

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

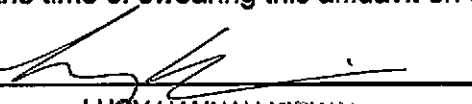
Prepared by:
ARNOLD BLOCH LEIBLER
Lawyers and Advisers
Level 21
333 Collins Street
MELBOURNE 3000

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

(Leon Zwier lwier@abl.com.au/
Lucy Kirwan lkirwan@abl.com.au)

This is the exhibit marked '**MAK-44**' 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 Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000

An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

Exhibit 'MAK-44'

Copy of ANZ Loan Facility



Deacons

"ANNEXURE A"

Dated 27 March 2008

**Facility Agreement
\$60150 Million Eligible Loans
Facility**

Parties

Timbercorp Finance Pty Ltd
ABN 88 054 581 190

Australia and New Zealand Banking Group Limited
ABN 11 005 357 522

Contact

Gillad Dalal

Partner

RACV Tower, 485 Bourke Street, Melbourne VIC 3000

Telephone: 03 8686 6368

Email: gillad.dalal@deacons.com.au

Website: www.deacons.com.au

Our ref: 2630002

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Agreement dated

Parties Timbercorp Finance Pty Ltd (ABN 88 054 581 190)
of Level 8, 461 Bourke Street, Melbourne, Victoria
(Borrower)

Australia and New Zealand Banking Group Limited (ABN 11 005 357 522)
of Level 10, 530 Collins Street, Melbourne, Victoria
(Lender)

It is agreed

1. Definitions and interpretation

1.1 Definitions

In this Agreement, unless the context requires another meaning:

Accepted Eligible Loans means, from time to time:

- (1) all of the Proposed Eligible Loans (as defined in clause 5.1(1)(a)); and
- (2) such other Eligible Loans which are proposed by the Borrower and accepted by the Lender from time to time to be new Accepted Eligible Loans subject to a Security in substitution of any existing Accepted Eligible Loans; and
- (3) the Grower Loans,

other than those in respect of which a notice is issued under clause 5.1(2).

Accounting Standards means:

- (1) the accounting standards applicable for the purposes of the *Corporations Act*;
- (2) the requirements of the *Corporations Act* for the preparation and content of financial reports, directors' reports and auditors' reports;
- (3) generally accepted and consistently applied accounting principles and practices in Australia, except those inconsistent with the standards or requirements referred to in paragraphs (1) or (2).

Accounts means, for a particular period:

- (1) for the Borrower or a Security Provider, its statement of financial performance and statement of cash flows for that period and its statement of financial position as at the end of that period; and
- (2) for the Group, the consolidated statement of financial performance and statement of cash flows of the Group for that period and the consolidated statement of financial position of the Group as at the end of that period;

and all disclosures, reports and notes required to be included or attached to or intended to be read with any of those financial statements and all directors' declarations and auditor's reports (if applicable) about those financial statements.

Advance means the principal amount advanced or to be advanced by the Lender to the Borrower under the Facility or the amount of the Advance which remains outstanding.

Almond Agreement means the Facility Agreement between Almond Land Pty Ltd (ABN 65 091 460 392) and the Lender dated 31 March 2005 as amended from time to time.

Amending Deeds means:

- (1) the Deed between the Lender and the Borrower and the Guarantors dated 21 August 2006;
- (2) the Deed of Amendment and Acknowledgement (\$28 million Eligible Loans Facility and Deed of Guarantee and Indemnity) dated 13 July 2007;
- (3) the Second Deed of Amendment and Acknowledgement (\$60m Eligible Loans Facility and Deed of Guarantee and Indemnity) dated on or about October 2007; and
- (4) the Fourth Deed of Amendment and Acknowledgment (\$150 million Eligible Loans Facility) dated on or around March 2008.

all amending the terms of this Agreement.

Amount Owed means all money, obligations and liabilities of any kind of the Borrower to or for the account of the Lender that are now or may in the future become due, owing or payable, whether actually, contingently or prospectively, under or in relation to a Transaction Document including on account of principal, interest, fees, expenses, indemnity payments, losses or damages and irrespective of:

- (1) the capacity of the Borrower or the Lender (whether as principal, agent, trustee, beneficiary, partner or otherwise);
- (2) whether the Borrower is liable as principal debtor or as surety;
- (3) whether the Borrower is liable alone, jointly or jointly and severally with another person;
- (4) whether or not the money, obligation or liability is owed to the Lender, or to its account, as a result of an assignment, transfer or other dealing with or without the Borrower's consent; or
- (5) whether the money, obligation or liability is owed or secured before or after the date of:
 - (a) this Agreement; or
 - (b) any assignment of this Agreement or any other Transaction Document.

Authorisation means:

- (1) any authorisation, approval, licence, permit, consent, qualification, accreditation, filing, registration, certificate, resolution, direction, declaration or exemption and any renewal and variation of them; and

- (2) for anything which a Government Agency may prohibit or restrict within a specified period, the expiry of that period without intervention or other action by that Government Agency.

Authorised Officer means:

- (1) for the Borrower or a Security Provider, a director or a secretary of the Borrower or that Security Provider or any other person nominated by the Borrower or that Security Provider by notice to the Lender to be an Authorised Officer, the notice to be accompanied by a certified copy of the signature of any person nominated; and
- (2) for the Lender any employee of the Lender whose title includes the word "Manager", "Director" or "Associate Director" or any duly authorised attorney of the Lender and includes a person acting in any of those capacities or any other person nominated by the Lender by notice to the Borrower to be an Authorised Officer.

Availability Period means the period starting on:

- (1) in respect of Tranche B, sublimit 2, 1 August 2008; and
- (2) in respect of all other amounts drawn under the Facility, the date that all of the conditions specified in clause 4 have been satisfied in accordance with that clause,

and ending on the earlier of:

- ~~(1)~~(3) the date which is one month before the Repayment Date; and
- (2)~~(4)~~ the date on which the Commitment is cancelled in full or terminated under this Agreement,

or such other date as agreed to by the Lender.

Bank means an authorised deposit-taking institution authorised by the Australian Prudential Regulation Authority to carry on banking business under the *Banking Act 1959* (Cth).

Base Rate means, in relation to an Advance or other relevant amount and an Interest Period (other than an Interest Period which is greater than 6 months) or other relevant period:

- (1) the rate (expressed as a percentage per annum) determined by the Lender to be:
- (a) the average bid rate quoted on the page designated as "BBSY" on the Reuters Monitor Money Rates Services or another page that replaces the "BBSY" page on that system to display average bid rates for Bills accepted by a Lender, rounded up, if necessary, to the nearest four decimal places; or
- (b) the average of the buying rates for Bills accepted by a Lender quoted by 3 Banks selected by the Lender, rounded up, if necessary, to the nearest four decimal places, if:
- (i) the page designated as "BBSY" (or another page that replaces the "BBSY" page) on the Reuters Monitor Money Rates Services is not available for any reason; or
- (ii) the basis on which the rate quoted on that page is determined is changed and, in the opinion of the Lender, that rate no longer

reflects its cost of funding to the same extent as it does at the date of this Agreement;

In either case determined:

- (c) at or about 10:30 am on the first day of the relevant period; and
 - (d) for the amount and period closest to the relevant amount and relevant period; or
- (2) If the Base Rate cannot be determined under paragraph (1), the rate (expressed as a percentage per annum) determined by the Lender in good faith to be the appropriate rate and for this purpose the Lender may have regard to comparable indices then available in any market the Lender considers appropriate.

Bill has the meaning given to "bill of exchange" in the *Bills of Exchange Act 1909* (Cth).

Business Day means a day on which Banks are open for business in Melbourne other than a Saturday, a Sunday or a public holiday.

Claim means any claim, cost, damages, debt, expense, Tax, liability, loss, allegation, suit, action, demand, cause of action or proceeding of any kind irrespective of:

- (1) how or when it arises;
- (2) whether it is actual or contingent;
- (3) whether or not it is in respect of legal or other costs, damages, expenses, fees or losses;
- (4) whether or not it is in respect of a breach of trust or of a fiduciary or other duty or obligation; and
- (5) whether or not it arises at law or in any other way.

Cleared Funds means money that is immediately available to the recipient and freely transferable by it.

Commitment means the maximum amount which the Lender is committed to provide under the Facility being \$60150,000,000 comprising the Tranche A Commitment and the Tranche B Commitment, as reduced or cancelled in accordance with this Agreement.

Controller has the meaning given to "controller" in section 9 of the *Corporations Act*.

Derivatives Transaction means a futures contract (as defined in the *Corporations Act*), swap, option, swaption, cap, collar, floor, forward rate agreement, foreign exchange agreement, hedge or any other derivatives agreement similar to or having, in respect of its subject matter, a similar effect or a combination of such agreements.

Drawings means the utilisation of the Facility.

Dollars and \$ means the lawful currency of Australia.

Drawdown Date means the date on which an Advance is, or is to be, made to the Borrower under this Agreement.

