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IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMERCIAL AND EQUITY DIVISION  
COMMERCIAL COURT

LIST D  
S CI 2011 6777

BETWEEN

**FENCEPORT PROPRIETARY LIMITED (ACN 139 604 121)  
& ORS (according to the attached Schedule)**

Plaintiffs

and

**CON MOSHOPOLOUS  
& ORS (according to the attached Schedule)**

Defendants

### CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 18 September 2012  
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469) and  
Olivecorp Management Limited (in liquidation) (ACN 089 542 343)

Prepared by:

**ARNOLD BLOCH LEIBLER**

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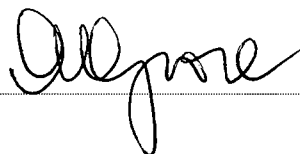
Ref: 01-1601361

(Jane Sheridan - jsheridan@abl.com.au)

This is the exhibit marked "**MAK-2**" now produced and shown to **MARK ANTHONY KORDA**  
at the time of swearing his affidavit on 18 September 2012.

**MEAGAN LOUISE GROSE**  
Arnold Bloch Leibler  
Level 21, 333 Collins Street  
Melbourne 3000  
An Australian Legal Practitioner within the  
meaning of the Legal Profession Act 2004

Before me:



**Exhibit "MAK-2"**  
**The Grower Information Documents in respect  
of the Fenceport Rights Deed of Compromise**



Level 17 Rialto North Tower  
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13 August 2012

## **DEED OF COMPROMISE FOR THE FENCEPORT RIGHTS PROCEEDING – FIRST NOTICE TO GROWERS**

This notice is for growers in one or more of the following Olive Projects:

**2000 Timbercorp Olive Project (Private Offer);  
2001 Timbercorp Olive Project ARSN 094 382 082;  
2002 Timbercorp Olive Project ARSN 098 233 455;  
2003 Timbercorp Olive Project ARSN 104 648 473; and  
2004 Timbercorp Olive Project ARSN 108 744 378,  
(together, the Olive Projects and each, an Olive Project).**

### **Introduction**

As you may be aware, there is a proceeding (the Fenceport Rights Proceeding described in sections 1 and 2 of this notice) presently before the Supreme Court of Victoria (**Supreme Court**) concerning the net proceeds arising from the sale of the land on which the Olive Projects were conducted. The purpose of the proceeding is to resolve the dispute as to how those net sale proceeds are to be apportioned between the secured creditor, growers and other interested parties claiming an interest in them.

A representative grower has been appointed by the Supreme Court in respect of each of the Olive Projects to represent the interests of the growers in that Olive Project in the proceeding. Each such representative grower is acting on the advice of Clarendons Lawyers and counsel retained by Clarendons Lawyers on behalf of the representative growers.

**A deed of compromise has been executed by the parties to the proceeding (including the representative growers) as a proposed solution to this dispute subject to certain conditions, including Supreme Court approval. The purpose of this notice is to explain the compromise and to help you to understand the impact of the compromise on you should it be approved by the Supreme Court.**

If the compromise is approved by the Supreme Court and the other conditions are satisfied, you may receive a payment. However, if the compromise is not approved by the Supreme Court or the other conditions are not satisfied, any entitlement you may have to receive a payment will depend on the outcome of the contested trial of the dispute.

For the reasons set out in section 5 of this notice, each representative grower, on the advice of their legal advisers, considers that the compromise is in the best interests of the growers they represent.



### Next steps

The Supreme Court will be asked to approve the compromise at a hearing currently anticipated to commence in October 2012 at the Supreme Court of Victoria, Melbourne. The confirmed date of this hearing will be notified to growers online at each of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

as soon as it is known.

**If the Supreme Court approves the compromise and the other conditions are satisfied, you will be bound by the compromise and you will lose any right to argue for an alternative outcome of the dispute. It is therefore important to read this notice carefully.**

Answers to some Frequently Asked Questions (**FAQ**) are available online and a telephone hotline facility and an email facility have been set up to assist growers who:

- wish to comment on the compromise;
- have any questions or wish to obtain further information on the compromise; or
- wish to object to the compromise.

Details of where you can access the FAQ, the telephone hotline facility and the email facility are set out in section 13 of this notice.

If you wish to object to the compromise, you should call the telephone hotline facility or email **as soon as possible before 14 September 2012**. Your objections will be passed on to the lawyers acting for the representative growers.

You are not required to attend or appear at the Supreme Court hearing anticipated to commence in October 2012. However, you may wish to attend or appear at that Supreme Court hearing, and/or seek independent legal advice and/or obtain representation at that hearing (outside the existing representative grower arrangement established by the Supreme Court). If you do so, any legal or other costs of doing so will be at your own expense unless the Supreme Court orders otherwise.

The representative growers will keep you informed of future developments regarding the compromise and the Supreme Court approval of that compromise (see section 7 of this notice).



## Important Information for Growers

### 1 Background to the dispute

Timbercorp Limited (in liquidation) (**Timbercorp**) and its subsidiary entities (together, the **Timbercorp Group**) conducted various agribusiness managed investment schemes across a number of properties involving, among other things, the management, cultivation, harvesting, processing and sale of almonds, olives and citrus. A member of the Timbercorp Group, Timbercorp Securities Limited (in liquidation) (**TSL**) was the responsible entity of the registered Timbercorp managed investment schemes.

The Timbercorp Group went into administration on 23 April 2009 and was placed into liquidation on 29 June 2009. Thereafter, the land on which the Timbercorp managed investment schemes were conducted, and related assets, were sold in a series of transactions each of which was approved by the Supreme Court.

In approving each of the sale transactions, the Supreme Court, in each case, ordered (among other things) that:

- (a) the net sale proceeds be placed into trust pending a proceeding to determine the rights of the land owners, the secured creditors, the investors in the Timbercorp managed investment schemes (**Growers**) and other interested parties to all, or any part, of those proceeds; and
- (b) neither the release of the secured creditors' securities upon completion of the sale contracts, nor the extinguishment of the Growers' rights, would prejudice those parties' respective rights to the assets sold insofar as they had such rights for the purpose of making a claim to all or any part of the net proceeds.

As a result, five separate proceedings were commenced to determine how the net sale proceeds the subject of each sale transaction were to be apportioned between the land owners, the secured creditors, Growers and other interested parties claiming an interest in those proceeds. These five proceedings, collectively referred to as the **Timbercorp Apportionment Proceedings**, are as follows:

- Supreme Court of Victoria Proceeding No. S CI 2009 10699 (**Almond Land Rights Proceeding**);
- Supreme Court of Victoria Proceeding No. S CI 2011 6604 (**Liparoo and Yungera Rights Proceeding**);
- Supreme Court of Victoria Proceeding No. S CI 2011 6606 (**Solora Rights Proceeding**);
- Supreme Court of Victoria Proceeding No. S CI 2010 1354 (**BB Olives Rights Proceeding**); and



- Supreme Court of Victoria Proceeding No. S CI 2011 6777 (**Fenceport Rights Proceeding**).

