

2002 014
(public + private)
Sub-underlease - Carina

2002 Almond Projects

Timbercorp Securities Limited

Almond Land Pty Ltd

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 Sub-underlease

Date of the Sub-underlease:

This Sub-underlease is made on 11 September 2001

1. **TIMBERCORP SECURITIES LIMITED**

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

(Sub-underlessor)

2. **ALMOND LAND PTY LTD**

ACN 091 460 392
Level 8, 461 Bourke Street
Melbourne, Victoria, 3000

(Sub-underlessee)

The Parties Agree as Follows:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

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

Almondlot Management Agreement:	the agreement of that name as defined in the Constitution;
Business Day:	any other day other than a Saturday, Sunday or a public holiday on which banks are open for business with the public in Melbourne;
Constitution:	the Constitution of the 2002 Timbercorp Almond Project;
Grower:	the Grower as defined in the Constitution;
GST:	has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (as amended);
GST Law:	the same as in the A New Tax System (Goods and Services Tax) Act 1999 (as amended);

1.3 Headings

Headings are for convenience only and do not affect the interpretation of this Sub-underlease.

1.4 Capacity of Sub-underlessor

The parties acknowledge that:

- (a) the Sub-underlessor has entered into this Sub-underlease 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 Sub-underlessor has full, complete and valid authority and power to enter into this Sub-underlease under the terms of the Constitution of a Project.

2. TERM

The Sub-underlessor grants this Sub-underlease to the Sub-underlessee for a period commencing on the date of this Sub-underlease and, subject to clause 8, expiring on 29 June 2022.

3. RENT

If demanded by the Sub-underlessor, the Sub-underlessee must pay to the Sub-underlessor an amount of \$1.00 per annum for the term of this Sub-underlease.

4. USE OF LAND

4.1 Use of Land by Sub-underlessee

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

4.2 No warranty as to use

The Sub-underlessor does not warrant that the Land is suitable for all or any of the purposes referred to in this Sub-underlease or for any other purpose and the Sub-underlessee must take such steps and do all necessary acts, matters and things to enable the Land to be used for the purpose for which the Land is leased.

5. QUIET ENJOYMENT

The Sub-underlessee may, during the term of this Sub-underlease, possess the Land without interruption from the Sub-underlessor or any person claiming through it, except

to the extent that the interruption is expressly permitted by this Sub-underlease.

6. ASSIGNMENTS, SUBLEASES, MORTGAGES AND LICENCES

6.1 Assignments, subleases, mortgage and licences by Sub-underlessee

Subject to clause 6.4, the Sub-underlessee must not under any circumstances assign this Sub-underlease or transfer, sublet or part with possession of the Land or any part of the Land without the prior written consent of the Sub-underlessor, which may be granted or refused at the absolute discretion of the Sub-underlessor.

6.2 Where the Sub-underlessee is a company

Where the Sub-underlessee is a company, other than a company listed on any recognised stock exchange, any change in the principal shareholding of or any change in the principal shareholding of any holding company of the Sub-underlessee altering the effective control of the Sub-underlessee, will (for the purpose of this clause), be deemed to be an assignment of this Sub-underlease and must require the written consent of the Sub-underlessor.

6.3 The Sub-underlessee must not mortgage its interest

The Sub-underlessee must not under any circumstances mortgage, charge or otherwise encumber its estate or interest in this Sub-underlease without prior written consent of the Sub-underlessor, which consent may be granted or refused at the absolute discretion of the Sub-underlessor.

6.4 Right to occupy

The Sub-underlessor acknowledges the right granted to Growers each to occupy and use a portion of the Land under the Licence and Joint Venture Agreements. That right is subject to each Licence and Joint Venture Agreement and the terms of the Constitution. Execution of this Sub-underlease is deemed to be the written consent of the Sub-underlessor required under clause 6.1.