Drawdown Notice means a notice given under clause 5.1 which satisfies the requirements of clause 5.2.

Eligible Loan means a loan made by the Borrower to an Investor that satisfies the criteria set out in Schedule 4 and any security or guarantee provided by the Investor to the Borrower in respect of that Eligible Loan.

Eligible Loan Documentation means all documentation entered into in respect of each Eligible Loan, including, without limitation, the loan agreement between the Investor and the Borrower and each security and guarantee provided to the Borrower in respect of that Eligible Loan.

Event of Default means an event listed in clause 13.1.

Excluded Tax means a Tax imposed on the overall net income of the Lender other than a Tax:

- (1) imposed as a result of the Lender being deemed to be organised, doing business, resident or receiving income in a jurisdiction only because it has executed or delivered a Transaction Document, or performed its obligations, received a payment under or enforced a Transaction Document in that jurisdiction; or
- (2) calculated by reference to the gross amount of any payment received or receivable by the Lender under any Transaction Document (without allowance for any deduction).

Facility means the facility made available to the Borrower under this Agreement.

Facility Limit means the lesser of:

- (1) 7065% of the Security Value; and
- (2) \$60150,000,000.

Fourth Amendment Agreement means the Fourth Deed of Amendment and Acknowledgment between the Borrower and the Lender and other parties, varying this Agreement.

Fourth Amendment Effective Date means the Effective Date as defined in the Fourth Amendment Agreement.

Government Agency means:

- (1) a government, whether foreign, federal, state, territorial or local;
- (2) a department, office or minister of a government acting in that capacity; or
- (3) a commission, delegate, instrumentality, agency, board or other government, semi-government, judicial, administrative, monetary or fiscal authority, whether statutory or not.

Group means the Sponsor and all its Subsidiaries and member of the Group or Group Company means any one of them.

Group Account means the account held by Timbercorp Limited with Australia and New Zealand Banking Group Limited with BSB no. 013-006 and account no. 837347612.

Grower Loans mean Type 1 Loans and Type 2 Loans.

GST means any goods and services tax, value added tax or other similar tax.

Guarantee means a guarantee, indemnity, letter of credit, performance bond, letter of comfort or other assurance or assumption of responsibility, however it is described, given for a debt or liability of another person or the solvency or financial condition of another person.

Holding Company has the meaning given to "holding company" in the *Corporations Act*.

Indebtedness of a person means any debt or other monetary obligation of that person, whether actual or contingent and whether present or future, including:

- (1) for money borrowed or raised;
- (2) under a Guarantee;
- (3) under any debenture, bond, note, loan stock or similar instrument or bill of exchange, negotiable or other financial instrument;
- (4) the par value, premium and accrued dividend of a redeemable preference share issued by that person;
- (5) under any letter of credit, acceptance, endorsement or bill discounting or note purchase facility;
- (6) under a lease, licence or hire arrangement if, under Accounting Standards, that lease, licence or hire arrangement should be capitalised on the balance sheet of that person (in which case the amount of the Indebtedness is the amount that does or should appear on that balance sheet for the lease, licence or hire arrangement);
- (7) under any hire purchase arrangement or for the deferred purchase price of any asset or service, except trade debts which arise in the ordinary course of business and which are payable within 90 days;
- (8) under any put option, buy-back or discounting arrangement;
- (9) under a Derivatives Transaction (in which case the amount of the Indebtedness is the amount reasonably determined by the Lender as the liquidation or termination value of the relevant Derivatives Transaction based on market practices prevalent from time to time); or
- (10) under any transaction having the commercial effect of borrowing;

Insolvency Event means, for any person that is a body corporate, the happening of one or more of the following events without prior written consent of the Lender:

- (1) except for the purpose of a solvent reconstruction or amalgamation which has the prior written consent of the Lender:
 - (a) process is filed in a court seeking an order that it be wound up or that a Controller be appointed to it or any of its assets and that process is not being diligently contested by that body corporate in a manner satisfactory to the Lender and no other event referred to in this definition has occurred;
 - (b) an order is made that it be wound up or that a Controller be appointed to it or any of its assets; or
 - (c) a resolution that it be wound up is passed or proposed;

- (2) a liquidator, provisional liquidator, Controller or any similar official is appointed to, or takes possession or control of, all or any of its assets or undertaking;
- (3) an administrator is appointed to it, a resolution that an administrator be appointed to it is passed or proposed, or any other steps are taken to appoint an administrator to it;
- (4) it enters into, or resolves to enter into, an arrangement, compromise or composition with any of, or any class of, its creditors or members, or an assignment for the benefit of any of, or any class of, its creditors, or process is filed in a court seeking approval of any such arrangement, compromise or composition;
- (5) a reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors is proposed or effected;
- (6) any action is taken by the Australian Securities and Investments Commission with a view to its deregistration or its dissolution, or an application is made to the Australian Securities and Investments Commission that any such action be taken and that process is not being diligently contested by that body corporate in a manner satisfactory to the Lender and no other event referred to in this definition has occurred;
- (7) it is insolvent within the meaning of section 95A of the *Corporations Act*, as disclosed in its Accounts or otherwise, states that it is unable to pay its debts or it is presumed to be insolvent under any applicable law;
- (8) as a result of the operation of section 459F(1) of the *Corporations Act*, it is taken to have failed to comply with a statutory demand;
- (9) it stops or suspends or threatens to stop or suspend:
 - (a) the payment of all or a class of its debts; or
 - (b) the conduct of all or a substantial part of its business;
- (10) any event or circumstance set out in section 461 of the *Corporations Act* occurs in relation to it; or
- (11) anything having a substantially similar effect to any of the events specified in paragraphs (1) to (10) inclusive happens to it under the law of any jurisdiction.

Instalment Loan has the meaning given to it in Schedule 4.

Interest Only Loan has the meaning given to it in Schedule 4

Interest Payment Date means:

- (1) the last day of an Interest Period; and
- (2) in the case of an Interest Period of more than 1 month, the last day of each month during that Interest Period.

Interest Period means, for an Advance, the period specified in clause 6.1(4).

Investor means a person who has borrowed money from the Borrower under an Eligible Loan.

Loan Pool means the total Accepted Eligible Loans from time to time.

Loan to Value Ratio means the percentage achieved by applying the formula:

$$\frac{\text{Principal Outstanding}}{\text{Security Value}} \times 100$$

Material Adverse Effect means, in the reasonable opinion of the Lender, a material adverse effect on:

- (1) the ability of the Borrower and the Security Provider to perform their obligations under the Transaction Documents;
- (2) the priority, enforceability, registrability or validity of any Transaction Document;
- (3) the financial condition, assets, revenues, business or prospects of the Borrower or a Security Provider; or
- (4) the value of all or any part of a person's assets, revenues or business the subject of a Security.

P&I Loan has the meaning given to it in Schedule 4.

Permitted Indebtedness means:

- (1) any Indebtedness incurred under any Transaction Document; and
- (2) any Indebtedness incurred which is not secured over any property or asset subject to a Security.

Permitted Security Interest means in relation to a person any security that does not create a Security Interest over an asset or property which is subject to a Security.

Pool Parameters means the ratios set out in Schedule 5.

Potential Event of Default means an event which would become an Event of Default with the giving of notice, the passage of time or the fulfilment of any other condition.

Principal Outstanding means, at any time, the total of all outstanding Advances at that time.

Project means each managed investment scheme conducted by a member of the Group.

Proposed Eligible Loan has the meaning set out in clause 5.1(1).

Receivables means all right, title and interest of the Borrower including, without limitation:

- (1) all present and future debts and monetary obligations of each Investor; and
- (2) any guarantee or security provided by each Investor,

under or in respect of an Accepted Eligible Loan.

Related Body Corporate of a body corporate means another body corporate which is related to the first body corporate within the meaning of section 50 of the *Corporations Act*.

Repayment Date means 31 August 2008~~2011~~, or if an extension is granted by the Lender pursuant to clause 2.4 then 31 August 2009.

Securitisation Agreement means the Timbercorp Finance Trust Loans Acquisition and Servicing Agreement dated 6 February 2003, as amended from time to time.

Security means each of the documents listed in Schedule 2 and each other Guarantee, Security Interest or other document entered into by any person to secure or assume responsibility in respect of the payment, repayment or satisfaction of the Amount Owed or any part of it.

Security Interest means a right, interest, power or arrangement in relation to an asset which provides security for, or protects against default by a person in, the payment or satisfaction of a debt, obligation or liability and includes a mortgage, charge, bill of sale, pledge, deposit, lien, encumbrance, hypothecation, or any arrangement under which money or claims to, or the benefit of, a bank or other account may be applied, set-off or made subject to a combination of accounts.

Security Provider means a person who grants or enters into a Security other than the Borrower.

Security Value means from time to time the aggregate amount of principal outstanding, at any time, in respect of the Accepted Eligible Loans that are subject to the Security, other than those which no longer meet the criteria set out in Schedule 4.