In each of the Timbercorp Apportionment Proceedings, one or more parties has been appointed by the Supreme Court pursuant to Rule 16.01(2) of the Supreme Court (General Civil Procedure) Rules 2005 (Vic) (**Rule 16**) as the representative of the Growers in the Timbercorp managed investment schemes the subject of that proceeding.

As each of the Timbercorp Apportionment Proceedings involves similar issues, it was considered appropriate for one such proceeding to be heard and determined first, with the intention that the result in that proceeding would then form the basis for determination of the other proceedings. This led to the hearing and determination of the Almond Land Rights Proceeding in early 2011. By her judgment in that proceeding, her Honour Justice Davies of the Supreme Court found that the Growers in the Timbercorp managed investment schemes the subject of that proceeding were not entitled to any part of the net sale proceeds and that the full amount of the net sale proceeds should be paid to the secured creditors of the land owner. Justice Davies' decision in that proceeding is presently subject to appeal in Supreme Court of Victoria Court of Appeal Proceeding No. APCI 2011 0103 (**Almond Land Rights Appeal Proceeding**), although a hearing date for that appeal is yet to be fixed.

## 2 **Fenceport Rights Proceeding**

On 13 December 2011, Fenceport Pty Ltd (**Fenceport**), commenced the Fenceport Rights Proceeding. Fenceport was a secured lender with respect to the Olive Projects.

The Fenceport Rights Proceeding is the proceeding which specifically relates to the Olive Projects. In the Fenceport Rights Proceeding, Fenceport seeks, among other things, declarations from the Supreme Court as to:

- its rights;
- the rights of the Growers in the Olive Projects; and
- the rights of other relevant parties,

if any, to the net sale proceeds from the sale of the land on which the Olive Projects were conducted (that land being situated in Boort, Victoria) together with the other assets used in the Olive Projects (**Boort Assets**). The gross sale proceeds from the sale of the Boort Assets were (approx) \$36 million. In accordance with orders of the Supreme Court, certain costs have been deducted from these proceeds, and interest has accrued, with the balance of the proceeds from time to time being referred to in this document as the **Fund**.

On 16 December 2011, the Supreme Court made orders in the Fenceport Rights Proceeding pursuant to Rule 16 that the Growers in each of the Olive Projects have their interests represented in that proceeding by particular Growers. The relevant Growers are:



- (a) Constantine Moshopolous as representative of the Growers in the 2000 Timbercorp Olive Project (Private Offer) (Unregistered);
  - (b) Pauline Emma Hammer as representative of the Growers in the 2001 Timbercorp Olive Project;
  - (c) David Sydney Butterfield as representative of the Growers in the 2002 Timbercorp Olive Project;
  - (d) Graham Goldenberg as representative of the Growers in the 2003 Timbercorp Olive Project; and
  - (e) Shun King Li as representative of the Growers in the 2004 Timbercorp Olive Project,
- (collectively, the **Representative Growers** and each, a **Representative Grower**).

The other parties to the Fenceport Rights Proceeding are Olivecorp Land Pty Ltd (in liquidation) (**OLPL**) and its liquidators, Mark Korda and Mark Mentha. OLPL was the entity within the Timbercorp Group that owned the land on which the Olive Projects were conducted. The liquidators of OLPL hold the Fund on trust pending resolution of this dispute.

While the Fenceport Rights Proceeding has been issued and the Representative Growers appointed, there have been no other formal steps taken in the proceeding while the parties have conferred about a possible compromise of the proceeding.

Fenceport, OLPL and the Representative Growers have now reached a proposed resolution of the dispute between them as to the allocation of the Fund and have, therefore, agreed to compromise the Fenceport Rights Proceeding. The compromise is subject to Court approval. The Representative Growers each believe (for the reasons set out in section 5 of this notice) that the compromise is in the best interests of the Growers in the Olive Projects they represent. However, under Rule 16, the Supreme Court must also approve the compromise before it is binding on all Growers.

### 3 Details of the Compromise

On 25 July 2012, the parties to the Fenceport Rights Proceeding entered into a deed of compromise for the Fenceport Rights Proceeding (**Compromise**). A copy of the deed of compromise may be viewed at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm).



The Compromise is conditional on the approval of the Supreme Court by 31 December 2012 or such later date as may be agreed between the parties. It is also conditional on the Supreme Court approving similar compromises reached in relation to all of the other Timbercorp Apportionment Proceedings (**Other Compromises**).

If the Supreme Court approves the Compromise and the Other Compromises, all Growers will be bound by the Compromise in respect of their claims against the Fund. You will lose any right to argue for an alternative outcome of the dispute and any payment made to you will be in full and final settlement of your claim against the Fund.

Under the terms of the Compromise:

- (a) The following payments will be made from the Fund:
  - (i) \$1,815,000 (approximately 5% of the gross sale proceeds of the Boort Assets) will be paid from the Fund to TSL to be held on trust for Growers for distribution to, or on behalf of, Growers in accordance with their entitlements, as set out in section 8 of this notice (**Boort Settlement Amount**);
  - (ii) Fenceport will be repaid the amount owed to it from the Fund; and
  - (iii) the balance of the Fund (if any) will be paid to OLPL.
- (b) The amount set aside for Growers will be divided between Growers on a pro-rated basis according to the number of grovelots held by each such Grower on 11 January 2010 (being the date on which Growers' rights in the Olive Projects were extinguished). The amount payable per grovelot will be \$163.81. This amount will be in full and final settlement of the Growers' claim to any part of the Fund.
- (c) Each party to the Compromise will release all other parties from any further claim in relation to their entitlement to the Fund or the allocation and disbursement of the Fund. The Representative Growers provide and receive these releases on behalf of the Growers.
- (d) The Fenceport Rights Proceeding will be dismissed with no order as to costs.

If the Supreme Court does not approve the Compromise and the Other Compromises:

- the Compromise ceases to have any effect;
- any documents prepared or circulated pursuant to the Compromise and/or for the purposes of the application to the Supreme Court for approval of the Compromise may not be referred to or tendered in evidence in the Fenceport Rights Proceeding; and



- the Fenceport Rights Proceeding will continue and the Growers' entitlement (if any) to the Fund will be determined by the Supreme Court.

No timetable has yet been set down by the Supreme Court for the hearing of the Fenceport Rights Proceeding should the Compromise not be approved. There are a number of preliminary steps which will need to be completed before a date for any hearing is set. It is unlikely that the Fenceport Rights Proceeding would be heard and determined before late 2013. The Fund would therefore remain in trust, in an interest-bearing account, until that time.

#### **4 Court approval**

If the Supreme Court approves the Compromise of the Fenceport Rights Proceeding and also approves each of the Other Compromises, the Compromise will be binding on all Growers in each of the Olive Projects, even though only the Representative Growers (but not all Growers) are parties to the Fenceport Rights Proceeding. The Supreme Court may approve the Compromise if it is satisfied that the Compromise is for the benefit of the Growers.

