; and
- (b) the surrender of the Sublease and the releases of the obligations of the parties in respect of the Surrendered Land,

the Sublease remains in full force and effect and continues to operate as a sublease between the Sublessor and the Sublessee in respect of the Remaining Land.

4 GENERAL PROVISIONS

4.1 Costs

The Sublessee must pay to the Sublessor the Sublessor's costs and expenses, including legal costs, of and incidental to the:

- (a) negotiation, preparation and execution of this document and any associated documentation; and
- (b) surrender of the Sublease.

The Sublessor's costs and expenses must be paid on or prior to the date of this document or the Surrender Date, whichever is the earlier.

4.2 Withdrawal of caveat

If the Sublessee has lodged a caveat against the Sublessor's title to the Surrendered Land, the Sublessee must deliver to the Sublessor on the Surrender Date, a registrable withdrawal of that caveat and must pay the registration fee payable in respect of it.

4.3 Further action

The Sublessee and the Sublessor must take all necessary steps to give full effect to this document.

4.4 No waiver

The parties' rights under this document continue to be enforceable after the Surrender Date.

4.5 Jurisdiction

The parties submit to the non-exclusive jurisdiction of the courts of Victoria in respect of all matters arising in relation to this document or in relation to the transaction evidenced by it.

4.6 Joint and several liability

In this document, an obligation incurred by two or more persons binds those persons jointly and severally.

4.7 Counterparts

This document may be executed in any number of counterparts and by different persons on separate counterparts. Those counterparts together constitute the same instrument.

5 GST

5.1 Definitions

"GST" means GST within the meaning of the GST Act.

"GST Act" means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

Except where a contrary intention appears, expressions used in this **clause 5.1** and in the GST Act have the same meanings as when used in the GST Act.

5.2 Recipient of supply to pay GST

Except where this document specifies otherwise, an amount payable by a party under this document in respect of a taxable supply by the other party represents the value of the supply or the net amount under **clause 5.3** and the recipient of the supply must, in addition to that amount and at the same time, pay to the supplier the amount of GST payable in respect of the supply.

5.3 Reimbursement of expenses

If this document requires a party to pay for, reimburse or indemnify against any expense or liability ("**reimbursable expense**") incurred by the other party ("**payee**") to a third party, the amount to be paid, reimbursed or indemnified is the amount of the reimbursable expense net of any input tax credit to which the payee is entitled in respect of the reimbursable expense ("**net amount**").

5.4 Supplier to provide tax invoice

A party is not obliged, under **clause 5.2**, to pay an amount for GST in respect of a taxable supply to it, until given a valid tax invoice for the supply.

SCHEDULE

DATE:

12 August 2002

SURRENDER DATE:

12 August 2002

LEASE:

The sublease between the parties dated 11/9/2001 and titled "Sublease - Carina".

EXECUTED as a deed

THE COMMON SEAL of **ALMOND LAND PTY LTD** is affixed in the presence of authorised persons:

.....
John Vaughan

)
)
)
)
Director

Name of Director (print)

.....
Darren Lipton

~~Secretary~~/Director

Name of ~~Secretary~~/Director (print)

THE COMMON SEAL of **TIMBERCORP SECURITIES LIMITED** is affixed in the presence of authorised persons:

.....
John Vaughan

)
)
)
)
Director

Name of Director (print)

.....
POL RABINOWICZ

~~Secretary~~/Director

Name of ~~Secretary~~/Director (print)



ANNEXURE 1
PLAN

2002 TIMBERCORP ALMOND PROJECT

Almondlot Plan, Carina Development

AERIAL PHOTOGRAPHY SUPPLIED BY QASCO VIMIMAGE
Crown (State of Victoria) Copyright. Reproduced with permission of
Land Victoria, Department of Natural Resources and Environment

agen

Almondlot (+/- 0.001 ha)