Sponsor means Timbercorp Limited ABN 87 056 185 067.

Subsidiary of a body corporate means a subsidiary of that body corporate within the meaning of Part 1.2 Division 6 of the *Corporations Act* or a corporation controlled by that body corporate within the meaning of the Accounting Standards.

Tax means a tax, levy, charge, impost, deduction, withholding or duty of any nature (including stamp and transaction duty and GST) at any time:

- (1) imposed or levied by any Government Agency; or
- (2) required to be remitted to, or collected, withheld or assessed by, any Government Agency;

and any related interest, expense, fine, penalty or other charge on those amounts and includes any amount that a person is required to pay to another person on account of that other person's liability for Tax but does not include an Excluded Tax.

Terminated Agreement means the \$10 million Facility Agreement between the Lender and the Borrower dated 11 May 2004.

TF \$20 million Agreement means the \$20 million Facility Agreement between the Lender and the Borrower dated on or around 9 August 2004 as amended or varied from time to time.

Tranche A means that part of the Facility made available under the Tranche A Commitment.

Tranche A Commitment means the maximum amount which the Lender is committed to provide under Tranche A being \$78,700,000, as reduced or cancelled in accordance with this Agreement and as reduced by deemed Advances under clause 3.

Tranche B means that part of the Facility made available under the Tranche B Commitment.

Tranche B Commitment means the maximum amount which the Lender is committed to provide under Tranche B being \$71,300,000 (comprising the Tranche B Sublimit 1 and the Tranche B Sublimit 2) as reduced or cancelled in accordance with this Agreement.

Tranche B Sublimit 1 means a maximum amount of up to \$40,000,000 comprising part of the Tranche B Commitment.

Tranche B Sublimit 2 means a maximum amount of up to \$31,300,000 comprising part of the Tranche B Commitment.

Tranche means Tranche A or Tranche B or both as applicable.

Transaction Document means:

- (1) this Agreement;
- (2) the Amending Deeds;
- (2)(3) each Security;
- (3)(4) each document which the parties agree is a Transaction Document for the purposes of this Agreement; and
- (4)(5) each document entered into or provided under any of the documents described in paragraphs (1) to (3) or for the purposes of amending or novating any of those documents.

Type 1 Loans mean those loans entered into by Growers in relation to the 1999 Timbercorp Eucalypts Project and that require only interest to be paid during the life of the loan and the benefit of which is subject to the charge by the Borrower with ASIC Charge No. 1073193

Type 2 Loans mean the two rotation loans entered into by the Growers in relation to the 1998 Eucalypt Project and 1999 Eucalypt Project and that require both interest and principal to be paid during the life of the loan and the benefit of which, at the relevant time, is subject to the charge by the Borrower with ASIC Charge No. 1073193.

Undrawn Commitment means, at any time, the Commitment at that time less the Principal Outstanding at that time.

1.2 Interpretation

- (1) In this Agreement, unless the context requires another meaning, a reference:
 - (a) to the singular includes the plural and vice versa;
 - (b) to a gender includes all genders;
 - (c) to a document (including this Agreement) is a reference to that document (including any Schedules and Annexures) as amended, consolidated, supplemented, novated or replaced;
 - (d) to an agreement includes any undertaking, representation, deed, agreement or legally enforceable arrangement or understanding whether written or not;
 - (e) to a party means a party to this Agreement;

- (f) to an Item, Recital, clause, Schedule or Annexure is to an Item, Recital, clause, Schedule or Annexure of or to this Agreement;
 - (g) to a notice means a notice, approval, demand, request, nomination or other communication given by one party to another under or in connection with a Transaction Document;
 - (h) to a person (including a party) includes:
 - (i) an individual, company, other body corporate, association, partnership, firm, joint venture, trust or Government Agency; and
 - (ii) the person's successors, permitted assigns, substitutes, executors and administrators;
 - (i) to a law:
 - (i) includes a reference to any legislation, treaty, judgment, rule of common law or equity or rule of any applicable stock exchange; and
 - (ii) is a reference to that law as amended, consolidated, supplemented or replaced; and
 - (iii) includes a reference to any regulation, rule, statutory instrument, by-law or other subordinate legislation;
 - (j) to proceedings includes litigation, arbitration and investigation;
 - (k) to a judgment includes an order, injunction, decree, determination or award of any court or tribunal;
 - (l) to time is to Melbourne time;
 - (m) to an accounting term is to be interpreted according to the Accounting Standards;
 - (n) to the words "including" or "includes" means "including, but not limited to" or "includes, without limitation"; and
 - (o) to drawing, endorsement, acceptance or other dealing in respect of a Bill is a reference to drawing, endorsement, acceptance or other dealing within the meaning of the *Bills of Exchange Act 1909* (Cth).
- (2) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (3) Headings are for convenience only and do not affect interpretation of this Agreement.
 - (4) This Agreement may not be interpreted adversely to a party only because that party was responsible for preparing it.

2. The Facility

2.1 Commitment

Subject to this Agreement, the Lender grants to the Borrower the Facility under which the Borrower may draw Advances in an amount in total not exceeding the Facility Limit.

2.2 Purpose

- (1) The Borrower must use each Advance for working capital, except \$20 million of Advances must be used to repay in full advances under the TF \$20 million Agreement.
- (2) The Lender is not bound to enquire as to the application of an Advance and has no responsibility for that application.

2.3 Availability

No Drawings are permitted after 5:00 pm on the last day of the Availability Period.

2.4 Review

The Borrower may, not later than 45 days prior to 31 August 2008 and only once, request in writing that the Lender vary the Repayment Date to 31 August 2009. Following this request, the Lender may, in its absolute discretion by notice in writing to the Borrower vary the Repayment Date to 31 August 2009. If the Lender provides a notice to the Borrower varying the Repayment Date, then this Agreement will be deemed to have been amended so that the Repayment Date is 31 August 2009, with effect from the date of the Lender's notice to the Borrower.

- (1) The Lender reserves the right to review and amend the Pool Parameters contained in Schedule 5 of this Agreement if any amendments are made to the pool parameters contained in the Securitisation Agreement.
- (2) Any required amendments to the Pool Parameters made by the Lender pursuant to clause 2.4(1) will be provided in writing to the Borrower and the Borrower agrees that these amendments shall form part of this Agreement on and from the next Drawdown date.

2.5 Terminated Agreement

The parties acknowledge that all moneys owing by the Borrower to the Lender under the Terminated Agreement have been repaid. The parties hereby terminate the Terminated Agreement so that all of the Lender's obligations to provide any further moneys under the Terminated Agreement are terminated.

2.5 TF \$20 million Agreement

The parties hereby:

- (1) acknowledge that all moneys owing by the Borrower to the Lender under the TF \$20 million Agreement will be repaid in accordance with clause 3.1 and the parties upon such repayment terminate the TF \$20 million Agreement so that all of the Lender's obligations to provide any further moneys under the TF \$20 million Agreement are terminated (subject to obligations of the Borrower in respect of any interest, fees, costs or other charges which remain outstanding or are accrued).

(2) amend the Offer to Provide Security from the Borrower to the Lender registered 17 August 2004 (ASIC Charge no 1073193) ("Charge") by inserting the following provisions:

(a) the definition of "Amount Owing" is deleted and replaced with the definition of "Amount Owing" as defined in clause 1.1 of this Agreement; and

(b) add a new clause 5.5 to read as follows:

"Notwithstanding the repayment by the Borrower of its obligations under the Facility Agreement, all the defined terms incorporated into the TF\$20 million Agreement shall continue to apply to the Charge."

3. TF \$20 million Agreement Advances under Tranches

3.1 The Borrower acknowledges that the TF \$20 million Agreement continues to be binding on it in accordance with its terms.

3.1 Immediately after the Fourth Amendment Effective Date the Borrower must draw an Advance to repay in full the advances under the TF \$20 million Agreement and a Drawdown Notice is deemed to have been given and accepted by the Lender on that date accordingly.

3.2 The Tranche B Sublimit 2 will not be available for drawing until 1 August 2008.

4. Conditions precedent

4.1 Conditions precedent

The Lender is not obliged to make the Initial Advance to the Borrower unless the Lender receives each of the following, in a form and substance acceptable to the Lender:

- (1) a certificate in the form of Schedule 3 providing the details and annexures specified in that schedule dated not more than 5 days before the proposed Drawdown Date, for the Borrower and each Security Provider;
- (2) each original power of attorney under which this Agreement or a Security has been or will be executed by any party other than the Lender;
- (3) the Transaction Documents signed by or on behalf of all parties other than the Lender;
- (4) evidence that all necessary filings and registrations have been completed including, without limitation, that each relevant security has been registered at the Australian Securities and Investment Commission and that all Taxes and other fees have been paid to ensure that the Transaction Documents are valid, binding and enforceable;
- (5) insurance policy held by the Borrower as agent for the Investors in relation to the Investors' woodlots with the Lender's interest noted thereon;
- (6) a due diligence review by the Lender of the Eligible Loans;
- (7) stamp duty opinion from Corrs Chambers Westgarth relating to stamp duty payable on the Accepted Eligible Loans addressed to the Lender;

- (8) evidence that the Borrower or the Group has hedged the interest rate for at least 70% of the Principal Outstanding to the Repayment Date (as extended pursuant to clause 2.4); and
- (9) any other documents, assurances, opinions and information that the Lender reasonably requires.

