

2002 017

First Supplemental Deed

(Capina West)

for

**2002 Timbercorp Almond Project
(ARSN 099 611 935)**

by the responsible entity being

**Timbercorp Securities Limited
(ACN 092 311 469)**

[EXECUTION COPY]

NM TAYLOR
L A W Y E R S

Level 7
350 Collins Street
MELBOURNE VIC 3000

Telephone: 9600 3525
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Details of this First Supplemental Deed

Date of the Deed:

This Deed is made on 14 June 2002.

Party to the Deed:

1. **Timbercorp Securities Limited**
ACN 092 311 469
Level 5, 95 Queen Street
MELBOURNE VIC 3000

(Responsible Entity)

Background to the Deed

- A. The 2002 Timbercorp Almond Project (ARSN 099 611 935) (**Project**) is governed by a Constitution dated 11 February 2002 executed by the Responsible Entity with the intent that it be legally enforceable as between the Responsible Entity and each Member (**Constitution**).
- B. Section 601GC of the Corporations Act provides that the Responsible Entity may modify the Constitution if the Responsible Entity reasonably considers that the change will not adversely affect members' rights.
- C. The Responsible Entity wishes to modify the Constitution to take into account the expansion of the Project with introduction of new land, referred to as the Carina West Site.
- D. The modifications are necessary as there will be 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.
- E. Accordingly, the Responsible Entity in order to treat Growers fairly will pool the Product, Crop and Proceeds from the Carina West Site and Liparoo Carina Site separately and calculate Growers' Participating Interests in respect of the Product, Crop and Proceeds according to their interest in the two pools. The separate treatment will also extend to the calculation of any incentive fee payable to the Responsible Entity under the Almondlot Management Agreement as the Net Proceeds estimated for the Carina West and Liparoo Carina Growers will be different. This separate treatment has necessitated the modification of the Almondlot Management Agreement attached as the First Schedule in the Constitution.
- F. The Licence and Joint Venture Agreement attached as the First Schedule in the Constitution must also be modified to take into account the fact that the Orchard on the

Carina West Site is in the process of being established by the Land Owner.

- G.** Subject to the separate treatment referred to in paragraphs D and E above, both Carina West and Liparoo Carina Growers will be treated in the same manner where it is fair to do so, with the Project being the operated as the one enterprise.
- H.** The Responsible Entity has satisfied itself that the modifications contained in this Deed do not adversely affect Growers' rights.

Operative Provisions:

1. INTERPRETATION

1.1 Definitions

In this Deed, including the background and the Schedules, unless a contrary intention is expressed or implied, words and expressions defined in the Constitution, as modified or inserted by the First Schedule to this Deed, have the same meanings when used in this Deed.

1.2 Construction

In this Deed:

- (a) headings and boldings are for convenience only and do not affect the interpretation of this Deed;
 - (b) words importing the singular include the plural and vice versa;
 - (c) words importing a gender include any gender;
 - (d) other parts of speech and grammatical forms of a word or phrase defined in this Deed have a corresponding meaning;
 - (e) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any governmental agency;
 - (f) a reference to any thing (including, but not limited to, any right) includes a part of that thing but nothing in this paragraph 1.2(f) implies that performance of part of an obligation constitutes performance of the obligation;
 - (g) a reference to a paragraph, clause or schedule is a reference to a paragraph and clause of, and schedule to, this Deed and a reference to this Deed includes any schedule;
 - (h) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
 - (i) a reference to a party to a document includes that party's successors and permitted assigns;
 - (j) a reference to a document includes any agreement in writing and any certificate, notice, instrument or other document of any kind.
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2. AMENDMENTS

2.1 Deed is Supplemental

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

2.2 Amendments to the Constitution

The Responsible Entity modifies, alters, amends and adds to the provisions of the Constitution as provided in the Schedules to this Deed.

2.3 Ratification and Confirmation

In all other respects, the Responsible Entity confirms and ratifies the terms and conditions of the Constitution.

2.4 Operative Date

The alterations made by this Deed take effect on and from the date of lodgement of this Deed with ASIC.