Total quarter-hectare
Woodlots : 574

Property Code : CAR

Key Map



CFA 127 E & 140 A

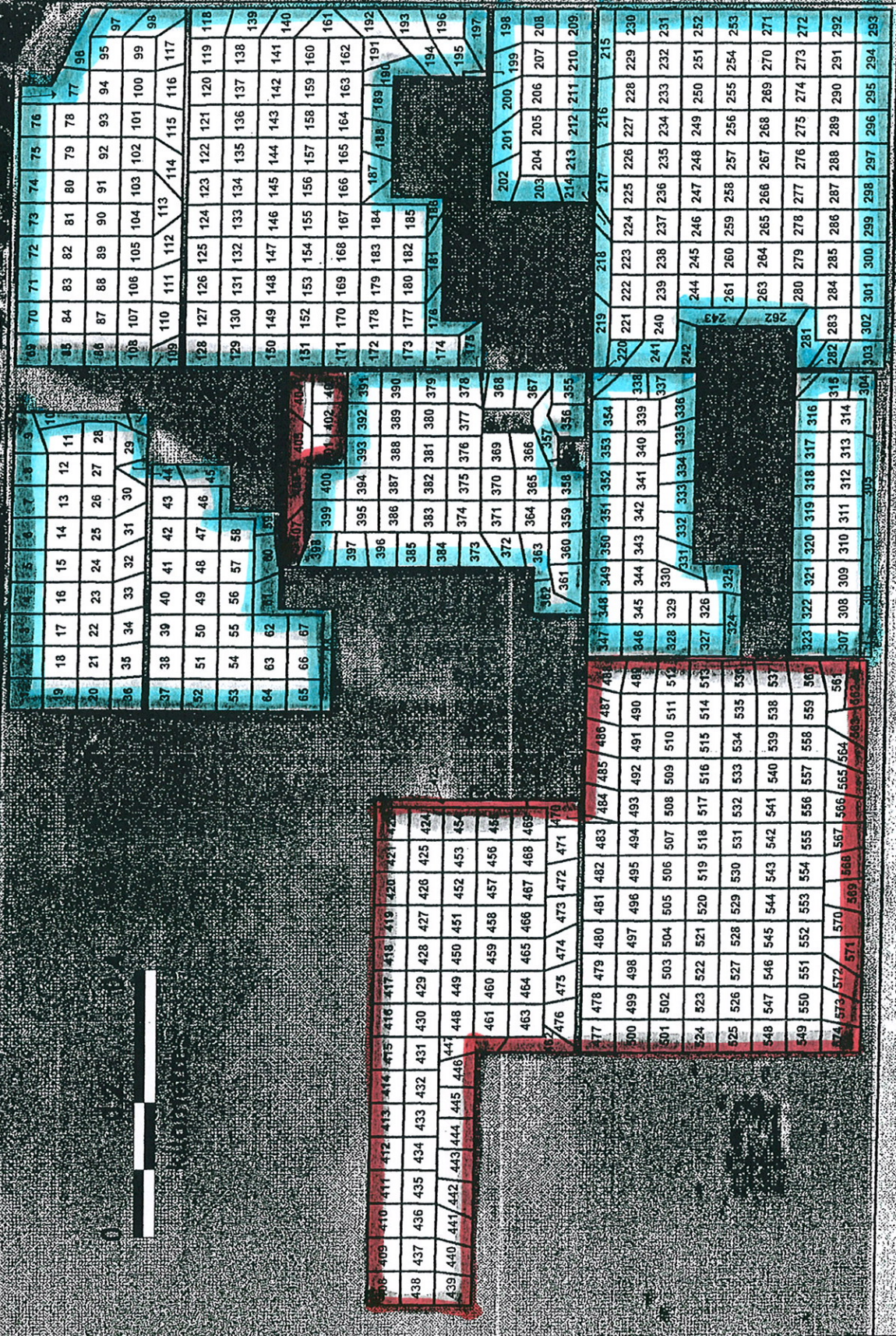
Project Managers



Almond Management Pty Ltd
Level 8, 461 Bourke Street
Melbourne VIC 3000
TEL : 03 8615 1200
FAX : 03 9670 4271

Quality Assurance Timbercorp	Signature	Date
Plan and Database prepared by Mildura District Council Suite 5, 2 Research A, 383 Barrington 3833 Tel : 03 9459 6395 Fax : 03 9459 6733	Signature	Date
Quality Assurance Rapid Map	Signature	Date
Index	R.W.	Drawing No.
		Rev.

Reserve 0.4 ha



2002 Private Offer #1
2003 Public Offer

ANNEXURE 2
SUBLEASE VARIATIONS

SUBLEASE – Carina

**(2002 Timbercorp Almond Project
– Public Offer)**

Almond Land Pty Ltd

Timbercorp Securities Limited

NM TAYLOR
L A W Y E R S

Level 7
350 Collins Street
MELBOURNE VIC 3000

Telephone: 9600 3525
Facsimile: 9600 3527

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Details of this Sublease

Date of the Sublease:

This Sublease is made on

200

1. **ALMOND LAND PTY LTD**

ACN 091 460 392

Level 8, 461 Bourke Street

Melbourne, Victoria, 3000

(Sublessor)

2. **TIMBERCORP SECURITIES LTD** ACN 092 311 469 of Level 8, 461 Bourke Street
Melbourne, Victoria, 3000

(Sublessee)

Background

- A. The Sublessor is, or is entitled to be, the registered proprietor of the Land.
- B. The Sublessor wishes to grant a sublease of the Land to the Sublessee 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:

**Almondlot
Management
Agreement:**

means the agreement of that name as defined in the Constitution;

Business Day:

means any day (other than a Saturday, Sunday or a public

	holiday) on which banks are open for business with the public in Melbourne;
Constitution:	means the Constitution of the 2002 Timbercorp Almond Project;
Grower:	has the meaning given to that term in the Constitution;
GST Law:	means the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth) (as amended);
Land:	means that part of the land that will be used for the Project, being the land described in the Schedule;
Licence and Joint Venture Agreement:	has the meaning given to that term in the Constitution;
Project	means the 2002 Timbercorp Almond Project;
Project Manager	means the project manager for the time being of the Project;
Responsible Entity:	means the responsible entity or project manager for the time being under the Constitution;
Sub-underlease:	means the sub-underlease entered into between the Sublessee as Sub-underlessor and the Sublessor as Sub-underlessee in respect of the Land; and
Term:	means the term of this Lease, as described in clause 3.

