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

LIST E

SCI 2009 10699

# **BETWEEN:**

BOSI SECURITY SERVICES LIMITED (ACN 009 413 852) as trustee for **AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED** (ACN 005 357 522) and BOS INTERNATIONAL (AUSTRALIA) LIMITED (ACN 066 601 250) and WESTPAC BANKING CORPORATION (ACN 007 457 141)

**Plaintiff** 

and

**AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED** (ACN 005 357 522) & ORS (according to the attached Schedule)

**Defendants** 

# CERTIFICATE IDENTIFYING EXHIBIT

Date of document:

3 March 2010

Filed on behalf of:

the Second, Third and Fourth Defendants

Prepared by:

ARNOLD BLOCH LEIBLER Lawyers and Advisers Level 21 333 Collins Street **MELBOURNE 3000** 

Solicitor's Code: 54 DX 38455 Melbourne Tel: 9229 9999 Fax: 9229 9900

Ref: [ ]

(Leon Zwier <u>Izwier@abl.com.au/</u> Lucy Kirwan !kirwan@abl.com.au)

This is the exhibit marked 'MAK-35' now produced and shown to MARK ANTHONY

KORDA at the time of swearing this affidavit on 3 March 2010.

Before me:≃

LUCY HANNAH KIRWAN Arnold Block Letolar Level 21, 333 Colline Street Melbourne 3000

Exhibit 'MAK-35'

An Australian Logal Practitional within the

meaning of the Legal Profession Act 200 Copies of 16 May 2007 **Accession Deeds** 

This Deed is made on [ / ] May 2007 between:

- 1. Almonds Management Pty Ltd ACN 094 468 845 (the Additional Guarantor);
- Timbercorp Limited ACN 055 185 067 in its capacity as agent for each of the Guarantors under the Guarantee (the Agent); and
- 3. BWA Custodians Ltd ABN 63 009 413 852 (the Security Trustee).

# **RECITALS**

- A. This Deed is supplemental to the Guarantee and Indemnity dated on or about 15

  December 2006 (the Guarantee) between, among others, the Agent and the Security
  Trustee.
- B. This Deed has been entered into to record the accession of the Additional Guarantor as a Guarantor under the Guarantee.

#### IT IS AGREED AS FOLLOWS

- Accession of New Parties
  - (a) The Additional Guarantor agrees to become with immediate effect, a party to, and agrees to be bound by the terms of, the Guarantee as if it had originally been a party to the Guarantee as a Guarantor.
  - (b) The Additional Guaranter confirms that its address details for notices are as follows:

Address:

Level 8, 461 Bourke Street, Melbourne, Victoria

Facsimile:

03 9670 427

Attention of:

Chief Financial Officer

#### 2. Law

This Deed shall be governed by the law in force in Victoria.

The Additional Guarantor accepts the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum. This is without prejudice to the Security Trustee's ability to take proceedings against the Additional Guarantor in another jurisdiction.

# 3. Signatories to the Accession Deed

Executed by Almonds Management Pty Ltd ACN 094 468 845	}
Company Secretary/Director  Ratk Hangion Pipn)  Name of Company Secretary/Director (print)	Director  Rabed James Hand  Name of Director (print)
Executed by Timbercorp Limited ACN 055 185 067  Company Secretary/Director Mark Handon Print  Name of Company Secretary/Director (print)	Director Robert James Hasse Name of Director (print)
Executed for and on behalf of BWA Custodians Limited ABN 69 009 413 852 by its attorney pursuant to power of attorney who states that no notice of revocation of the power of attorney has been received in the presence of:  Witness  ARA ARA PERM Name of Witness (print)	Attorney  Attorney  Name of Attorney (print)  14 December 2000  Date of power of attorney

**一方一方一方一一一一一一一一一一一一一一一** 

# This Deed is made on [16] May 2007 between:

- Timbercorp Securities Limited ACN 692 311 469 (the Additional Guarantor):
- 2. Timbercorp Limited ACN 055 185 067 in its capacity as agent for each of the Guarantors under the Guarantee (the Agent); and
- BWA Custodiáns Ltd ABN 63 009 413 852(the Security Trustee).

## RECITALS

- This Deed is supplemental to the Guarantee and Indepenty dated on or about 15.

  December 2006 (the Guarantee) between, among others, the Agent and the Security Trustee.
- This Deed has been entered into to record the accession of the Additional Guarantor as a Guarantor under the Guarantes.

## IT IS AGREED AS FOLLOWS

- Accession of New Parties
  - The Additional Guarantor agrees to become with immediate effect, a party to, and agrees to be bound by the terms of, the Guarantee as if it had originally been a party to the Guarantee as a Guarantor.
  - The Additional Guarantor confirms that its address details for notices are as follows:

Address:

Level 8, 461 Bourke Street, Melbourne, Victoria

Facsimile:

03 9670 427

Attention of:

Chief Financial Officer

#### 2. Law

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This Deed shall be governed by the law in force in Victoria.

