

**Lease**  
**(Carina West – 2002 Project)**

**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 Lease

### Date of the Lease:

This Lease is made on

11 April

2002

1. **ALMOND LAND PTY LTD**  
ACN 091 460 392  
Level 8, 461 Bourke Street  
Melbourne, Victoria, 3000

(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 the Purchaser of the Land.
- B. The Lessor wishes to grant a lease of the Land for the Term to the Lessee 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 Agreement:</b>	the agreement of that name as defined in the Constitution as amended by the Supplementary Deed;
<b>Business Day:</b>	any other 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 Project (as amended by the Supplementary Deed) as required under Part 5C.3 of Chapter 5C of the Corporations Act made with the intent that it be legally enforceable as between the Responsible Entity and each several Grower in respect of each Project;

<b>Contract of Sale:</b>	the contract of sale, including the special conditions, between the Mortgagee and the Lessor, dated 17 November 2001, relating to the sale of the Land by the Mortgagee to the Lessor;
<b>Grower:</b>	the Grower as defined in the Constitution;
<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>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;
<b>Market Rent:</b>	the rent, as agreed from time to time between the Mortgagee under the Mortgage and the Lessee, or failing agreement within 28 days, as determined by an independent valuer nominated by the senior office-bearer of the Australian Property Institute – Victorian Division, and payable in such manner as agreed from time to time between the Vendor and the Lessee. That valuer will act as an expert and not as an arbitrator.
<b>Mortgage:</b>	the mortgage over the Land given by the Lessor to the Mortgagee in accordance with the Contract of Sale;
<b>Mortgagee</b>	Geoffrey Allan McGinniskin and Wendy Elizabeth McGinniskin.
<b>Project:</b>	the 2002 Timbercorp Almond Project;
<b>Responsible Entity:</b>	the responsible entity for the time being under the Constitution, currently the Lessee;
<b>Sublease:</b>	the sublease entered into between the Lessee as Sublessor and the Lessor as Sublessee in respect of the Land;
<b>Supplementary Deed</b>	means the supplemental deed made by the Lessee in its capacity as responsible entity of the Project by which the Constitution is amended to take into account the expansion of the Project with the introduction of the Land referred to as the Carina West Site;
<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;
  - (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; 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.

### **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 or will enter into this Lease only in its capacity as Responsible Entity under the Constitution; and
- (b) the Lessee has full, complete and valid authority and power to enter into this Lease under the terms of the Constitution.

### **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 personally and in its capacity as Responsible Entity under the Constitution.

### **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.

### **2.4 Vendor's Consent**

Under the terms of the Mortgage, the Mortgagee has consented to the granting of this Lease as evidenced by the Mortgagee's execution of the Mortgage.

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## **2.5 Priority of Lease**

Under the Mortgage, the Mortgagee acknowledged and agreed that the interests of the Lessee under this Lease will take priority over the Mortgagee's interest in the Land under the Mortgage and prior to the creation of the mortgage in accordance with the Contract of Sale.

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## **3. TERM**

The Lessor grants the Lease to the Lessee for a period commencing on the date of this Lease and, subject to clause 12, expiring on 30 June 2022 (or such earlier date as may be determined by the parties).

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## **4. RENT**

### **(a) Annual 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.

### **(b) Exercise of Rights by Vendor**

The Lessee agrees that subject to clause 4(c), in the event that the Vendor lawfully exercises its rights over the Land under the Mortgage, on and from such date, the annual rent payable by the Lessee will be the Market Rent.

### **(c) Obligation to Pay Market Rent**

The Lessee's obligation to pay Market Rent to Lessor under clause 4(b) only arises if the Almond Land, in its capacity as sublessee under the Sublease pays Market Rent to Timbercorp Securities Limited, in its capacity as sublessor under the Sublease.

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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, the Almondlot Management Agreement, and the Licence and Joint Venture Agreement. 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 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 the 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 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 the Vendor 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 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 IN WHOLE OR IN PART**

If the Project ends then:

- (a) this Lease is automatically terminated; 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.

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

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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 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

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## **SCHEDULE**

### **DESCRIPTION OF THE LAND**

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

That part of Lot 2 on proposed plan of subdivision PS447558C (the preliminary plan) being part of the land in Certificate of Title Volume 9851 Folio 784, being the land delineated in colour on the attached plan.

AERIAL PHOTOGRAPHY SUPPLIED BY QASCO VicImage  
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 Land Victoria, Department of Natural Resources and Environment

# 2002 TIMBERCORP ALMOND PROJECT

## Almondlot Plan, Carina West Development

0 0.2 0.4  
 kilometres

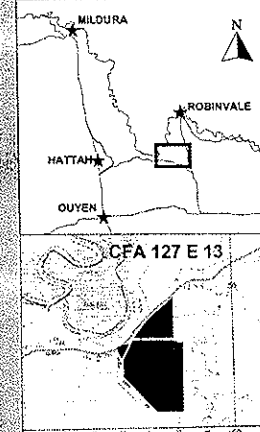
### Legend

107 Almondlot (+/- 0.001 ha)

Total quarter-hectare  
 Almondlots : 821

Property Code : CAW

### Key Map



### 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 8733

### Quality Assurance Rapid Map

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

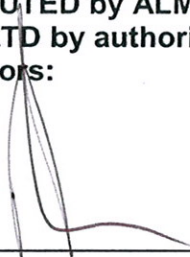
RESIDUAL 0.1 HA

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

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



Signature

Darren Lipton

Full Name

DIRECTOR

Position Held



Signature

Robert J Hance

Full Name

DIRECTOR

Position Held

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



Signature

Sol Rabinowicz

Full Name

DIRECTOR

Position Held



Signature

Robert J Hance

Full Name

DIRECTOR

Position Held