#### **5 Benefit of the Compromise to the Growers**

The Representative Growers have appointed Clarendon Lawyers, and counsel retained on their behalf by Clarendon Lawyers, to act for them in the Fenceport Rights Proceeding. The Representative Growers have obtained legal advice from Garry Bigmore QC and Sam Hopper of counsel and from their instructing solicitors, Clarendon Lawyers, with respect to the Compromise. In coming to their advice, counsel have taken into account (among other things) the decision of her Honour Justice Davies in the Almond Land Rights Proceeding and the appeal of that decision. Having regard to this advice, the certainty of the payments to be made under the Compromise once approved by the Supreme Court and the cost and delay before the Fenceport Rights Proceeding would be finally heard and determined by the Supreme Court, the Representative Growers consider that the Compromise is for the benefit of the Growers in the Olive Projects.

#### **6 Application to the Court for approval of the Compromise**

Fenceport, OLPL and the Representative Growers will apply to the Supreme Court for approval of the Compromise (**Approval Application**). The parties anticipate that a directions hearing will be held in or shortly after the week beginning 27 August 2012 and that, at that directions hearing, the Supreme Court will make orders (among other things) confirming the date on which the Approval Application will be heard. Notice of the date of this hearing will be posted at each of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)





shortly after the conclusion of the directions hearing.

It is proposed that the hearing of the applications for approval of the Other Compromises will be held concurrently with the hearing of the Approval Application. The current expectation is that the concurrent hearings will not be before October 2012 but will be at the earliest opportunity thereafter convenient to the Court.

## **7. Rights of Growers in connection with the Approval Application**

Although the Representative Growers believe that the Compromise is for the benefit of Growers in the Olive Projects (as outlined in section 5), some Growers may wish to comment on, raise questions in relation to, or object to the Compromise. Without prejudice to any other course Growers may be advised by their own advisers to take, Growers may:

- (a) address any comments on the Compromise, the Approval Application or their individual circumstances;
- (b) ask any questions or obtain further information on the Compromise or the Approval Application; or
- (c) raise any objection to the Compromise,

to the Representative Growers by calling the telephone hotline on (03) 8615 1200 or emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au). The telephone hotline facility will be staffed by representatives of TSL (see section 11).

Before calling the telephone hotline facility or emailing, we suggest that you read and carefully consider this notice and the FAQ available at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

for answers to your queries. If you do not find a suitable response and you call the hotline facility or email, you will receive a reply and your comments or objections will be noted and passed on to the Representative Growers for the purposes of the hearing of the Approval Application.

If you wish to object to the Compromise, you should notify the Representative Growers by calling the telephone hotline on (03) 8615 1200 or by emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au) **as soon as possible before 14 September 2012.**

At the hearing of the Approval Application, the Representative Growers will disclose to the Supreme Court all material facts relating to the Compromise, including all comments or



objections they have received from Growers prior to the hearing of the Approval Application in relation to the Compromise or the Approval Application. Any such comments or objections will be considered by the Court in the context of determining whether the Compromise is for the benefit of Growers.

You are not required, but are able, to attend or appear at the Supreme Court for the hearing of the Approval Application. Any Grower who objects to the Compromise may raise their objection at the Approval Application. Growers may choose to appear in person, or have their own lawyers represent them. If you wish to appear or have your own lawyers appear on your behalf, you should seek legal advice in relation to the steps that you will be required to take in order for this to happen.

Shortly after the Supreme Court delivers its decision in respect of the Approval Application the Representative Growers will publish a further notice setting out the consequences of the decision (**Second Notice**) and will notify you of the publication of the Second Notice by post or email.

## **8 Distribution of the Boort Settlement Amount to Growers**

If the Approval Application is successful and the necessary Supreme Court approvals are obtained in relation to each of the Other Compromises, the terms of the Compromise require the Boort Settlement Amount to be paid to TSL on trust for the Growers for distribution to, or on behalf of, the Growers in accordance with their entitlements. As noted above, each Grower's entitlement will be calculated on a pro-rated basis based on the number of grovelots in the Olive Projects held by that Grower on 11 January 2010 (for each Grower, its **Boort Settlement Entitlement**).

Growers who are recorded in the books and records of:

- (a) Timbercorp Finance Pty Limited (in liquidation) (**TFL**) as owing amounts under an outstanding loan from TFL in connection with their investment in the Olive Projects (**TFL Indebtedness**); or
- (b) TSL as owing amounts to TSL (**Timbercorp Indebtedness**),

will be able (should they choose) to direct that their Boort Settlement Entitlements are paid, in whole or in part, to TFL or TSL to pay, to the extent possible, their TFL Indebtedness or Timbercorp Indebtedness (as applicable). The amount of your TFL Indebtedness may be affected by the offer of settlement made by TFL to relevant Growers by letter dated 8 February 2012.

A direction to pay form is available at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)



[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)  
[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm).

If you are recorded as having any TFL Indebtedness or Timbercorp Indebtedness you can (if you choose) give your directions to TSL by completing and returning a direction to pay form. To arrange for a direction to pay form to be sent to you, call the telephone hotline on (03) 8615 1200 or email [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

A Grower who has both TFL Indebtedness and Timbercorp Indebtedness may not give any direction to TSL to pay all or part of their Timbercorp Indebtedness out of its Boort Settlement Entitlement before there is an agreement in writing between TFL and the Grower, or a court order, about the manner in which the entitlement is to be disbursed.

If you wish to confirm whether you have any, or the extent of your, TFL Indebtedness or Timbercorp Indebtedness, the number of grovelots you held in the Olive Projects on 11 January 2010 or any other private information which TSL holds in relation to your individual circumstances in respect of the Compromise, you should call the Timbercorp telephone hotline on (03) 8615 1200 or email [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

To receive your Boort Settlement Entitlement (if payable to you having regard to your TFL Indebtedness and Timbercorp Indebtedness, if any), you must notify TSL of the bank account you nominate to receive payment. You can notify TSL of your bank account details by completing and returning the bank account nomination form available at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)  
[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)  
[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm).

To arrange for a bank account nomination form to be sent to you, call the telephone hotline on (03) 8615 1200 or email [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

## **9 Timing of payments to Growers**

If the Approval Application is successful and the necessary Supreme Court approvals are obtained in relation to each of the Other Compromises, the Second Notice will notify you of (among other things) the anticipated timing of payments to Growers. The timing of a Grower's payment of their Boort Settlement Entitlement will depend, in part, on their individual circumstances.

If a Grower does not have any TFL Indebtedness, TSL will pay the Grower's Boort Settlement Entitlement to its nominated bank account (or, if directed by the Grower, to TSL in payment of any Timbercorp Indebtedness) as soon as practicable following the necessary approvals being obtained from the Supreme Court.