The Additional Guarantor accepts the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum. This is without prejudice to the Security Trustee's ability to take proceedings against the Additional Guarantor in another urisdiction.

Signatories to the Accession Deed

Executed by Timbercorp Securities Limited ACN 092 311 469  Company Secretary/Director  Mark Handion Prol  Name of Company-Secretary/Director  (print)	}	Director Robert James Hance Name of Director (print)
Executed by Timbercorp Limited ACN 055 185 067  Company Secretary/Einsector Mark Hamilton Figure  Name of Company Secretary/Directors (print)	}	Director  Robert James Hance  Name of Director (print)
Executed for and on behalf of BWA Custodians Limited ABN 69 009 413 852 by its attorney pursuant to power of attorney who states that no notice of revocation of the power of attorney has been received in the presence of:  Witness  ARIAN POON Name of Witness (urint)	)	Attorner  M-COLEMAN  Name of Attorney (print)  H DECEMBER 2006  Date of power of attorney

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This Deed is made on [16] May 2007 between:

- 1. Aveoup Management Pty Ltd ACN 115 774 224 (the Additional Guarantor);
- Timbercorp Limited ACN 055 185 067 in its capacity as agent for each of the Guarantees under the Guarantee (the Agent); and
- 3. BWA Custodians Ltd ABN 63 009 413 852 (the Security Trustee).

## RECITALS

- A. This Deed is supplemental to the Guarantee and Indemnity dated on or about 15

  December 2006 (the Guarantee) between, among others, the Agent and the Security
  Torsten.
- B. This Deed has been entered into to record the accession of the Additional Guaranter as a Guaranter under the Guaranter.

#### IT IS AGREED AS FOLLOWS

- Accession of New Parties
  - (a) The Additional Guaranter agrees to become with immediate effect, a party to, and agrees to be bound by the terms of, the Guarantee as if it had originally been a party to the Guarantee as a Guaranter.
  - (b) The Additional Guaranter confirms that its address details for notices are as follows:

Address:

Level 8, 461 Bourke Street, Melbourne, Victoria

Facsimile:

03 9670 427

Attention of:

Chief Financial Officer

#### 2. Law

This Deed shall be governed by the law in force in Victoria.

The Additional Guarantor accepts the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum. This is without prejudice to the Security Trustee's ability to take proceedings against the Additional Guarantor in another jurisdiction.

# 3. Signatories to the Accession Deed

**Executed by Avcorp Management** Pty Ltd ACN 115 774 224 Company Secretary/Bigs Director Robert James Hand Mark Hometon Park Name of Company-Secretary/Girector Name of Director (print) (print) Executed by Timbercorp Limited ACN 055 185 067 Company Secretary/Dire Director Here Here the Print Remart James Name of Company Secretary/Director-Name of Director (print) (print) Executed for and on behalf of BWA. Custodians Limited ABN 69 009 413 852 by its attorney pursuant to power of attorney who states that no notice of revocation of the power of attorney has been received in the presence of: Name of Attorney (print) Witness Name of Witness (print) Date of power of attorney

This Deed is made on [ /6] May 2007 between:

- 1. Mangocorp Management Pty Ltd ACN 111 279 004 (the Additional Guaranter);
- Timbercorp Limited ACN 055 185 067 in its capacity as agent for each of the Guarantors under the Guarantee (the Agent); and
- BWA Custodians Ltd ABN 63 009 413 852 (the Security Trustee).

## RECITALS

- A. This Deed is supplemental to the Guarantee and Indemnity dated on or about 15

  December 2006 (the Guarantee) between, among others, the Agent and the Security

  Trustee
- B. This Deed has been entered into to record the accession of the Additional Guarantor as a Guarantor under the Guarantee.

## IT IS AGREED AS FOLLOWS

- Accession of New Parties
  - (a) The Additional Guarantor agrees to become with immediate offect, a party to, and agrees to be bound by the terms of, the Guarantee as if it had originally been a party to the Guarantee as a Guarantor.
  - (b) The Additional Guaranter confirms that its address details for notices are as follows:

Address:

Level 8, 461 Bourke Street, Melbourne, Victoria

Facsimile:

03 9670 427

Attention of:

Chief Financial Officer

#### 2. Lav

This Deed shall be governed by the law in force in Victoria.

The Additional Guarantor accepts the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum. This is without prejudice to the Security Trustee's ability to take proceedings against the Additional Guarantor in another jurisdiction.