4.2 Benefit of conditions precedent

The conditions precedent in clause 4.1 are for the benefit of the Lender only and may only be waived by the Lender. If satisfaction of any condition precedent is waived on condition that the Borrower satisfy that or any other requirement at or before a particular time, the Borrower must comply with that condition.

5. Drawdown

5.1 Availability

- (1) The Borrower shall provide the Lender, other than in the case of further Advances drawn under clause 6.3(1)(b), with each of the following in a form and substance acceptable to the Lender no later than 11:00am 5 Business Days before a proposed Drawdown Date or a later time agreed in writing by the Lender:
 - (a) details of the loans that the Borrower identifies as Eligible Loans ("Proposed Eligible Loans") and are to be funded by a relevant Advance including:
 - (i) whether the loan is a P&I Loan, Interest Only Loan, or Instalment Loan, existing Type 1 Loan or existing Type 2 Loan;
 - (ii) the name of the Investor to whom the loan was made;
 - (iii) the project for which the loan is to be used;
 - (iv) the amount of the loan;
 - (v) the date the loan was provided;
 - (vi) the date for repayment of the loan;
 - (vii) the interest rate applicable to the loan;
 - (viii) a certification that the Proposed Eligible Loans comply with the criteria set out in Schedule 4; and
 - (ix) any other information relating to the loan that the Lender requires; and
 - (b) a copy of the form of agreement which evidences each loan and any security or guarantee provided in connection with that loan;
- (2) If any of the Proposed Eligible Loans do not qualify as Eligible Loans the Lender shall 3 Business Days before the proposed Drawdown Date, specify to the Borrower in writing which of the Proposed Eligible Loans it considers do not qualify as Eligible Loans;

- (3) The Borrower may only drawdown an Advance, other than a further Advance drawn under clause 6.3(1)(b), if:
- (a) the requirements of clause 4.1 have been satisfied or waived by the Lender before the Drawdown Notice for that Advance is given;
 - (b) the Lender has received a Drawdown Notice which satisfies the requirements of clause 5.2;
 - (c) as at the date of the Drawdown Notice and the Drawdown Date:
 - (i) all representations and warranties made by the Borrower and Security Provider under the Transaction Documents are true and not misleading, by omission or in any other way by reference to circumstances then current; and
 - (ii) no Event of Default or Potential Event of Default has occurred which has not been remedied or waived or would result from the drawing of the Advance; and
 - (d) it makes not more than 3 drawings in a calendar year.

5.2 Requirements of Drawdown Notice

Each Drawdown Notice must:

- (1) be in legible writing substantially in the form of Schedule 1 and must specify the matters set out in that schedule;
- (2) be signed by an Authorised Officer of the Borrower;
- (3) specify the amount of the Advance, which must:
 - (a) be at least \$1,000,000 and in whole multiples of \$100,000; and
 - (b) when aggregated with all outstanding Advances be less than the Facility Limit;
- (4) specify the Drawdown Date, which must be a Business Day during the Availability Period and the Interest Period which must comply with clause 6.1(4); and
- (5) be received by the Lender no later than 11:00 am 2 Business Days before the proposed Drawdown Date or a later time agreed in writing by the Lender.

5.3 Effect of Drawdown Notice

Each Drawdown Notice:

- (1) constitutes a representation and warranty under this Agreement that:
 - (a) all representations and warranties made by the Borrower or a Security Provider in, or in connection with, a Transaction Document are true and not misleading, by omission or in any other way, as at the date of the Drawdown Notice and the Drawdown Date; and
 - (b) no Event of Default has occurred which has not been remedied or waived or will occur as a result of drawing the Advance; and

- (2) once given is Irrevocable.

6. Interest

6.1 Interest

- (1) The Borrower must pay Interest on each Advance to the Lender:
 - (a) at the rate determined under either clause 6.1(2) for each Interest Period; and
 - (b) in arrears on each Interest Payment Date.
- (2) The rate of interest for an Interest Period is the rate of interest per annum determined by the Lender to be the sum of the Base Rate for that Interest Period and 0.751.0% per annum.
- (3) Interest under this clause 6.1:
 - (a) accrues from day to day; and
 - (b) is calculated on the basis of the actual number of days elapsed (including the first day but excluding the last) and a 365 day year.
- (4) Subject to clause 6.2(2), the length of the Interest Period for an Advance is 1, 2, 3 or 6 months or any other period agreed between the Lender and the Borrower.
- (5) The Lender may on each Interest Payment Date amalgamate all outstanding Advances into one single Advance.

6.2 Interest Periods

- (1) The Interest Period for an Advance starts on the Drawdown Date for that Advance.
- (2) The first Interest Period for each Advance ends on the last day of the month in which that Advance was made.
- (3) An Interest Period which would otherwise end on a day that is not a Business Day instead ends on the following Business Day or, if that Business Day is in another calendar month, on the immediately preceding Business Day.
- (4) If an Interest Period starts on a day for which there is no numerically corresponding day in the month in which the Interest Period ends, the Interest Period ends on the last Business Day of the later calendar month.
- (5) No Interest Period may end after the Repayment Date. An Interest Period which would otherwise end after the Repayment Date instead ends on the Repayment Date.

6.3 Election for payment of Interest

- (1) Notwithstanding clause 6.1(1), on each Interest Payment Date, the Borrower must choose either:
 - (a) to pay the interest accrued under clause 6.1 on each Advance; or
 - (b) to capitalise the interest accrued under clause 6.1.

- (2) The Borrower must make the election described in clause 6.3(1) by notifying the Lender of its intention in writing by 11:00am 3 Business Days before the relevant Interest Payment Date.
- (3) If the Borrower does not give the Lender a notice under clause 6.3(2) the Borrower is considered to have elected to capitalise the interest.

6.4 Capitalised Advances

- (1) If the Borrower elects to capitalise the interest it will be deemed to have requested to draw an Advance for an amount equal to the accrued interest, and subject to clause 6.4(2) below, the conditions of this Agreement will apply to the drawing of that Advance.
- (2) Where the Borrower elects or is deemed to have elected to capitalise the interest and draw a further Advance under clause 6.3(1)(b), the Borrower will not be required to:
 - (a) use that Advance for an Approved Purpose;
 - (b) provide to the Lender any details of Proposed Eligible Loans under clause 5.1; or
 - (c) issue any Drawdown Notice under clause 5.1 for the further Advance.
- (3) Notwithstanding the absence of a Drawdown Notice, each further Advance under clause 6.3(1)(b) will be:
 - (a) drawn down on the relevant Interest Payment Date for which the election to capitalise the interest is made; and
 - (b) deemed to have an Interest Period of 1 month.

7. Repayment and prepayment

7.1 Repayment of Amount Owing

- (1) The Borrower must pay the Amounts Owing under this Agreement in full to the Lender on the Repayment Date.
- (2) Subject to this Agreement, amounts repaid pursuant to this clause may be re-borrowed under this Agreement.

7.2 Prepayment

- (1) The Borrower may only prepay an Advance in accordance with this Agreement.
- (2) The Borrower may prepay to the Lender all or any part of an Advance on an Interest Payment Date by giving the Lender not less than 3 Business Days prior notice specifying the amount and date of prepayment.
- (3) The amount of any partial voluntary prepayment must be at least \$1,000,000 and in whole multiples of \$100,000.
- (4) A notice of prepayment given under this clause 7.2 is irrevocable.

- (5) On the proposed prepayment date the Borrower must:
 - (a) prepay the amount specified in the notice; and
 - (b) pay all interest, fees, expenses and other amounts accrued due under the Transaction Documents on the amount prepaid to the prepayment date (whether or not yet payable).
- (6) The Borrower must not make a prepayment on any date other than the last day of an Interest Period.
- (7) Amounts prepaid may be re-borrowed under this Agreement.

7.3 Release

At the Borrower's request within 2 Business Days of a report issued under clause 12.1(1)(h), the Lender must promptly provide a release of any Accepted Eligible Loans from its Security, provided:

- (1) no Event of Default subsists; and
- (2) the release of the Accepted Eligible Loans from the Security will not cause a breach of any of the undertakings contained in clause 12.3(1).

The Borrower may not make such a request more than 3 times per year.

7.4 Cancellation of Facility

The Borrower may cancel all or part of the Undrawn Commitment at any time during the Availability Period if:

- (1) the Lender receives at least 3 Business Days prior notice specifying the proposed date and amount of the cancellation and specifying either Tranche A or Tranche B for cancellation; and
- (2) in the case of a partial cancellation, it is at least \$1,000,000 and a whole multiple of \$1,000,000.