If a Grower has any TFL Indebtedness and:

- (a) has directed TSL to pay its TFL Indebtedness, to the extent possible, out of its Boort Settlement Entitlement, TSL will, as soon as practicable, use the Grower's Boort Settlement Entitlement to pay, to the extent possible, the TFL Indebtedness as soon as practicable and remit the balance of the Grower's Boort Settlement Entitlement (if any) to the Grower into its nominated bank account (or, if directed by the Grower, to TSL in payment of any Timbercorp Indebtedness).
- (b) has directed TSL to use its Boort Settlement Entitlement to pay only part of the Grower's TFL Indebtedness, TSL will, as soon as practicable, pay to TFL that part of the Grower's TFL Indebtedness and retain the balance of the Grower's Boort Settlement Entitlement (if any) on trust pending an agreement between TFL and the Grower or court order as to whom it should be paid.
- (c) has not directed TSL to pay any part of its Boort Settlement Entitlement to TFL, TSL will hold that Grower's Boort Settlement Entitlement on trust pending agreement between TFL and the Grower or court order as to whom it should be paid.

Accordingly, there is an important difference between the treatment of a Grower's TFL Indebtedness and the treatment of a Grower's Timbercorp Indebtedness. This is because, in relation to those Growers with a TFL Indebtedness, TFL asserts that it has a proprietary and/or secured claim over those Growers' Boort Settlement Entitlements, whereas the claim of TSL is merely contractual and unsecured. For this reason, if a Grower who has TFL Indebtedness chooses not to direct TSL to use its Boort Settlement Entitlement to pay its TFL Indebtedness, that Grower's Boort Settlement Entitlement will be held on trust pending agreement or Court order.

A Grower who has both TFL Indebtedness and Timbercorp Indebtedness may not give any direction to TSL to pay all or part of their Timbercorp Indebtedness out of its Boort Settlement Entitlement before there is an agreement in writing between TFL and the Grower, or a Court order, about the manner in which the entitlement is to be disbursed.

Importantly, if a Grower gives a direction to TSL to use its Boort Settlement Entitlement to pay TFL all or part of its TFL Indebtedness, that direction does not constitute an admission of liability by the Grower to TFL in respect of its TFL Indebtedness and is without prejudice to the Grower's rights (if any) in relation to its TFL Indebtedness. Similarly, nothing in the receipt by TFL of any such payment will constitute a waiver of any rights that TFL has in respect of a Grower's remaining TFL Indebtedness.



## **10 Tax consequences of the Compromise**

The Compromise and payment of the Boort Settlement Entitlement may have tax consequences for each Grower. The consequences for each Grower will depend on the Grower's individual circumstances. You may wish to seek advice from your personal financial or taxation adviser about the potential tax consequences of receiving your Boort Settlement Entitlement and any choice you may make to give directions to pay your Boort Settlement Entitlement to TFL or TSL or both.

## **11 Role of TSL**

At the request of the Representative Growers, TSL has agreed to perform various administrative roles in connection with the Compromise and the Approval Application. In addition to distributing this notice on behalf of the Representative Growers, TSL has established a telephone hotline facility and email facility so that Growers may address any comments or questions, or raise any objections, with the Representative Growers. TSL will provide the Representative Growers with details of the comments, questions and objections that are received through the telephone hotline or email facilities.

The Representative Growers have agreed a protocol with TSL as to the comments, questions or objections which TSL may answer or respond to without further reference to Representative Growers and those which will be referred to the Representative Growers for the preparation of an appropriate response.

TSL will record in appropriate detail, in an affidavit to be filed with the Supreme Court on behalf of the Representative Growers in connection with the Approval Application, the tasks it has undertaken at the request and on the instruction of the Representative Growers, the substance of all comments and questions raised to it by the Growers and their responses to those Growers, and the nature of any objections made to it by Growers and the responses provided by it to those Growers.

TSL will also make the payments to or on behalf of Growers as required under the Compromise and hold amounts in trust pending their distribution to the relevant party. Under the terms of the Compromise, TSL will only be released by each Grower upon distribution in full of that Growers' Boort Settlement Entitlement to the Grower or at the direction of, or on the authorisation of, the Grower.

TSL has agreed to pay, from its own funds, the Representative Growers' costs relating to the Approval Application and certain other costs relating to the Fenceport Rights Proceeding. These costs will not be deducted from the Fund, the Boort Settlement Amount or individual Grower's Boort Settlement Entitlements.



## 12 Further information

The Representative Growers have prepared answers to what they believe will be frequently asked questions. These questions and answers are available online at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

or can be obtained by calling the telephone hotline on (03) 8615 1200 or emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

## 13 Key contacts

Telephone Hotline Facility

(03) 8615 1200

Email address

[investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au)

Frequently Asked Questions and  
Notices to Growers

Available online at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au),

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

# Fenceport Rights Proceeding

## Frequently Asked Questions

### for Growers in the 2000 Timbercorp Olive Project (Private Offer) and the 2001, 2002, 2003 and 2004 Timbercorp Olive Projects

**1 What Project am I in?**

Call the hotline on (03) 8615 1200 or email [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

**2 How many lots do I have?**

Call the hotline on (03) 8615 1200 or email [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

**3 Do I owe money to Timbercorp Securities Limited (in liquidation) and how much?**

Call the hotline on (03) 8615 1200 or email [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

**4 Do I owe money to Timbercorp Finance Pty Ltd (in liquidation) and how much?**

Call the hotline on (03) 8615 1200 or email [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

**5 What's my entitlement under the Compromise?**

Under the Compromise, Growers are entitled to \$163.81 per lot held by them as at 11 January 2010.

**6 When am I going to receive my entitlement under the Compromise?**

The Compromise (and the similar compromises in relation to other Timbercorp Projects) must be approved by the Supreme Court before any payments are made. You will be notified if Court Approval is received and, if so, of the expected date of payment. The date of any Court Approval and payment will be after October 2012.

If you do not have any loans owing to Timbercorp Finance in relation to the Olive Projects, your entitlement will be paid as soon as possible after Court approval is received.

If you have loans owing to Timbercorp Finance in relation to the Olive Projects, you may direct that your entitlement is paid to Timbercorp Finance to reduce your loan balance. If your entitlement exceeds the amount you owe to Timbercorp Finance, you can direct that the excess be used to pay any amounts you owe to TSL or to pay other loans you have with Timbercorp Finance. Otherwise, the excess will be paid to you.

You will need to complete a new Direction to Pay Form specifically relating to the Compromise, even if you have previously provided a Timbercorp Finance or TSL direction to pay in relation to other distributions. You can obtain an Olive Direction to Pay Form at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

or by:

- calling the hotline on (03) 8615 1200 or
- emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

If you do not execute an Olive Direction to Pay Form for loans you have owing to Timbercorp Finance in relation to the Olive Projects, your entitlement will be held on trust, in an interest bearing account, pending a legal determination in relation to the competing claims of Growers and Timbercorp Finance to the entitlement.

If you do not have loans owing to Timbercorp Finance in relation to the Olive Projects, but you have amounts owing to TSL, and you do not execute an Olive Direction to Pay Form, you will still receive your entitlement.

## **7 How am I going to receive my payment?**

Payments to Growers (who do not have any loans owing to Timbercorp Finance in relation to the Olive Projects) will be made by direct deposit into the bank account nominated by the Grower. Payments will only be made by direct deposit and will not be made by cheque.