# 3. Signatories to the Accession Deed

Executed by Mangocorp Management Pty Ltd ACN 111 279 004  Company Secretary/Director  Hark Handing Pty	;	Director  Robert James Hang  Name of Director (print)
Executed by Timbercorp Limited ACN 055 185 067  Company Secretary/Circuter Eart Handan Fig	}	Director  Robert James Hanne Name of Director (print)
Executed for and on behalf of BWA Custodians Limited ABN 69 009 413 852 by its attorney pursuant to power of attorney who states that no notice of revocation of the power of attorney has been received in the presence of:  Witness  ARA BOV Name of Witness (print)	)	Attorney  Automet  Au

This Deed is made on [ 16 ] May 2007 between:

- I. Olivecorp Management Limited ACN 089 542 343 (the Additional Guarantor);
- Timbercorp Linaited ACN 0S5 185 067 in its capacity as agent for each of the Guarantors under the Guarantee (the Agent); and
- 3. BWA Custodians Ltd ABN 63 009 413 852(the Security Trustee).

## RECITALS

- A. This Deed is supplemental to the Guarantee and Indomnity dated on or about 15

  December 2006 (the Guarantee) between, among others, the Agent and the Security

  Trustee.
- B. This Deed has been entered into to record the accession of the Additional Guaranter as a Guaranter under the Guarantee.

#### IT IS AGREED AS FOLLOWS

- Accession of New Parties
  - (a) The Additional Guarantor agrees to become with immediate effect, a party to, and agrees to be bound by the terms of, the Guarantee as if it had originally been a party to the Guarantee as a Guarantor.
  - (b) The Additional Guarantor confirms that its address details for notices are as follows:

Address:

Level 8, 451 Bourke Street, Melbourne, Victoria

Facsimile:

03 9670 427

Attention of:

Chief Financial Officer

#### 2. Law

This Deed shall be governed by the law in force in Victoria.

The Additional Guaranter accepts the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum. This is without prejudice to the Security Trustee's ability to take proceedings against the Additional Guaranter in another jurisdiction.

# 3. Signatories to the Accession Deed

Executed by Olivezorp Management Pty Ltd ACN 089 542 343	)	
Company Secretary/Director  Wark Hanilion Pipa)  Name of Company Secretary/Director (print)		Director Robert James Hanns Name of Director (print)
Executed by Timbercorp Limited ACN 055 185 067  Company Secretary/Director  Back Hambar Pryst  Name of Company Secretary/Director (print)	}	Director Robert James Hance Name of Director (print)
Executed for and on behalf of BWA Custodians Limited ABN 69 009 413 852 by its attorney pursuant to power of attorney who states that no notice of revocation of the power of attorney has been received in the presence of:	)	Attorney
Witness  AR(AN PON Name of Witness (print)		M. COLEMBRY Name of Attorney (print)  L4 Dulinder 2006 Date of power of attorney

This Deed is made on [ ] [ ] May 2007 between:

- 1. Timbercorp Forestry Pty Ltd ACN 070 952 742 (the Additional Guarantor);
- Timbercorp Limited ACN 055 185 067 in its capacity as agent for each of the Guarantors under the Guarantee (the Agent); and
- BWA Custodians Ltd ABN 63 009 413 852 (the Security Trastee).

## RECITALS

- A. This Deed is supplemental to the Guarantee and Indemnity dated on or about 15

  December 2006 (the Guarantee) between, among others, the Agent and the Security

  Trustee
- B. This Deed has been entered into to record the accession of the Additional Guarantor as a Guarantor under the Guarantee.

## IT IS AGREED AS FOLLOWS

- Accession of New Parties
  - (a) The Additional Guarantor agrees to become with immediate effect, a party to, and agrees to be bound by the terms of, the Guarantee as if it had originally been a party to the Guarantee as a Guarantor.
  - (b) The Additional Guaranter confirms that its address details for notices are as follows:

Address:

Level 8, 461 Bourke Street, Melbourne, Victoria

Facsimile:

03 9670 427

Attention of:

Chief Financial Officer

### 2. Law

This Deed shall be governed by the law in force in Victoria.

The Additional Guarantor accepts the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum. This is without prejudice to the Security Trustee's ability to take proceedings against the Additional Guarantor in another jurisdiction.

# 3. Signatories to the Accession Deed

Executed by Timbercorp Forestry Pty Ltd ACN 070 952 742  Company Secretary/Director  Mark Hamilian Fifts  Name of Company Secretary/Director (print)	}	Director Robert James Name Name of Director (print)
Executed by Timbercorp Limited ACN 055 185 067  Company Secretary/Director	) )	Director
Name of Company Secretary/Director (print)		Name of Director (print)
Executed for and on behalf of BWA Custodians Limited ABN 69 009 413 852 by its attorney pursuant to power of attorney who states that no notice of revocation of the power of attorney has been received in the presence of:	)	Attorney Co.
Witness  ADRIAN POON Name of Witness (print)		Name of Attorney (print)

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