7.5 Provisions applicable to cancellation

- (1) A notice of cancellation given under clause 7.4 is irrevocable once given.
- (2) The Undrawn Commitment is permanently cancelled with effect from the proposed date of cancellation specified in a notice of cancellation by an amount equal to the amount specified in the notice of cancellation.
- (3) The Borrower must pay to the Lender all fees (including the commitment fee accrued under clause 10.1(2) to and including the date of cancellation), expenses and other amounts accrued due under this Agreement and each Security to the date of cancellation (whether or not yet payable) on or before the date of cancellation.
- (4) If all or part of the Undrawn Commitment is cancelled after the Lender has received a Drawdown Notice for an Advance prior to the Lender funding that Advance, then the amount of that Advance will be reduced accordingly.

8. Payments

8.1 Payments by the Borrower

All payments by the Borrower to the Lender under a Transaction Document must be made:

- (1) not later than 11:00 am on the due date for payment;
- (2) in Cleared Funds in Dollars; and
- (3) to the account specified by the Lender;

or in any other manner that the Lender notifies to the Borrower.

8.2 Business Days

If an amount would otherwise be due for payment on a day that is not a Business Day, that amount is due on the next Business Day or, if that Business Day is in another calendar month, on the preceding Business Day.

8.3 Payable on demand

An amount payable under a Transaction Document that is not payable on a specified date is payable on demand by the Lender.

8.4 Payments in gross

Subject to clause 8.5, all money payable by the Borrower under a Transaction Document must be paid unconditionally and in full without:

- (1) set-off or counterclaim of any kind; or
- (2) deduction or withholding for Tax or any other reason, unless the deduction or withholding is required by applicable law.

8.5 Deductions and withholdings

- (1) If the Borrower or any other person is required by law to make a deduction or withholding for Tax from a payment to the Lender under a Transaction Document or the Lender is required to make a payment for Tax on any payment received or receivable by it under a Transaction Document, the Borrower:
 - (a) indemnifies the Lender against any Claim in respect of the Tax; and
 - (b) must immediately pay an additional amount to the Lender so that, after all applicable deductions, withholdings or payments for Tax, the Lender actually receives for its own benefit a net amount equal to the amount which it would have received if no deductions, withholdings or payments had been required.
- (2) If the Borrower is required by law to make a deduction or withholding for Tax from a payment to the Lender under a Transaction Document, the Borrower must pay the full amount of the deduction or withholding to the appropriate Government Agency in accordance with applicable law and deliver the original receipts to the Lender.

8.6 Allocation of receipts

The Lender may allocate payments made by or for the account of the Borrower towards principal, interest or other money owing under a Transaction Document as it considers appropriate.

9. Unlawfulness or Increased costs

9.1 Unlawfulness

- (1) If the Lender correctly determines that it is or will be unlawful, or it is or will be contrary to any requirement of any Government Agency (whether or not having the force of law) for the Lender to make, fund or maintain the Facilities or to otherwise perform its obligations under a Transaction Document, the Lender must notify the Borrower of its determination. On the giving of that notice to the Borrower, the Lender's obligation to make, fund or maintain the Facilities or perform the relevant obligation ceases and the Commitment is cancelled.
- (2) The Borrower must pay the Amount Owing under this Agreement to the Lender in full on the earlier of:
 - (a) 30 days; or
 - (b) the date specified in the notice and certified by the Lender as the last day on which payment is required or permitted in order to comply with the relevant law or requirement.

9.2 Increased costs

- (1) If the Lender correctly determines that:
 - (a) the introduction of, implementation of or a change in any law, or any official directive, requirement or request of any central bank or any other Government Agency (whether or not having the force of law but compliance with which is in accordance with the practice of responsible banks or financial institutions in the relevant jurisdiction) including any one of them relating to:
 - (i) capital adequacy, reserve, liquidity or deposit requirements, the classification or allocation of capital or prudential supervision; or
 - (ii) a Tax on or affecting payments made or to be made under a Transaction Document; or
 - (b) any change in the interpretation or application of any law, official directive, requirement or request referred to in paragraph (1)(a) by a Government Agency;

in each case occurring after the date of this Agreement (and where the Lender was not aware of the matter before the date of this Agreement) directly or indirectly:

- (c) increases the cost to the Lender of underwriting, making, funding or maintaining the Facilities or performing an obligation under a Transaction Document;

- (d) reduces the amount of any payment made or payable by or for the account of the Borrower or a Security Provider or received or receivable by the Lender under a Transaction Document;
- (e) reduces the effective return to the Lender on capital which is or becomes allocated by the Lender to the Facilities or the effective return on overall capital of the Lender;
- (f) imposes any requirement that the Lender make any payment or forego any interest or other return on or calculated by reference to:
 - (i) any sum received or receivable by it under any Transaction Document in an amount which the Lender considers material; or
 - (ii) any capital or other amount directly or indirectly allocated by the Lender to making the Facilities available in an amount which the Lender considers material; or
- (g) restricts or prevents the Lender from entering into any other transaction with the result that the Lender incurs any cost or loss of interest or other return specified in paragraphs (3), (4), (5) or (6);

the Borrower must pay to the Lender on demand the amounts certified by the Lender as necessary to compensate it for that increased cost, reduction, loss of return or payment.

- (2) Where an increased cost, reduction, loss of return or payment referred to in clause 9.2(1) arises from circumstances which relate not only to the Lender's funding of the Facilities, but also to other business, the Lender is entitled to claim as compensation for the increased cost, reduction, loss of return or payment the amount it determines in good faith is fairly attributable to its funding of the Facilities. The Lender may use averaging and attribution methods commonly used by the Lender or any other method it considers appropriate.
- (3) In providing a certificate under this clause 9.2, the Lender must provide reasonable details of the basis of its calculations but is not required to disclose any confidential information relating to the organisation of its business.
- (4) It will not be a defence that any increased cost, reduction, loss of return or payment referred to in clause 9.2(1) could have been avoided.
- (5) The Lender must use all reasonable endeavours to minimise any increased costs or other amounts payable by the Borrower under this clause 9.2.
- (6) If the Borrower has received a notice or certificate from the Lender under clause 9.2(1) and that notice has not been withdrawn by the Lender, the Borrower may, within 20 days of receipt of the notice from the Lender, and, without being obliged to make any payment, give notice to the Lender under clause 9.2(1), to either:
 - (a) terminate the Lender's obligation to make the Facility available; or
 - (b) within 10 days of giving notice to the Lender, repay the Amount Owing together with any amount owing under clause 15.1(1).
- (7) Any notice given by the Borrower under clause 9.2(1);
 - (a) is effective from the time of its actual receipt in legible form by the Lender;

- (b) is irrevocable; and
- (c) binds the Borrower to act in accordance with any election made in that notice.

10. Fees, expenses, costs and Taxes

10.1 Fees

- (1) ~~If not already paid, (The Borrower must pay to the Lender a non-refundable arranging fee of \$224,000 payable as follows:~~

- (a) \$24,000 on or before execution of this Agreement; and
- (b) \$200,000 on or before the first Drawdown Date.

The Lender acknowledges that the non-refundable arranging fee of \$224,000 has been paid.

- (2) If not already paid, the Borrower must pay to the Lender a non-refundable fee of \$628,250 (comprising 0.30% of the Tranche A Commitment and 0.55% of the Tranche B Commitment) payable on the date of the Fourth Amendment Agreement.

- (2)(3) (a) The Borrower must pay to the Lender a non-refundable line fee of 1.00% per annum of the Commitment but in the case of the Tranche B Commitment component calculated only on the Tranche B Sublimit 1 until 1 August 2008 on and from that date on the whole of the Tranche B Commitment. This line fee accrues from day to day, is calculated from and including the date of commencement of the Availability Period to but excluding the earlier to occur of:

- (i) the Repayment Date; or
- (ii) the date on which the Lender cancels all the Commitment after the occurrence of an Event of Default,

on the basis of the actual number of days elapsed and a 365 day year and must be paid quarterly in advance on the first Business Day of each quarter;

- (b) If an Event of Default occurs and the Lender cancels all of the Commitment, the Borrower must pay to the Lender a non-refundable line fee of 1.00% per annum of the Principal Outstanding. This line fee accrues from day to day, is calculated from but excluding the date on which the Lender cancels the Commitment to and including the date on which the Amount Owing is repaid in full to the Lender, on the basis of the actual number of days elapsed and a 365 day year and must be paid in advance on the first Business Day of each month commencing from the month in which the Lender cancels the Commitment. The Lender may capitalise this fee with the Amount Owing when due.