If you have not previously provided TSL with a completed direct credit authorisation, you will need to nominate a bank account to receive your payment. You can obtain a Bank Account Nomination Form at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

or by:

- calling the hotline on (03) 8615 1200 or
- emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

If you have previously provided TSL with a completed direct credit authorisation nominating a bank account, any payment to you will be made by direct deposit to that bank account, unless you nominate a different bank account now.

If you have loans owing to Timbercorp Finance in relation to the Olive Projects and you have not executed an Olive Direction to Pay Form, your entitlement will be held in trust, in an interest bearing account, until there is a legal determination in relation to the competing claims of Growers and Timbercorp Finance to the entitlement.

If you have executed an Olive Direction to Pay Form and your entitlement exceeds the amount you owe to Timbercorp Finance in relation to the Olive Projects, unless you have directed that the excess be used to pay amounts owing by you to TSL or to pay other loans you have with Timbercorp Finance, the excess will be paid by direct deposit into the bank account nominated by you. You can obtain a Bank Account Nomination Form at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

or by:

- calling the hotline on (03) 8615 1200 or
- emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

## **8 I have previously completed a direct credit authorisation, do I need to nominate a another bank account?**

If you have previously provided TSL with a completed direct credit authorisation nominating a bank account, any payment to you will be made by direct deposit to that bank account, unless you nominate a different bank account now.



**9 Once I have nominated a bank account, will it be used for other payments to me (if any) in the future?**

Yes, once you nominate a bank account, any future payment to be made to you by TSL will be made by direct deposit to that nominated bank account, unless you nominate a different bank account to TSL.

**10 Do I need to sign any documents in relation to the Compromise?**

If the Compromise and the compromises in relation to other Timbercorp Projects are approved by the Supreme Court, they will be binding on each Grower, even though the Grower did not sign the deed of compromise.

You will need to nominate a bank account into which your entitlement will be paid. You can obtain a Bank Account Nomination Form at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

or by:

- calling the hotline on (03) 8615 1200 or
- emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

If you have previously provided TSL with a completed direct credit authorisation nominating a bank account, any payment to you will be made by direct deposit to that bank account, unless you nominate a different bank account now.

If you have loans owing to Timbercorp Finance or amounts owing to TSL in relation to the Olive Projects, you may direct that your entitlement is used to reduce the amounts owing by you. You can obtain an Olive Direction to Pay Form at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

or by:

- calling the hotline on (03) 8615 1200 or
- emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

You will need to complete a new Olive Direction to Pay Form specifically relating to the Compromise, even if you have previously provided a Timbercorp Finance or TSL direction to pay in relation to other distributions.

**11 What is the Direction to Pay Form and do I need to complete one?**

A Direction to Pay Form is a Grower's direction to TSL to use the Grower's entitlement to reduce the Grower's loan balances owing to Timbercorp Finance or to reduce the amounts owing by the Grower to TSL.

You will need to complete a new Olive Direction to Pay Form specifically relating to the Compromise, even if you have previously executed a Timbercorp Finance or TSL direction to pay form in relation to other distributions.

Growers who have loans owing to Timbercorp Finance in relation to the Olive Projects do not have to complete an Olive Direction to Pay Form but if they do not, their entitlement will be held on trust, in an interest bearing account, pending determination of the competing claims of the Grower and Timbercorp Finance.

Growers can execute an Olive Direction to Pay Form, but direct that only part of their entitlement be used to reduce their loans owing to Timbercorp Finance in relation to the

Olive Projects. If any amount remains owing to Timbercorp Finance, the rest of the Grower's entitlement will be held on trust, in an interest bearing account, pending determination of the competing claims of the Grower and Timbercorp Finance.

If you do not have a loan owing to Timbercorp Finance in relation to the Olive Projects but have amounts owing to TSL, and you do not complete an Olive Direction to Pay Form, you will still receive your entitlement.

**12 What happens if I don't want to use my entitlement to pay Timbercorp Finance / TSL?**

If you have loans owing to Timbercorp Finance in relation to the Olive Projects and you do not execute an Olive Direction to Pay Form, your entitlement will be held on trust, in an interest bearing account, pending a legal determination in relation to the competing claims of Growers and Timbercorp Finance to the entitlement.

If you have amounts owing to TSL but no loans owing to Timbercorp Finance and you do not execute an Olive Direction to Pay Form, your entitlement will be paid to you by direct deposit into your nominated bank account. If you have not previously provided TSL with a completed direct credit authorisation, you will need to nominate a bank account to receive your payment. You can obtain a Bank Account Nomination Form at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

or by:

- calling the hotline on (03) 8615 1200 or
- emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

If you do not use your entitlement to pay Timbercorp Finance or TSL, you will remain liable to pay the amounts owing (plus applicable interest) to them.

**13 What happens if my entitlement does not pay Timbercorp Finance / TSL in full?**

If you direct that your entitlement be used to pay Timbercorp Finance or TSL but your entitlement is not sufficient to pay the full amount you owe to Timbercorp Finance or TSL, you will remain liable to pay the balance owing (plus applicable interest) to them.

**14 If I sign an Olive Direction to Pay Form, can I still dispute that Timbercorp Finance / TSL were entitled to be paid?**

Yes, signing the Olive Direction to Pay Form and the use of your entitlement to pay Timbercorp Finance or TSL does not affect your right to dispute that Timbercorp Finance or TSL were entitled to be paid.

**15 If I am a Grower in more than one Timbercorp Project and I want to use my entitlements from all of my Projects to pay Timbercorp Finance / TSL, do I need to sign a direction to pay form for each Project?**

There is a separate direction to pay form for Timbercorp Olive Projects, Timbercorp Almond Projects and the 2005 Timbercorp Citrus Project.

If you are only a Grower in Olive Projects, you only need sign one Olive Direction to Pay Form, even if you are a Grower in several Olive Projects.

If you are only a Grower in Almond Projects, you only need sign one Almond Direction to Pay Form, even if you are a Grower in several Almond Projects.

If you are only a Grower in the 2005 Citrus Project, you only need sign one Citrus Direction to Pay Form.

If you are a Grower in Olive Projects and Almond Projects, you will have to sign an Olive Direction to Pay Form for the Olive Projects and a separate Almond Direction to Pay Form for the Almond Projects.

If you are a Grower in Olive Projects and the 2005 Citrus Project, you will have to sign an Olive Direction to Pay Form for the Olive Projects and a separate Citrus Direction to Pay Form for the 2005 Citrus Project.

If you are a Grower in Almond Projects and the 2005 Citrus Project, you will have to sign an Almond Direction to Pay Form for the Almond Projects and a separate Citrus Direction to Pay Form for the 2005 Citrus Project.

If you are a Grower in Olive Projects, Almond Projects and the 2005 Citrus Project, you will have to sign an Olive Direction to Pay Form for the Olive Projects and a separate Almond Direction to Pay Form for the Almond Projects and a separate Citrus Direction to Pay Form for the 2005 Citrus Project.