Executed as a Deed

EXECUTED by TIMBERCORP)
SECURITIES LIMITED by two of its)
directors in accordance with)
section 127 of the Corporations)
Act:)



Signature

(Robert J Hance

Full Name

Director

Position Held



Signature

(Sol Rabinowicz

Full Name

Director

Position Held

FIRST SCHEDULE CONSTITUTION AMENDMENTS

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

- (c) For the purposes of sub-clauses 13.7 and 24.1, the Grower's Participating Interest is modified in accordance with sub-clause 13A.4(c).
- (d) The Responsible Entity may modify the Grower's Participating Interest in accordance with sub-clause 13A.2(c) in other circumstances where it considers it is necessary in order for it to act fairly between the Carina West Growers and Liparoo Carina Growers as required by section 601FC(1)(d) of the Corporations Act. "

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

"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;"

3. The following definitions are inserted in clause 1.1 of the Constitution 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 Proceeds:	<ul style="list-style-type: none"> (a) proceeds from the sale of Carina West Crop; (b) proceeds from the sale of 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:	that part of the Land as is defined in the Supplemental Prospectus;
Growers' Carina West Almondlots:	has the meaning given to "Growers' Almondlots", but only in respect of Carina West Almondlots with any necessary modifications;
Growers' Liparoo Carina Almondlots:	has the meaning given to "Growers' Almondlots", but only in respect of Liparoo Carina Almondlots with any necessary modifications;
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 Proceeds:	<ul style="list-style-type: none"> (a) proceeds from the sale of Liparoo Carina Crop; (b) proceeds from the sale of Liparoo Carina 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;

4. Clause 12 is replaced by the following:

"12. AGENCY ACCOUNTS

12.1 The Responsible Entity must keep or cause to be kept separate Agency Accounts for the purpose of depositing each of the Liparoo Carina Proceeds and the Carina West Proceeds and any other money that the Responsible Entity may hold for the Grower, other than Application Money and interest on Application Money.

12.2 Use of Money in Agency Accounts

Subject to clause 16.3, the Responsible Entity must hold the moneys standing to the credit of the Grower in the Agency Accounts for the Liparoo Carina Grower or the Carina West Grower, as the case requires, to be dealt with in accordance with the provisions of this Deed.

12.3 Bank Account May be Interest Earning

The bank accounts in which the Responsible Entity deposits moneys standing in any Agency Account may be interest earning. Any interest so earned will be treated as Proceeds.

12.4 Pooling of Moneys

Subject to clause 12.2 moneys held by the Responsible Entity for any of the Growers may be pooled in any one or more bank accounts with moneys held on behalf of any other Growers."

5. The following clause 13A is inserted after clause 13 of the Constitution:

"13A. SEPARATE POOLING FOR DIFFERENT CLASSES OF GROWERS

13A.1 Clause 13A Prevails to the Extent of any Inconsistency

This clause 13A prevails over any other provision in this Deed to the extent of any inconsistency.

13A.2 Processing and Sale of Carina West and Other 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 13A.2(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 13.7, the Growers' Participating Interests in the gross income from the sale of the Product or Crop for a Particular Production Period will be 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."

6. The following clause 22.3 is inserted after clause 22.2 of the Constitution:

"22.3 Separate Meetings for Classes of Growers

- (a) Subject to paragraph 22.3(b), the Responsible Entity may convene separate meetings of the Carina West Growers and Liparoo Carina Growers in addition to convening a meeting of all Growers, in respect of all or some business to be considered at a meeting.
- (b) The Responsible Entity may only convene separate meetings of the Carina West Growers and Liparoo Carina Growers where it is reasonably believes that it necessary in order for it to act fairly between the Carina West Growers and Liparoo Carina Growers as required by section 601FC(1)(d) of the Corporations Act."

7. The following clause 24.1A is inserted after clause 24.1 of the Constitution:

"24.1A Calculation of Participating Interests

For the purposes of clause 24.1, each Growers' Participating Interest in the Proceeds will be calculated in accordance with paragraph 13A.4(c)."