7. DEFAULT AND RE-ENTRY

7.1 Default and Re-Entry by Sub-underlessor

The Sub-underlessor and the Sub-underlessee covenant that the Sub-underlessor will have the right to re-enter upon the Land if:

- (a) the rent remains unpaid for a period of 28 days after payment was demanded by the Sub-underlessor under clause 3.1; or
- (b) the Sub-underlessee commits, permits or suffers to occur any breach or default in the due and punctual observance and performance of any of its obligations of this Sub-underlease or the Constitution; or
- (c) a receiver or receiver and manager has been appointed in respect of the Sub-underlessee or the Sub-underlessee's property or the Sub-underlessee is liquidated, wound up, dissolved, is under administration, executes a deed of company arrangement, enters into a compromise or arrangement with another person or is otherwise unable to pay its debts in the ordinary course; or

-
- (d) an order is passed or a resolution is effectively passed to the effect of any of the matters referred to in paragraph (c) above.

7.2 Remedies not waived

Should the Sub-underlessor exercise its right under clause 7.1, it will do so without prejudice to any action or other remedy, which the Sub-underlessor has for arrears of rent or breach of covenant or for damages as a result of any breach of the terms of this Sub-underlease by the Sub-underlessee.

7.3 Discharge of Sub-underlessor

Where the Sub-underlessor exercises its rights under clause 7.1, and upon re-entry by the Sub-underlessor, the Sub-underlessor will be freed and discharged from any action, suit, claim or demand by, or obligation, to the Sub-underlessee under or by virtue of this Sub-underlease.

7.4 Sub-underlessee not to remove fixtures

As long as any rental or other money is due by the Sub-underlessee to the Sub-underlessor, or the Sub-underlessee has committed any breach of the terms of this Sub-underlease which has not been made good or remedied and whether the Sub-underlessee is still in possession or not, the Sub-underlessee must not remove any of its fixtures, fittings or plant from the Land and is not entitled to enter upon the Land for the purpose of removing any of its fixtures, fittings or plant.

7.5 Waiver by Sub-underlessor

No waiver by the Sub-underlessor of a breach of any covenant, obligation or provision contained or implied in this Sub-underlease will operate as a waiver of another breach of the same or of any other covenant, obligation or provision contained or implied in this Sub-underlease. The only waiver by the Sub-underlessor having any effect will be a waiver in writing by the Sub-underlessor.

8. TERMINATION

8.1 Termination of the Project

If the Project ends then:

- (a) this Sub-underlease is automatically terminated; and
- (b) both the Sub-underlessor and the Sub-underlessee 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.

8.2 Termination of Head Lease

If the Head Lease comes to an end for whatever reason then this Sub-underlease is automatically terminated.

9. SUB-UNDERLESSEE WILL ASSUME ALL RISK

The Sub-underlessee will, to the entire exclusion of the Sub-underlessor, assume all risk of loss, damage or injury by fire or otherwise to person or property by reason of the

condition of the Land or any plant, equipment, fixtures or fittings at the Land, or by reason of the use, management, control or operation of any plant, equipment, fixtures or fittings and the Sub-underlessee releases the Sub-underlessor from all claims of such loss, damage or injury, including any loss of profits or other outgoings sustained by the Sub-underlessee or by any person whatsoever. The Sub-underlessee will indemnify the Sub-underlessor from and against all actions, claims, demands, losses, damages, costs and expenses, either direct or indirect, for which the Sub-underlessor shall or may be or become liable in respect of or arising from:

- (a) the negligent use, misuse, waste or abuse by the Sub-underlessee of the water, gas, electricity, oil, lighting and other services and facilities of the Land;
- (b) overflow or leakage of water (including rain water) into or from the Land from whatever cause;
- (c) loss, damage or injury from any cause whatsoever to property or person caused or contributed to by the use of the premises by the Sub-underlessee.

10. LEGAL COSTS

10.1 Sub-underlessee to pay legal costs

The Sub-underlessee must pay the reasonable costs of the Sub-underlessor's solicitors of and incidental to the preparation, execution, stamping and registration of this Sub-underlease including all registration fees and stamp duty payable and including the cost of obtaining any necessary consents.

10.2 Sub-underlessee to pay legal costs in connection with litigation

The Sub-underlessee must pay to the Sub-underlessor all reasonable legal fees and disbursements incurred by the Sub-underlessor in connection with any litigation commenced by or against the Sub-underlessee (other than litigation between the Sub-underlessor and the Sub-underlessee) arising directly or indirectly out of the Sub-underlessee's occupancy of the Land. The Sub-underlessee must also pay all costs, expenses and reasonable legal fees that may be payable by the Sub-underlessor in connection with the giving of any notice or consent or in enforcing or attempting to enforce the covenants and agreements in this Sub-underlease.