#### **16 What is the Fenceport Rights Proceeding and how does it relate to me?**

The Fenceport Rights Proceeding is a legal proceeding which is currently in the Supreme Court of Victoria. The purpose of the proceeding is to determine who is entitled to the net proceeds of sale of the land and other assets which were used in the 2000 Timbercorp Olive Project (Private Offer) and the 2001, 2002, 2003 and 2004 Timbercorp Olive Projects. The parties who are claiming an entitlement to the proceeds are:

- Fenceport Pty Ltd, which advanced money to the land owner and had a mortgage over the land and a charge over the other assets;
- the Growers in the 2000 Timbercorp Olive Project (Private Offer) and the 2001, 2002, 2003 and 2004 Timbercorp Olive Projects; and
- Olivecorp Land Pty Ltd (in liquidation), which was the land owner.

If the Compromise is approved by the Supreme Court and the compromises in relation to other Timbercorp Projects are also approved, the Fenceport Rights Proceeding will not continue and the net sale proceeds will be shared in accordance with the Compromise. Growers will lose the right to argue for a different share of the net sale proceeds.

#### **17 Who are the Representative Growers and what is their role?**

The Representative Growers are representing all Growers in the Fenceport Rights Proceeding. There is a Representative Grower for each of the relevant Timbercorp Olive Projects. If the Compromise is not approved and the Fenceport Rights Proceeding continues, the Representative Growers and their lawyers will appear in Court and try to prove that the Growers are entitled to a share of the net sale proceeds. It is unlikely that the proceeding would be heard and determined by the Court before late 2013. The names of the Representative Growers are set out in the First Notice to Growers.

#### **18 How were the Representative Growers chosen?**

The Timbercorp Growers Group was asked to nominate Growers willing to act as Representative Growers. Some other Growers also wanted to be the Representative Growers. The Supreme Court of Victoria decided which of the Growers would be appointed as the Representative Growers. The names of the Representative Growers are set out in the First Notice to Growers.

#### **19 Which lawyers are acting for Growers?**

Clarendon Lawyers and barristers appointed by them. TSL has agreed to pay, from its own funds, the fees and costs of Clarendon Lawyers and those barristers in relation to

the application for approval of the Compromise. These fees and costs will not be deducted from the sale proceeds of amounts payable to Growers.

**20 Why have the Representative Growers agreed to the Compromise?**

The Representative Growers have obtained legal advice in relation to the Compromise and have considered it and other matters such as the delays and uncertainty if it is necessary to proceed with a contested trial in the Supreme Court to decide who is entitled to the net sale proceeds. The lawyers and barristers who gave the legal advice took into account (among other things) the decision in the Almond Land apportionment proceeding and the appeal of that decision. On the basis of the legal advice, the certainty of the payments to be made under the Compromise once approved by the Supreme Court and the cost and delay before the Fenceport Rights Proceeding would be finally heard and determined by the Supreme Court, the Representative Growers consider that the Compromise is for the benefit of the Growers in the Olive Projects.

**21 Can I have a copy of the advice given to the Responsible Growers?**

A copy of the advice will be provided free of charge to any Grower who writes to Clarendon Lawyers requesting a copy of the advice, or any lawyer for a Grower who writes to Clarendon Lawyers requesting the advice on behalf of any identified Grower, provided that the Grower or lawyer requesting the copy of the advice provides Clarendon Lawyers with a signed document acknowledging the common interest privilege and undertaking to treat the advice as strictly confidential. Written requests should be addressed to Clarendon Lawyers and emailed to [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

**22 What is the Compromise reached by the parties to the Fenceport Rights Proceeding?**

If the Compromise is approved by the Supreme Court and the compromises in relation to the other Timbercorp Projects are also approved, Growers in the Olive Projects will be entitled, in total, to \$1,815,000, which is approximately 5% of the gross sale proceeds. This equates to \$163.81 per lot. The remaining proceeds will be paid to the secured creditors or land owner. All parties, including all Growers, will release all other parties from the claims they may otherwise have had in relation to the sale proceeds.

**23 How was the figure of \$1,815,000 reached?**

The amount was reached by agreement between the secured creditor, the land owner and the Representative Growers.

**24 Can I have a copy of the Compromise Deed?**

The Compromise Deed is available online at any of:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

or by:

- calling the hotline on (03) 8615 1200 or
- emailing [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

**25 What conditions have to be satisfied in order for the Compromise to proceed?**

The Supreme Court must approve the Compromise and the similar compromises reached in relation to other Timbercorp Projects by 31 December 2012 or such later date as is agreed. The Supreme Court may approve the Compromise if it is satisfied that the Compromise is for the benefit of Growers.

**26 What are the other compromises that require approval?**

Similar compromises have been reached in relation to the proceedings which were commenced to determine how the net proceeds from the sales of assets used in the Timbercorp Almond Projects, the other Timbercorp Olive Projects and the 2005 Timbercorp Citrus Project. These compromises are also subject to Court approval. The other proceedings are:

- Supreme Court of Victoria Court of Appeal Proceeding No APCI 2011 0103 (**Almond Land Rights Appeal Proceeding**) which relates to the 2002, 2005, 2006 and 2007 Timbercorp Almond Projects and the 2002 Timbercorp Almond Project (Private Offer No 1)
- Supreme Court of Victoria Proceeding No S CI 2011 6604 (**Liparoo and Yungera Rights Proceeding**) which relates to the 2001, 2002, 2003, 2004 and 2005 Timbercorp Almond Projects and the 2002 Timbercorp Almond Project (Private Offer No 1)
- Supreme Court of Victoria Proceeding No S CI 2011 6606 (**Solara Rights Proceeding**) which relates to the 2005 Timbercorp Citrus Project
- Supreme Court of Victoria Proceeding No S CI 2010 1354 (**BB Olives Rights Proceeding**) which relates to the 2006, 2007 and 2008 Timbercorp Olive Projects

The 2002 and 2005 Timbercorp Almond Projects and 2002 Timbercorp Almond Project (Private Offer No 1) were conducted on more than one almond plantation, which were sold in different sale transactions. Those Projects are therefore involved in both the Almond Land Rights Appeal Proceeding and the Liparoo and Yungera Rights Proceeding.

**27 When will the Supreme Court of Victoria decide whether to approve the Compromise?**

A date for the hearing has not yet been set. It will not be before October 2012. Once the date of the hearing has been determined, it will be posted on the following websites:

[www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)

[www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)

[www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

The Court may take some time after the hearing to decide whether to approve the Compromise and the similar compromises in relation to other Timbercorp Projects.

**28 What happens if the Supreme Court of Victoria does not approve the Compromise?**

If the Supreme Court does not approve the Compromise (or the other similar compromises), the Fenceport Rights Proceeding will continue. The Supreme Court will determine who is entitled to the net sale proceeds. The proceeds will remain in trust in an interest bearing account until the Supreme Court decides. It is unlikely that the Fenceport Rights Proceeding would be heard and determined before late 2013.

**29 Are there tax consequences for me as a result of the Compromise?**

There may be tax consequences for you, depending on your individual circumstances. You should ask your own financial or tax adviser.

**30 Can I object to the Compromise?**

Yes. You can object by email to [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au) or by calling the hotline on (03) 8615 1200. If you object to the Compromise, you may also raise your objection at the Supreme Court hearing of the application for approval of the Compromise. Growers may choose to appear in person or have their own lawyers represent them. You should seek your own legal advice if you wish to appear or have your lawyers appear on your behalf.