10.2 Expenses

- (1) Whether or not an Advance is made, the Borrower must pay to or reimburse the Lender on demand for:

 - (a) all reasonable costs, expenses and Taxes incurred or payable by the Lender for:

 - (i) the negotiation, preparation, execution, completion, stamping and registration of the Transaction Documents;
 - (ii) the arrangement of the Facility;
 - (iii) any attendance, inspection, calculation, approval, consent, waiver, variation, release or discharge made or given by the Lender under a Transaction Document; and
 - (iv) any enquiry by any Government Agency concerning the Borrower, any Security Provider or any transaction contemplated by or funded under a Transaction Document; and
 - (b) all costs, expenses and Taxes incurred or payable by the Lender for any contemplated or actual enforcement of a Transaction Document, or the preservation of its rights, powers and remedies under a Transaction Document.
- (2) The costs, expenses and Taxes of the Lender to be paid or reimbursed by the Borrower under clause 10.2(1) include:

 - (a) costs of time spent by any personnel of the Lender, at the daily or hourly rate reasonably determined by the Lender, costs and expenses of any person engaged by the Lender, and all administration costs, internal and external legal fees and disbursements (together with Taxes on those costs, expenses, fees and disbursements) on a full indemnity basis; and
 - (b) any costs, expenses and Taxes incurred in retaining an independent consultant or other person to evaluate any matter of concern.
- (3) Wherever practicable in the circumstances referred to in clause 10.2(1)(a) the Lender must agree estimates of the costs, expenses and taxes referred to in this clause 10.2(1)(a) with the Borrower.

10.3 Costs

The Borrower must bear the cost of doing or refraining from doing any act, matter or thing which it is required to do or refrain from doing under or in connection with a Transaction Document.

10.4 Taxes

- (1) The Borrower must pay all Tax in relation to the execution, delivery, registration, performance, release, discharge, variation, enforcement or attempted enforcement of or otherwise in respect of the Transaction Documents.
- (2) The Borrower indemnifies the Lender against all Claims in respect of any amount payable under clause 10.4(1).

10.5 Goods and Services Tax

- (1) The Borrower must pay to the Lender any amount ("GST Amount") payable on account of GST as a consequence of any supply made or deemed to be made or other matter or thing done under or in connection with this Agreement by the Lender including the provision of any financial advice or release of a claim.
- (2) The GST Amount must be calculated by multiplying the amount on which the GST is required to be calculated at law by the prevailing rate of GST.
- (3) The Borrower must pay any GST Amount at the same time and in the same manner as making payment of any consideration on which the GST Amount is calculated or 7 days after a liability for GST arises, whichever is earlier. To the extent that the GST Amount is not calculated on consideration, the Borrower must pay the GST Amount within 7 days of receipt of a written demand by or on behalf of the Lender.
- (4) If an adjustment is made or required to be made between the Lender, or other payer of GST and the relevant taxing authority on account of any amount paid as GST as a consequence of any supply made or deemed to be made or other matter or thing done under or in connection with this Agreement by the Lender, a corresponding adjustment must be made as between the Borrower and the Lender and any payment necessary to give effect to the adjustment must be made.
- (5) The Borrower must pay any amount it is required to pay under this clause 10.5 in full and without deduction, notwithstanding any entitlement that it may have to a credit or offset.
- (6) No later than 14 days after receipt of payment of any GST Amount the Lender must provide to the Borrower a tax invoice complying with any legislation under which GST is imposed.
- (7) If any supply is made or deemed to be made to the Lender, to the extent that the supply relates whether directly or indirectly to the making of a supply or deemed supply by the Lender under or in connection with this Agreement, the Lender may obtain from the Borrower reimbursement of any part of the consideration for the supply made to it that is attributable to GST. This clause will not apply to the extent that the Lender is entitled to an input tax credit in respect of the supply made or deemed to be made to it. The Borrower must pay to the Lender an amount required to be paid under this clause within 7 days of written demand from the Lender.

11. Representations and warranties

11.1 Representations and warranties

The Borrower represents and warrants to the Lender in respect of itself and each Security Provider that:

General Representations and Warranties

- (1) **status:** it is a corporation with limited liability and is properly incorporated (or taken to be incorporated) or registered and validly existing under the *Corporations Act*;
- (2) **power:** it has full power and authority to own its assets and to carry on its business as it is presently being conducted and to enter into and perform the transactions contemplated by the Transaction Documents;

- (3) **corporate authority:** it has taken all corporate and other action necessary to authorise the execution and performance of each Transaction Document so that each Transaction Document is fully valid and binding on and enforceable against it;
- (4) **documents binding:** the Transaction Documents constitute (or will, when signed and delivered, constitute) its legal, valid and binding obligations enforceable against it in accordance with their terms;
- (5) **transactions permitted:** the execution of the Transaction Documents and the performance by it of its obligations or the exercise of its rights under the Transaction Documents does not:
 - (a) contravene its constitution or any of the provisions of the *Corporations Act* that apply to it as replaceable rules or mandatory rules;
 - (b) contravene a law or Authorisation;
 - (c) contravene an agreement or obligation binding on it or applicable to its assets, revenues or business;
 - (d) exceed any limits on its powers or the powers of its directors;
 - (e) result in the creation of a Security Interest over its assets, revenues or business, other than a Permitted Security Interest;
 - (f) result in the acceleration, cancellation, liquidation or early termination of an agreement or obligation relating to its indebtedness; or
 - (g) involve any act, matter or thing which constitutes (or which would be likely to constitute, with the giving of notice, the passage of time or the fulfilment of any other condition) an event of default or prepayment, cancellation, liquidation, early termination or similar event under an agreement or obligation relating to its indebtedness;
- (6) **registration:** other than registration of any Security that is a charge at the Australian Securities and Investments Commission under the *Corporations Act* and any Security that is a mortgage under the appropriate law in the jurisdiction where property encumbered by that mortgage is located, it is not necessary under the laws in force on the date of this Agreement that a Transaction Document or any other document be filed or registered with any Government Agency to ensure:
 - (a) the validity, enforceability or admissibility in evidence of the Transaction Documents in any relevant jurisdiction; or
 - (b) that each Transaction Document which is a Security Interest has the priority it is intended to have;
- (7) **Authorisations:** all Authorisations necessary or advisable for or in connection with the execution, validity, performance or enforceability of each Transaction Document have been obtained and are fully effective;
- (8) **other default:** it is not in default under any law, Authorisation, agreement or obligation binding on it or applicable to its assets, revenues or business in circumstances which would have a Material Adverse Effect and no Event of Default (except as disclosed to the Lender in writing) has occurred which has not been remedied or waived in writing;
- (9) **no litigation:** except as previously disclosed to the Lender, no litigation or arbitration, administrative proceedings or other procedure for the resolution of

disputes is currently taking place, pending or, to its knowledge threatened against it or its assets, revenues or business involving a claim or claims in an amount exceeding (whether alone or in total) \$1,000,000 or which if successful will prevent it from carrying on all or substantially all of its business;

- (10) **Accounts:** its and the Group's most recent Accounts for the time being and any Accounts delivered to the Lender under this Agreement:
- (a) were prepared in accordance with Accounting Standards; and
 - (b) show a true and fair view of its and the Group's financial position as at the end of the financial period to which they relate and the results of its and the Group's operations for that period and as at the end of that financial period it and the members of the Group did not have any material liabilities (contingent or otherwise) or material unrealised or anticipated losses which were not disclosed in those Accounts or reserved against in those Accounts;
- (11) **no adverse change:** since the date of the Accounts referred to in clause 11.1(10), there has been no change in the assets, revenues, business or financial condition of itself or the Group which could reasonably be expected to have a Material Adverse Effect;
- (12) **no Security Interest:** in relation to the Borrower only, no Security Interest exists over any of its assets, revenues or business except a Permitted Security Interest;
- (13) **accuracy of information:** all information given to the Lender by or with its authority is true in all material respects and is not, by omission or in any other way, misleading in any material respect and all forecasts and projections provided to the Lender by or with its authority were arrived at after due and careful consideration by the Borrower and were, in its considered opinion, based on reasonable assumptions and fair and reasonable when made;
- (14) **not a trustee:** it is not a trustee of any trust (other than, in the case of Timbercorp Securities Limited, in its capacity as responsible entity of a managed investment scheme);
- (15) **no immunity:** neither it or any of its assets, revenues or business has any immunity from jurisdiction or execution;
- (16) **tax returns:** all Tax returns, reports and statements required to be filed by it have been filed properly completed and on time with the appropriate Government Agency in all jurisdictions in which those returns, reports and statements are required to be filed and all Taxes have been paid on or before the due date for payment;
- (17) **financial benefit to a related party:** the execution of the Transaction Documents to which it is a party and the performance by it of its obligations or the exercise of its rights under them does not constitute a contravention of section 208 or section 209 of the *Corporations Act* by any person;
- (18) **certifications:** each document, matter or thing certified by an Authorised Officer of the Borrower or a Security Provider is true, complete and up to date;
- (19) **benefit:** it benefits by entering into, exercising its rights and performing its obligations under the Transaction Documents;
- (20) **completeness:** there is no fact known to it which could reasonably be expected to have a Material Adverse Effect;