11. CAPACITY AND LIABILITY OF THE SUB-UNDERLESSOR

11.1 Capacity of Sub-underlessor

The parties acknowledge that:

- (a) the Sub-underlessor has entered into this Sub-underlease only in its capacity as Responsible Entity under the Constitution; and
- (b) the Sub-underlessor has full and valid authority and power to enter into this Sub-underlease pursuant to the terms of the Constitution.

11.2 Benefit to Sub-underlessor

Each of the parties to this Sub-underlease acknowledges and agrees that every agreement and condition in this Sub-underlease for the benefit of the Sub-underlessor benefits the Sub-underlessor personally and in its capacity as Responsible Entity under

Head Lease:	the Sublease between Almond Land Pty Ltd as sublessor and Timbercorp Securities Limited as sublessee;
2002 Information Memorandum	the information memorandum dated 11 September 2001 in relation to the 2002 Timbercorp Almond Project (Private Offer No. 1);
Land:	that part of the land described in the Schedule that will be used for the Project;
Licence and Joint Venture Agreement:	the agreement of that name as defined in the Constitution or the 2002 Information Memorandum;
Project:	the 2002 Timbercorp Almond Project and/or the 2002 Timbercorp Almond Project (Private Offer No. 1);
Project Manager	the project manager for the time being of a Project;
Project and Management Agreement	the agreement of that name as defined in the 2002 Information Memorandum;
Responsible Entity:	the responsible entity for the time being under the Constitution, currently the Sub-underlessor;

1.2 Interpretation

In this Sub-underlease, 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;
- (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 Sub-underlease;
- (i) if a party comprises two or more persons, this Sub-underlease binds them jointly and each of them severally
- (j) if any of the persons comprising the Grower is a trustee, this Sub-underlease binds that person in its capacity as a trustee and personally; and
- (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.

the Constitution.

11.3 Limitation of Liability

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

12. NOTICES

12.1 Any notice to be given under or in connection with this Sub-underlease 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.

12.2 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.
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13. PROPER LAW

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

14. SEVERANCE

This Sub-underlease, 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 Sub-underlease.

15. ENTIRE AGREEMENT


Each party acknowledges that this Sub-underlease 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 Sub-underlease.

16. GST

- (a) If any supply made by the Sub-underlessor ("Supplier") to the Sub-underlessee ("Recipient") under this Sub-underlease is a taxable supply (according to GST Law) so that the Sub-underlessor 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 Sub-underlease, the Sub-underlessee must pay to the Sub-underlessor 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 Sub-underlessee 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 Sub-underlessee under this Sub-underlease.
 - (d) The Sub-underlessor must, in respect of a taxable supply made by it under this Sub-underlease, issue to the Sub-underlessee 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.
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Executed


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



Signature
Sol Rabinowicz

Full Name
Director

Position Held

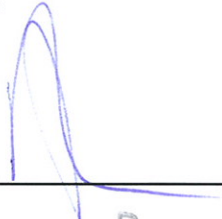


Signature
Robert J Hancock Robert J Hancock

Full Name
Director

Position Held


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



Signature
Darren Lipton

Full Name
Director

Position Held



Signature
Robert J Hancock

Full Name
Director

Position Held

SCHEDULE

Description of Land (Clause 1.1)

That part of the land shaded orange (public offer) and blue (private offer) on the attached plan being part of the land in certificate of Title Volume 10530 Folio 483.