1.2 Interpretation

In this Sublease, 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, a n u nincorporated 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 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) 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

- (k) the recitals form part of this agreement.

1.3 Headings

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

2. CAPACITY AND LIABILITY OF THE SUBLESSEE

2.1 Capacity of Sublessee

The parties acknowledge that:

- (a) the Sublessee has entered into this Sublease in its capacity as Responsible Entity under the Constitution of the Project; and
- (b) the Sublessee has full, complete and valid authority and power to enter into this Sublease under the terms of the Constitution of the Project.

2.2 Benefit to Sublessee

The parties acknowledge and agree that every agreement and condition in this Sublease for the benefit of the Sublessee benefits the Sublessee:

- (i) personally; and
- (ii) in its capacity as Responsible Entity under the Constitution.

2.3 Limitation of liability

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

3. TERM

The Sublessor grants to the Sublessee a lease over the Land for a period commencing on the date of this Sublease and, subject to clause 12, expiring on 30 June 2022.

4. RENT

If demanded by the Sublessor, the Sublessee must pay to the Sublessor an amount of \$1.00 per annum for the term of this Sublease.

5. RATES, TAXES AND CHARGES

The Sublessor 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.

6. USE OF LAND

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

7. GOVERNMENT REQUIREMENTS

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

8. INSPECTION OF LAND

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

9. QUIET ENJOYMENT

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

10. ASSIGNMENTS, SUBLEASES, MORTGAGES AND LICENCES

10.1 Assignment by Sublessee

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

10.2 Sublessor consents to Sublessee sub-letting

The Sublessor consents and authorises the Sublessee to sublease the Land back to the Sublessor under the Sub-underlease. Upon the Sublease terminating for whatever

reason, the Sublessor irrevocably authorises and consents to the granting or continuation (or both) by the Sublessee of a right to occupy or use the Land granted under the Licence and Joint Venture Agreement.

10.3 Sublessee must not mortgage its interest

The Sublessee must not mortgage, charge or otherwise encumber its estate or interest in this Sublease without the prior written consent of the Sublessor. 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 Sublessor.

11. DEFAULT AND RE-ENTRY

11.1 Default by Sublessee

The Sublessor and the Sublessee 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 Sublessee commits, permits or suffers to occur any material breach or default in the due and punctual performance of any of its obligations under this Sublease.

11.2 Re-entry by Sublessor

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

11.3 Re-entry does not prejudice Sublessor's rights

Should the Sublessor exercise its rights under clause 11.2, it will do so without prejudice to any action or other remedy, which the Sublessor has for arrears of rent or breach of covenant or for damages as a result of any breach of the terms of this Sublease by the Sublessee.

11.4 Sublessor discharged from obligations

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

12. TERMINATION

12.1 End of Project

If the Project ends then:

- (a) this Sublease is automatically terminated; and
- (b) both the Sublessor and the Sublessee 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.

12.2 Termination of Grower's Rights

Notwithstanding any other provision of this Sublease, in the event that a Grower's rights have been terminated under the Project ("Past Grower") then the Sublessor may in its absolute discretion terminate this Sublease as it relates to that part of the Land that was occupied or otherwise used by the Past Grower, with the intent that the Sublessee will no longer be able to have the benefit of this Sublease in respect of that portion of the Land.

13. SUBLESSOR'S RISK

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

14. LEGAL COSTS

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

15. NOTICES

15.1 Any notice to be given under or in connection with this Sublease 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 confirmation report from the sender's fax machine indicating that the notice has been received in full by the recipient's fax machine.

16. PROPER LAW

This Sublease is governed by and to be interpreted in accordance with the laws of Victoria and the parties 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 Sublease.

17. SEVERANCE

This Sublease, 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 Sublease.

18. ENTIRE AGREEMENT

Each party acknowledges that this Sublease 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 Sublease.

19. GST

- (a) Except where a contrary intention appears, expressions used in this clause 19 and in the GST Law have the same meaning as when used in the GST Law.
- (b) If any supply made by the Sublessor ("Supplier") to the Sublessee ("Recipient") under or in connection to this Sublease is a taxable supply so that the Sublessor 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.
- (c) In addition to the GST Exclusive Amount for a taxable supply under or in connection with this Sublease, the Sublessee must pay to the Sublessor a further amount in respect of the taxable supply calculated as an amount equal to the GST Exclusive Amount multiplied by the prevailing rate of GST.
- (d) The GST payable under paragraph (c) is payable by the Sublessee 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 Sublessee under this Lease.
- (e) The Sublessor must, in respect of a taxable supply made by it under or in connection with this Lease, issue to the Sublessee 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

Full Name

Position Held

Signature

Full Name

Position Held

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

Signature

Full Name

Position Held



Signature

SOL RABINOWICZ

Full Name

DIRECTOR

Position Held

SCHEDULE

DESCRIPTION OF THE LAND

(Clause 1.1)

That part of the land shaded in colour on the attached plan being part of the land in certificate of Title Volume 10530 Folio 483.