- (21) **ranking:** each Security which is intended to create a Security Interest creates the Security Interests which it purports to create and the obligations secured by each such Security rank ahead of all its other payment obligations in respect of the relevant property, other than those which on a winding-up, liquidation, dissolution or similar process must be preferred by operation of law; and
- (22) **insolvency:** an Insolvency Event has not occurred;

Eligible Loan Representations and Warranties

- (23) **eligible loans:**
- (a) as at the date of the relevant Drawdown Notice, each Proposed Eligible Loan complies with the criteria set out in Schedule 4; and
 - (b) it has entered into the Accepted Eligible Loans and is entitled to the Receivables in relation to those Accepted Eligible Loans.
- (24) **amendments:** other than as disclosed in writing to the Lender:
- (a) no amendments have been made to the:
 - (i) principal amount of an Accepted Eligible Loan;
 - (ii) rate of interest applicable to an Accepted Eligible Loan; and
 - (iii) dates on which payments (including principal and interest payments) are to be made under an Accepted Eligible Loan other than in the ordinary course of the Borrower's business;
 - (b) no Accepted Eligible Loans have been terminated;
 - (c) no Investor has informed the Borrower that it intends to terminate an Accepted Eligible Loan; and
 - (d) no Investor has given notice that it claims that any Accepted Eligible Loan can be terminated, rescinded or is unenforceable.
- (25) **Receivables:** The Receivables:
- (a) are, to the best of the Borrower's knowledge, free of any right of set off, counterclaim or other equity; and
 - (b) are not affected by any Security Interest.
- (26) **Accepted Eligible Loan Documentation:** As at the Drawdown Date, the Accepted Eligible Loan Documentation creates legal, valid and binding obligations against the Investors that are enforceable against those Investors in accordance with the terms of those Accepted Eligible Loans.

11.2 Continuing representations and warranties

The representations and warranties in this Agreement, including those in clause 11.1, survive the execution of each Transaction Document and are repeated on the date of each Drawdown Notice, each Drawdown Date and each Interest Payment Date while any of the Amount Owed under this Agreement remains outstanding.

11.3 Acknowledgment of reliance

The Borrower acknowledges that the Lender has entered into each Transaction Document in reliance on the representations and warranties in this Agreement.

11.4 Additional representations and warranties

The representations and warranties in this Agreement are in addition to any other representations and warranties in any other Transaction Document.

12. Undertakings

12.1 Positive undertakings

Unless the Lender otherwise agrees in writing, the Borrower must:

- (1) **corporate reporting:** supply to the Lender:
 - (a) within 90 days of the end of each financial year, copies of the audited Accounts, directors' report and auditor's report of the Group for that financial year prepared for distribution to its members under section 314(1)(a) of the *Corporations Act* and prepared in accordance with Accounting Standards;
 - (b) within 45 days of the end of the first half of each financial year, copies of the unaudited Accounts of the Group for that half-year;
 - (c) within 45 days of the end of March, June, September and December the unaudited quarterly Accounts of the Borrower for that quarter certified by a Director of the Borrower;
 - (d) within 3 Business Days after the end of each calendar month, a report on:
 - (i) the aggregate amount outstanding, as at the last day of that month, in respect of all Accepted Eligible Loans; and
 - (ii) all Accepted Eligible Loan collections in respect of that month, including summary details of the amounts payable by the Investors and any investor defaults subsisting for more than 30 days, unless those investor defaults are made in respect of Accepted Eligible Loans which have an aggregate face value of \$100,000 or greater, in which case the Borrower must notify the Lender immediately after becoming aware of those investor defaults;
 - (e) promptly on request, any additional financial or other information that the Lender reasonably requests;
 - (f) copies of any other accounts, notices or other documents required to be lodged with a securities exchange, the Australian Securities and Investments Commission or other Government Agency, at the same time as they are required to be lodged;
 - (g) within 90 days of the end of each financial year, a set of Accounts for the Borrower in the form, and audited or otherwise verified in the manner, agreed by the Borrower and the Lender;

- (h) within 8 Business Days after the end of each calendar month, a report confirming:
 - (i) the amount of all Accepted Eligible Loans that continue to satisfy the criteria specified in Schedule 4;
 - (ii) the amount of all Accepted Eligible Loans that do not satisfy the criteria specified in Schedule 4;
 - (iii) that the LVR Covenant in clause 12.3(1) is not in breach; and
 - (iv) whether any Accepted Eligible Loan Documentation is no longer the legal, valid and binding obligation of the Investors,

in each case, as at the last Business Day of the relevant month; and

- (i) within 8 Business Days after the end of each calendar month, a Pool Parameter Report in accordance with Schedule 5. If this report does not satisfy any of the pool parameters described in Schedule 5, the Borrower must provide the Lender with a plan that will cause the Borrower to comply with the Pool Parameters. The required plan must be either:
 - (i) the provision of additional Eligible Loans as security, after which each of the Pool Parameters will be satisfied; or
 - (ii) such other plan to cause the Borrower to comply with the Pool Parameters, which plan must be satisfactory to the Lender.
- (2) **basis of accounting:** ensure that each set of Accounts delivered under clause 12.1(1) is prepared in accordance with law and the Accounting Standards consistently applied;
- (3) **books and records:** prepare and maintain, in accordance with the Accounting Standards, proper and adequate books and financial records reflecting fully all transactions entered into by it;
- (4) **inspection:** to the fullest extent permitted by law, permit the Lender or professional consultants appointed by the Lender, or both, to inspect and examine at reasonable times and on reasonable notice (but not more frequently than one in every 12 month period following the first Drawdown Date if no Event of Default subsists):
 - (a) its books and financial records and to take copies of those books and financial records; and
 - (b) any property used or owned by it to determine whether the Borrower and each Security Provider is complying with the Transaction Documents or to carry out an environmental audit,

and to co-operate fully with the Lender or its professional consultants or both in the conduct of that inspection and examination including giving full access to all its premises and employees;
- (5) **notice to Lender:** promptly inform the Lender of:
 - (a) the occurrence of an Event of Default or Potential Event of Default of which it becomes aware;

- (b) the commencement of any litigation or other proceedings or procedure described in clause 11.1(9) of which it becomes aware;
- (c) any matter or thing notified by it to its members and provide the Lender with copies of all documents distributed by it to its members;
- (d) the occurrence of any event or circumstance of which it becomes aware which has had or may have a Material Adverse Effect on the Borrower or any Security Provider;
- (e) the giving by the Borrower or any Security Provider of any financial assistance under section 260A(1)(a) of the *Corporations Act*; and
- (f) the amount of the Accepted Eligible Loans (by value) that do not satisfy the criteria specified in Schedule 4, if:
 - (i) 10% or more of the aggregate value of the Accepted Eligible Loans do not satisfy the criteria specified in Schedule 4 in any month; and
 - (ii) as a result of certain Accepted Eligible Loans no longer meeting the criteria specified in Schedule 4, the Security Value reduces to an amount that results in a breach of the undertaking contained in clause 12.3(1).

and on the Lender's request, promptly provide to the Lender a certificate signed by an Authorised Officer of the Borrower stating that there are no matters to be notified to the Lender under this clause 12.1(5);

- (6) **maintain existence:** maintain its corporate existence and conduct its business in a proper and efficient manner and, where failure to do so would have a Material Adverse Effect in compliance with all laws, Authorisations, agreements and obligations binding on it or applicable to its assets or revenues or the conduct of its business;
- (7) **comply with laws:** comply with and observe all laws and all applicable guidelines, directions, requests or requirements of a Government Agency where failure to do so would have a Material Adverse Effect;
- (8) **pay Taxes:** file all Tax returns, reports and statements required to be filed by it on time and pay all Taxes payable by it in full and on time;
- (9) **Insurance:** insure all of its assets which are of an insurable nature for amounts and on terms reasonably acceptable to the Lender, with an insurance company acceptable to the Lender (and in relation to the obligations of each Security Provider under the Transaction Document in relation to insurance for loss of rent and civil liability for material breaches of Environmental Laws, the parties will cooperate with a view to obtaining insurance which it would be commercially prudent to obtain having regard to the Security Provider's business and the Lender's exposure and which is available at a reasonable cost and on reasonable terms having regard to those matters);
- (10) **maintain Authorisations:** keep the Authorisations described in clause 11.1(5) and clause 11.1(7) in full force and effect and comply with those Authorisations in every material respect and take immediate steps to obtain and keep in effect any other Authorisations which may become necessary or advisable for:
 - (a) the execution, validity, performance and enforceability of the Transaction Documents; or

- (b) the use of its assets or revenues or the conduct of any part of its business;
- (11) **ranking of obligations:** ensure that its obligations under the Transaction Documents at all times rank at least equally with all its unsecured and unsubordinated obligations, other than those which on its winding-up, liquidation, dissolution or similar process must be preferred by operation of law and in the case of each Security Provider which has granted a Security ensure the obligations of those Security Providers under the Security are first ranking obligations;
- (12) **ensure compliance:** ensure that each Security Provider, other than Timbercorp Limited, complies with the obligations set out in clause 12.1(3), 12.1(4), 12.1(6), 12.1(7) and 12.1(8) as if those obligations were its own obligations instead of obligations of the Borrower; and
- (13) **Hedging:** maintaining hedging acceptable to the Lender for the interest rate for at least 70% is of the Principal Outstanding to the Repayment Date ~~(as varied pursuant to clause 2.4).~~