SECOND SCHEDULE

ALMONDLOT MANAGEMENT AGREEMENT AMENDMENTS

1. The following words are added at the end of the definition of "Participating Interest" in clause 1.1 of the Almondlot Management Agreement attached as the First Schedule:

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

2. The following definitions replace the corresponding definition in clause 1.1 of the Almondlot Management Agreement attached as the First Schedule:

"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 of the Almondlot Management Agreement attached as the First Schedule 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 Supplemental 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:	<p>(a) proceeds from the sale of Crop;</p> <p>(b) proceeds from the sale of Product; and</p> <p>(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;</p>
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;
Supplemental Prospectus:	the second supplementary prospectus to be 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 of the Almondlot Management Agreement attached as the First Schedule 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 of the Almondlot Management Agreement attached as the First Schedule:

"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)."

THIRD SCHEDULE

LICENCE & JOINT VENTURE AGREEMENT AMENDMENTS

1. The following definitions replace the corresponding definition in clause 1.1 of the Licence and Joint Venture Agreement attached as the Second Schedule:

"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 this Agreement;
Internal Irrigation Equipment and Internal Irrigation System:	the internal irrigation system that has been installed, or will be installed, in the Orchard for the purpose of enabling and facilitating the irrigation and delivery of water within the Almondlots;
Irrigation Infrastructure:	the pipeline (including the mainline), dam, pump and other equipment that have been, or will be installed, and are owned by the Land Owner or to which the Land Owner has rights and which enable and facilitate the irrigation and delivery of the necessary water to the Almondlots;
Irrigation and Drainage Plan:	the irrigation and drainage plan for the Carina West Site that the Land Owner must develop under sub-paragraph 2.3(c)(iv) of this Agreement;"

2. The following definitions are inserted in clause 1.1 of the Licence and Joint Venture Agreement attached as the Second Schedule in alphabetical order:

"Carina West Almondlot:	an Almondlot on the Carina West Site;
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 Site:	that part of the Land as is defined in the Supplemental Prospectus;"

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3. The following clause 2.3 is inserted after clause 2.2 of the Licence and Joint Venture Agreement attached as the Second Schedule:

“2.3 Sub-Clause Prevails to the Extent of any Inconsistency

- (a) This clause 2.3 prevails over any other provision in this Agreement to the extent of any inconsistency.
- (b) The Land Owner does not make any of the representations and warranties contained in clause 2.1 to any Carina West Grower and the representations and warranties contained in clause 2.1 with respect to any other Grower do not extend to any infrastructure or Capital Works in respect of the Carina West Site.
- (c) The Land Owner must at its own cost, establish, or procure the establishment of the Almondlots on the Carina West Site in accordance with good horticultural and environmental practices and construct necessary infrastructure and carry out capital works, and without limiting the generality of this clause, it must:
 - (i) identify the relevant parts of the Carina West Site which are suitable for growing almonds based on soil types, soil depths and contours;
 - (ii) organise various soil surveys, including reconnaissance surveys, detailed soil surveys and contour plans;
 - (iii) organise block layout in relation to the Almondlots, organise the pegging of those blocks and prepare the Carina West Site for planting;
 - (iv) cause the preparation of the Irrigation and Drainage Plan and carry out all works necessary to construct and install the Internal Irrigation Equipment and the Internal Irrigation System and the Irrigation Infrastructure on the Carina West Site specified in the Irrigation and Drainage Plan;
 - (v) carry out drainage work and work to help prevent soil erosion on all Carina West Site;
 - (vi) prepare the Carina West Site for planting, including clearing any vegetation or trees from the Carina West Site, broadacre weed spraying, disc ploughing, ripping and mounding of tree rows, preplant fertiliser spreading and discing, x-planning tree rows and marking out tree location;
 - (vii) subject to planting taking place in appropriate climatic and horticultural condition, plant almond trees on the Carina West Site; and
 - (viii) provide any other capital works, services or things which, in the reasonable opinion of the Land Owner, are incidental or ancillary to the effective establishment and provision of the works referred to in sub-paragraphs 2.3(c)(i)-(vii) above.
- (d) The Land Owner will use best endeavours to complete the Capital Works specified in paragraph 2.3(c) on the Carina West Almondlots by 30 June 2002 or such later date as may be agreed between the Land Owner and the Carina West Grower. However,

the Land Owner will not be liable for any loss or damage incurred by the Carina West Grower arising from any delay in so doing caused for any reason other than the negligence of the Land Owner, its officers, employees or agents."