2002 TIMBERCORP ALMOND PROJECT

Almondlot Plan, Carina Development

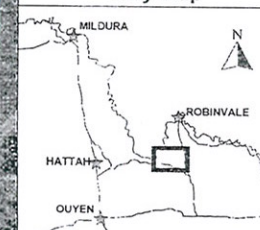
Legend

107 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

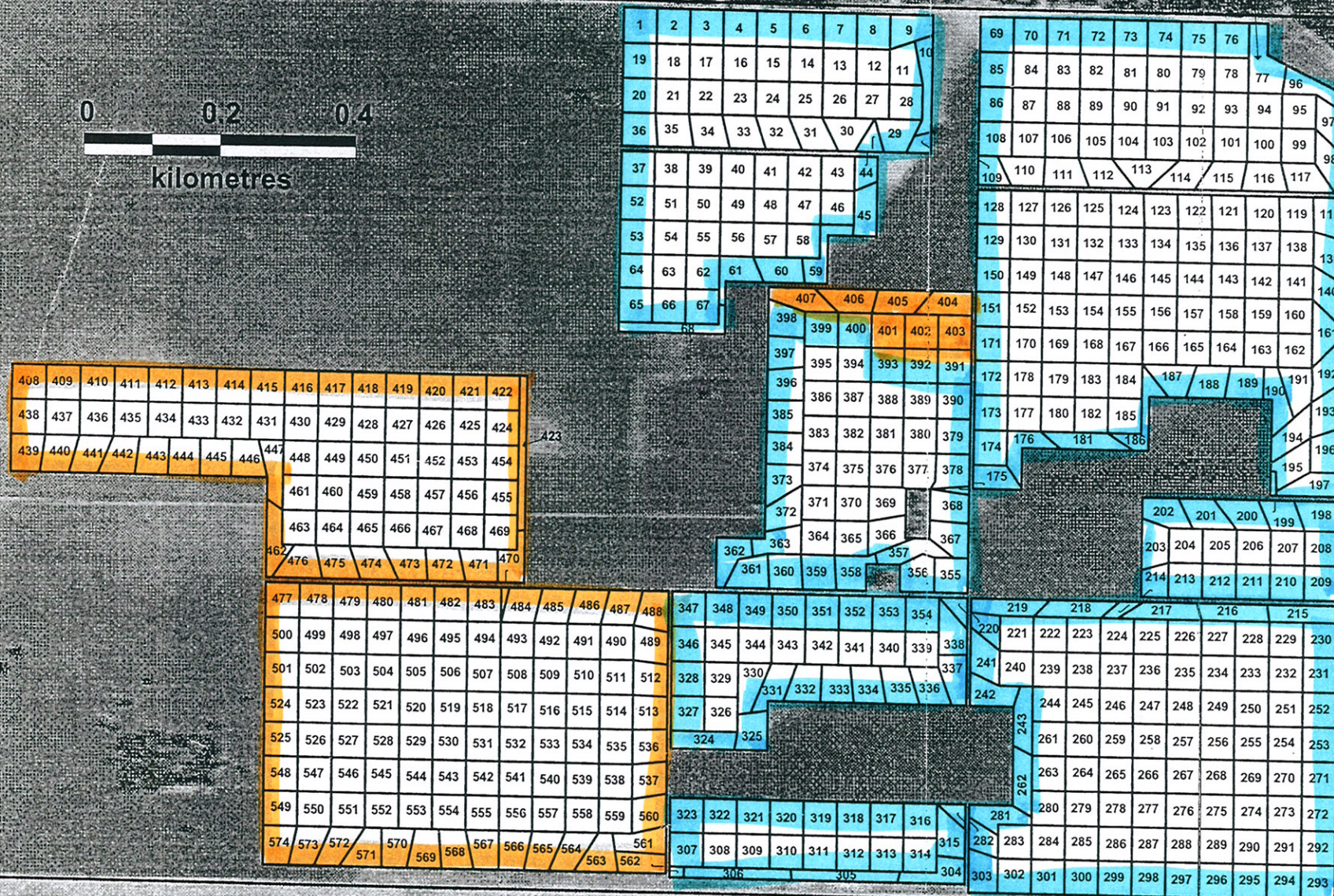
Quality Assurance Timbercorp

Initials Signature Date
T.S. _____
Plan and Database prepared by
RAPID MAP GLOBAL Pty. Ltd.
Suite 5, 2 Research Avenue
Bundoora 3083
Tel : 03 9459 6355
Fax : 03 9459 6733

Quality Assurance Rapid Map

Initials Signature Date
R.W. _____
Drawing No. _____ Rev. _____

0 0.2 0.4
kilometres



2002 PRIVATE OFFER #1
2002 PUBLIC OFFER