**31 What happens if a Grower objects to the Compromise?**

All objections received from Growers before 14 September 2012 will be disclosed to the Supreme Court at the hearing of the application for approval of the Compromise. If your objection is received after that time but before the hearing of the application, the Representative Growers will use their best efforts to ensure that it is also disclosed to the Supreme Court. The Supreme Court will consider the objections received from Growers and disclosed to it when determining whether the Compromise is for the benefit of Growers.

**32 Am I bound by the Compromise?**

If the Compromise is approved by the Supreme Court and the other compromises are also approved, all Growers will be bound by the Compromise. Growers will lose the right to argue for a different share of the net sale proceeds.

**33 Who can I talk to about the Compromise if I have a comment, question or objection?**

You can call the hotline on (03) 8615 1200. If the hotline staff cannot answer your question, they will refer it to Clarendon Lawyers, who are acting for the Representative Growers. Someone from Clarendon Lawyers will then respond to you.

**34 How much are the Growers in the other schemes getting?**

<b>Timbercorp Olive Project</b>	<b>Fenceport Compromise entitlement per lot</b>	<b>BB Olives Compromise entitlement per lot</b>	<b>Total entitlement per lot</b>
2000 Olive (Private Offer)	\$163.81	-	\$163.81
2001 Olive	\$163.81	-	\$163.81
2002 Olive	\$163.81	-	\$163.81
2003 Olive	\$163.81	-	\$163.81
2004 Olive	\$163.81	-	\$163.81
2006 Olive	-	\$92.43	\$92.43
2007 Olive	-	\$92.43	\$92.43
2008 Olive	-	\$92.43	\$92.43

<b>Timbercorp Almond Project</b>	<b>Almond Land Compromise Grower entitlement per lot (subject to claim by the Litigation Funders)</b>	<b>Liparoo &amp; Yungera Compromise Grower entitlement per lot</b>	<b>Tree purchase per lot</b>	<b>Total Grower entitlement per lot</b>
2001 Almond	-	\$521.31	\$2000	\$2521.31
2002 Almond (Private Offer No 1)	\$53.46	\$371.93	-	\$425.39
2002 Almond	\$54.89	\$367.93	-	\$422.82
2003 Almond	-	\$521.31	-	\$521.31
2004 Almond	-	\$521.31	-	\$521.31
2005 Almond	\$121.24	\$182.54	-	\$303.78
2006 Almond	\$186.57	-	-	\$186.57
2007 Almond	\$186.57	-	-	\$186.57

<b>Timbercorp Citrus Project</b>	<b>Solara Compromise entitlement per lot</b>	<b>Total entitlement per lot</b>
2005 Citrus	\$316.80	\$316.80

Some land used in the 2002 and 2005 Timbercorp Almond Projects and the 2002 Timbercorp Almond Project (Private Offer No. 1) was sold in the Almond Land sale transaction and the remainder in the Liparoo and Yungera sale transaction. Growers in those Projects therefore have an entitlement under both compromises. The amount set aside for Growers from each compromise is determined by the number of lots in that Project that were on the relevant land. These amounts are then allocated to Growers on the basis of the total number of lots in the Project. This results in the amount per lot being reduced in proportion to the percentage of lots in that Project that were located on the relevant land.

The Growers' Appeal of the decision in the Almond Land Rights Proceeding has been funded by Litigation Funders. Those Litigation Funders have indicated that they intend to seek a payment from the Growers' entitlement under the compromise of the Almond Land Rights Appeal Proceeding. If they are successful in this claim (in whole or in part), the amounts that Growers in the 2002, 2005, 2006 and 2007 Timbercorp Almond Project and the 2002 Timbercorp Almond Project (Private Offer No. 1) receive will be reduced accordingly.

If the Supreme Court is not prepared to hear and determine the Litigation Funders' claim until after the hearing of the application for approval of the compromise of the Almond Land Rights Appeal Proceeding, the Supreme Court may require that the Growers' entitlement under the compromise of the Almond Land Rights Appeal Proceeding be held on trust, in an interest bearing account, until the Litigation Funders' claim is heard and determined. This will not affect the distribution of Growers' entitlements under any other compromise.

**35 Why are some Growers getting more than others?**

Approximately 5% of the gross proceeds of each sale transaction are being set aside for Growers. The sale proceeds differed between the sale transactions depending on how much the relevant buyers were prepared to pay. This varied depending on the location and value of the land, the age of the trees and other factors.

The amount set aside for Growers from each sale transaction is then divided by the number of lots in the relevant Projects.

Unlike the other Timbercorp Projects, Growers in the 2001 Timbercorp Almond Project, owned the trees on their lot. The governing documents for the 2001 Timbercorp Almond Project provide that Growers are entitled to \$2,000 per lot for the trees on their lot when the trees were sold. Those Growers are therefore entitled to an additional \$2,000 per lot. The governing documents for the other Timbercorp Projects do not have the same provisions.

Some land used in the 2002 and 2005 Timbercorp Almond Projects and the 2002 Timbercorp Almond Project (Private Offer No. 1) was sold in the Almond Land sale transaction and the remainder in the Liparoo and Yungera sale transaction. Growers in those Projects therefore have an entitlement under both compromises. The amount set aside for Growers from each compromise is determined by the number of lots in that Project that were on the relevant land. These amounts are then allocated to Growers on the basis of the total number of lots in the Project. This results in the amount per lot being reduced in proportion to the percentage of lots in that Project that were located on the relevant land.

**36 Where can I get a copy of the governing documents for my Project?**

The governing documents for the Olive Projects, such as the constitution, licence and joint venture agreement or lease and management agreement are available on line at [www.abl.com.au/timbercorp/compromise.htm](http://www.abl.com.au/timbercorp/compromise.htm).

**37 Why aren't Growers in the Table Grape or 2004 Citrus Projects getting anything?**

A compromise agreement has not been reached between the Growers in these Projects and the other interested parties. The net sale proceeds are being held on trust, in an interest bearing account, until an agreement is reached or a Court decides who is entitled to the net sale proceeds.

**38 What happened in the Almond Land apportionment proceeding?**

The Almond Land apportionment proceeding was heard by Justice Davies of the Supreme Court of Victoria in 2011. Her Honour determined that the Growers were not entitled to any of the net sale proceeds. Instead, the secured creditors were entitled to all of the net sale proceeds.

The Growers have appealed this decision but the appeal has not yet been heard.

**39 What is happening with the appeal of the decision in the Almond Land apportionment proceeding?**

The parties have completed all the necessary preliminary steps required before the Court of Appeal will set a date for the hearing of the appeal, however the date for the hearing has not yet been set.

If the Compromises are not approved by the Supreme Court, the appeal will continue. It is not expected to be heard before mid 2013.



**Our ref:** CJA:MJF:1000182

13 August 2012

Dear Grower

**2000 Timbercorp Olive Project (Private Offer) (Unregistered),  
2001 Timbercorp Olive Project ARSN 094 382 082,  
2002 Timbercorp Olive Project ARSN 098 233 455,  
2003 Timbercorp Olive Project ARSN 104 648 473 and  
2004 Timbercorp Olive Project ARSN 108 744 378  
(collectively, the Olive Projects)**

You are receiving this letter in your capacity as a grower investor in one or more of the Olive Projects (**Grower**).

The Olive Projects are the subject of a dispute between Growers and other parties to Proceeding No. SCI 2011 6777 in the Supreme Court of Victoria (**Fenceport Rights Proceeding**) in relation to their respective entitlements to the net sale proceeds of the assets used in the Olive Projects. In that proceeding, the interests of all Growers are represented by representative Growers appointed by the Supreme Court of Victoria (**Representative Growers**). Clarendon Lawyers acts on behalf of the Representative Growers.

The parties to the Fenceport Rights Proceeding have now reached a compromise resolving the dispute between them (**Compromise**). Each Representative Grower, acting on our and our barristers' advice, considers that the Compromise is in the best interests of the Growers they represent. If the Compromise is approved by the Supreme Court of Victoria and the compromises in respect of the other Timbercorp Olive Projects, the Timbercorp Almond Projects and the 2005 Timbercorp Citrus Project are also approved, the Compromise will bind all Growers and you will lose any right to seek a different outcome of the dispute.

We have prepared a notice to Growers explaining the Fenceport Rights Proceeding, the Compromise (including its effect on Growers' rights and entitlements) and the application to be made to the Supreme Court of Victoria for approval of the Compromise (**First Notice to Growers**). The First Notice to Growers also provides details on how you can comment on or object to the Compromise or obtain further information.

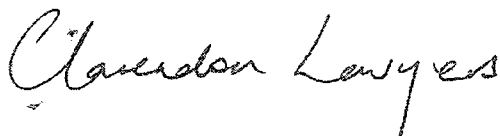
***It is important that you read the First Notice to Growers carefully as, if approved by the Supreme Court of Victoria, the Compromise will affect your rights and entitlements as a Grower.***

You can view the First Notice to Growers on the following websites:

- [www.clarendonlawyers.com.au](http://www.clarendonlawyers.com.au)
- [www.kordamentha.com/creditor-information/Australia/51](http://www.kordamentha.com/creditor-information/Australia/51)
- [www.abl.com.au/timbercorp/compromises.htm](http://www.abl.com.au/timbercorp/compromises.htm)

If you would like the First Notice to Growers to be sent to you, call the telephone hotline on (03) 8615 1200 or email [investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au).

Yours faithfully



## OLIVE DIRECTION TO PAY

**TO: Timbercorp Securities Limited (In Liquidation) (ACN 092 311 469) (TSL)**

I/We, \_\_\_\_\_, am/are investor/s in the following Timbercorp Olive project/s (*tick all applicable boxes*):

- ☐ 2000 Timbercorp Olive Project (Private Offer) (Unregistered)
- ☐ 2001 Timbercorp Olive Project (ARSN 094 382 082)
- ☐ 2002 Timbercorp Olive Project (ARSN 098 233 455)
- ☐ 2003 Timbercorp Olive Project (ARSN 104 648 473)
- ☐ 2004 Timbercorp Olive Project (ARSN 108 744 378)
- ☐ 2006 Timbercorp Olive Project (ARSN 119 182 179)
- ☐ 2007 Timbercorp Olive Project (ARSN 123 155 715)
- ☐ 2008 Timbercorp Olive Project (ARSN 129 307 722).

***If you do not tick any boxes, this Direction to Pay will apply to all your investments in the Timbercorp Olive project/s.***

This direction to pay is in respect of any of my/our entitlements under the Deed of Compromise dated 25 July 2012 between the parties to the Fenceport Rights Proceeding (Supreme Court Proceeding No. SCI 2011 6777) and/or the Deed of Compromise dated 25 July 2012 between the parties to the BB Olives Rights Proceeding (Supreme Court Proceeding No. SCI 2010 1354) (**Grower Payment**).

In giving this Direction to Pay, I/we do not admit liability to Timbercorp Finance Pty Ltd (In Liquidation) (ACN 054 581 190) (**Timbercorp Finance**) or TSL and my/our Direction to Pay is without prejudice to any rights I/we may have against Timbercorp Finance or TSL in respect of any amounts Timbercorp Finance or TSL claims are owing to it.

## **OLIVE DIRECTION TO PAY**

**I/We hereby irrevocably authorise and direct TSL to (*tick all applicable boxes*):**

☐ use all / \$\_\_\_\_\_ (*delete as applicable*) of my/our Grower Payment to pay in whole or in part to the extent possible the amounts which Timbercorp Finance claims I/we owe in respect of my/our investment in the Timbercorp Olive project/s;

*NOTE: If you tick this box and do not specify an amount, this Direction to Pay will apply to all of your Grower Payment.*

☐ use all / \$\_\_\_\_\_ (*delete as applicable*) of my/our Grower Payment to pay in whole or in part to the extent possible the amounts which TSL claims I/we owe in respect of my/our investment in the Timbercorp Olive project/s;

*NOTE: If you tick this box and do not specify an amount, this Direction to Pay will apply to all of your Grower Payment.*

*NOTE: This Direction to Pay TSL will not be effective if you owe any amounts to Timbercorp Finance and you have not directed that Timbercorp Finance be repaid first.*

☐ use all / \$\_\_\_\_\_ (*delete as applicable*) of my/our Grower Payment to pay in whole or in part to the extent possible the amounts which Timbercorp Finance claims I/we owe in respect of any other Timbercorp projects of which I/we am/are Grower/s.

*NOTE: If you tick this box and do not specify an amount, this Direction to Pay will apply to all of your Grower Payment.*

DATE:

SIGNATURE/S: .....

.....

Please send completed form to:

Timbercorp Securities Limited  
PO Box 186  
Collins Street West  
Melbourne Vic 8007

Or fax to: 03 9670 4271  
Or email to:  
[investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au)

# **TIMBERCORP**

## **Bank Account Nomination Form**

I/We hereby authorise Timbercorp Securities Ltd (In Liquidation) to pay any amounts due to me/us under the compromises of the Fenceport Rights Proceeding, Solara Rights Proceeding, BB Olives Rights Proceeding, Liparoo and Yungera Rights Proceeding and Almond Land Rights Appeal Proceeding or any other distributions into my/our bank account as follows:

Name of financial institution: \_\_\_\_\_.

Address of branch: \_\_\_\_\_

Account Name: \_\_\_\_\_

BSB (Branch no): \_\_\_\_\_

Account no: \_\_\_\_\_

Signature: \_\_\_\_\_

Investment Name (*please print*): \_\_\_\_\_

Date: \_\_\_\_\_

Contact no: \_\_\_\_\_

Please send completed form to:

Timbercorp Securities Limited  
PO Box 186  
Collins Street West  
Melbourne Vic 8007

Or fax to: 03 9670 4271  
Or email to:  
[investorqueries@timbercorp.com.au](mailto:investorqueries@timbercorp.com.au)