12.2 Negative undertakings

Unless the Lender otherwise agrees in writing, the Borrower must not and must ensure that each Security Provider (other than Timbercorp Limited) does not (unless stated otherwise) do any of the following:

- (1) **merger or dissolution:** merge or consolidate with another entity or take steps toward dissolution, administration, liquidation or winding-up;
- (2) **capital reorganisation:** purchase or redeem its issued shares, reduce its capital, pass a resolution under section 254N of the *Corporations Act* or make a distribution of assets or other capital to its members;
- (3) **issue shares:** in relation to the Borrower only, issue or agree to issue shares or grant options or warrants to subscribe for shares in its capital to any person other than an existing shareholder and for cash or by way of bonus issue;
- (4) **dividends:** in relation to the Borrower only, declare or pay a dividend or otherwise distribute income to its members or repay any shareholder loan if an Event of Default or Potential Event of Default has occurred which has not been remedied to the satisfaction of the Lender or waived in writing;
- (5) **disposal of assets:** sell, transfer, lease or otherwise dispose of or deal with all or part of the property subject to the Security except as permitted by this document;
- (6) **Security Interests:** create or permit to exist a Security Interest over all or any part of the property subject to the Security including, any Accepted Eligible Loan, other than a Permitted Security Interest;
- (7) **Insolvency Event:** do anything which would cause an Insolvency Event to occur in respect of itself or any Security Provider;
- (8) **share transfers:** other than in respect of the Sponsor, register a transfer of shares in its capital;
- (9) **constitution and replaceable rules:**
 - (a) If it has a constitution, modify or repeal all or any provision of its constitution if that modification or repeal would be material or any of those actions would adversely affect the rights of the Lender; or

- (b) if it has no constitution, adopt a constitution if to do so would adversely affect the rights of the Lender; or
 - (c) by its constitution, displace or modify after the date of this Agreement the provisions of the *Corporations Act* that apply to it as replaceable rules if that modification would be material or any of those actions would adversely affect the rights of the Lender;
- (10) **accounting policies:** except in order to remain consistent with Accounting Standards, materially change the basis of accounting or the accounting policies applied in the preparation of its Accounts or change its accounting year end; and
- (11) **indebtedness:** in relation to the Borrower only, incur or permit to remain outstanding any indebtedness other than Permitted Indebtedness.

12.3 Eligible Loan Undertakings

Unless the Lender otherwise agrees in writing:

- (1) **Loan to Value Ratio:** if the Loan to Value Ratio exceeds 7065% at any time prior to the Repayment Date, the Lender may give written notice to the Borrower, on receipt of which the Borrower must, within 3 Business Days (or such longer period as is allowed by the Lender in its absolute discretion):
 - (a) reduce the Amount Owed under this Agreement by an amount;
 - (b) deposit cash into a deposit account with the Lender at least equal to an amount and provide the Lender with such security or set off rights over the account as the Lender may require; or
 - (c) provide further security of a nature and value satisfactory to the Lender, so that the Loan to Value Ratio no longer exceeds 7065%.
- (2) **variation, rescission and termination:** the Borrower must not:
 - (a) vary or amend the:
 - (i) principal amount of an Accepted Eligible Loan; and
 - (ii) rate of interest applicable to an Accepted Eligible Loan;
 - (b) vary or amend the dates on which payments (including principal and interest payments) are to be made under an Accepted Eligible Loan unless this is done in the ordinary course of the Borrower business;
 - (c) terminate or rescind an Accepted Eligible Loan at its own election; or
 - (d) do or omit to do anything which may give rise to a right for a borrower under an Accepted Eligible Loan to rescind or terminate an Accepted Eligible Loan.

13. Events of Default

13.1 Events of Default

It is an Event of Default if:

- (1) **non-payment of principal:** the Borrower fails to repay any Principal Outstanding in accordance with this Agreement;
- (2) **non-payment of other money:** the Borrower or a Security Provider fails to pay within 2 Business Days of the due date for payment any interest, fees, costs, charges, expenses or other money payable under a Transaction Document;
- (3) **other default:** the Borrower or a Security Provider fails to perform or observe any other obligation under a Transaction Document (other than the undertakings contained in clause 12.3(1)) or another event of default (however described) occurs under a Transaction Document and:
 - (a) the Lender considers that the failure or default cannot be remedied; or
 - (b) the Lender considers that the failure or default can be remedied but it is not remedied to the Lender's satisfaction within 10 Business Days (or any longer period the Lender approves) from the earlier of:
 - (i) the date the Borrower or the Security Provider became aware of the default; and
 - (ii) receipt by the Borrower of a notice from the Lender requiring it or the Security Provider to remedy the default;
- (4) **Other ANZ Facility Cross default:** an event of default (however described) occurs under the Almond Agreement or the TF \$20 million Agreement.
- (5) **Loan to Value Ratio:** the Loan to Value Ratio increases above 70/65% and the Borrower has not provided additional Security to the Lender's satisfaction within 3 Business Days in accordance with clause 12.3(1);
- (6) **representations:** a representation or warranty made or deemed to be made by the Borrower or a Security Provider in, or in connection with, a Transaction Document is untrue or misleading (by omission or in any other way) in any material respect when made or repeated;
- (7) **Authorisations:** an Authorisation described in clause 12.1 is not granted or ceases to be in full force and effect for any reason or is varied in a manner which has a Material Adverse Effect;
- (8) **cross default:** in respect of an amount exceeding \$1,000,000:
 - (a) any indebtedness of the Borrower or a Security Provider in total becomes due and payable or capable of being declared due and payable before it would otherwise have been due and payable;
 - (b) there occurs a liquidation of obligations under, or an early termination of, any agreement or obligation relating to indebtedness to which the Borrower or a Security Provider is a party by the other party to the relevant agreement or by the party owed the obligation or that party becomes entitled to take that action; or

- (c) the Borrower or a Security Provider fails to pay any Indebtedness when due or within any applicable grace period;
- (9) **enforcement:** a Security Interest created by the Borrower or a Security Provider is enforced or becomes capable of being enforced or the holder of a Security Interest takes possession or control of any of the assets, revenues or business of the Borrower or a Security Provider;
- (10) **Insolvency Event:** an Insolvency Event occurs in respect of the Borrower or a Security Provider;
- (11) **Investigations:** an investigation of the affairs of the Borrower or a Security Provider is commenced under any law relating to companies in circumstances which have a Material Adverse Effect;
- (12) **execution:** distress, attachment, execution or other court process is issued, levied or enforced on or against the Borrower or a Security Provider or any assets, revenues or business of the Borrower or a Security Provider in respect of indebtedness exceeding \$500,000;
- (13) **expropriation:** a Government Agency expropriates all or a substantial part of the assets or business of the Borrower or a Security Provider or proposes to do so;
- (14) **reduction of capital and buy backs:** the Borrower or a Security Provider reduces or takes steps to reduce its capital as contemplated by Division 1 or Division 3 of Part 2J.1 of the *Corporations Act* or in any other way, limits or restricts calls over its issued but uncalled capital including by passing a resolution under section 254N of the *Corporations Act* or buys shares in itself as contemplated by Division 2 of Part 2J.1 of the *Corporations Act*, or proposes to do any of those things;
- (15) **acquisition of own shares:** the Borrower or a Security Provider contravenes section 259A, section 259B or section 259D of the *Corporations Act*, or issues or transfers shares or units of shares if that issue or transfer is void under section 259C of the *Corporations Act*;
- (16) **financial assistance:** the Borrower or a Security Provider contravenes section 260A of the *Corporations Act* or does an act or thing under section 260B of the *Corporations Act* other than for the purpose of approving any Security;
- (17) **vitiation of documents:**
- (a) a Transaction Document or a provision of a Transaction Document ceases for any reason to be of full force and effect or becomes void, voidable or unenforceable;
- (b) a law suspends, varies, terminates or excuses performance by the Borrower or a Security Provider of any of its obligations under a Transaction Document or purports to do so;
- (c) it becomes impossible or unlawful for the Borrower or a Security Provider to perform an obligation under a Transaction Document or for the Lender to exercise all or any of its rights, powers and remedies under a Transaction Document in circumstances which are likely to have a Material Adverse Effect;
- (d) the Borrower or a Security Provider alleges that a Transaction Document has been affected as described in this clause 13.1(17); or

- (18) **material adverse effect:** an event or circumstance occurs which has a Material Adverse Effect;
- (19) **undertakings:** an undertaking given to the Lender or an agent or adviser of the Lender by or on behalf of the Borrower, a Security Provider or an agent or adviser of any of them is not honoured strictly in accordance with its terms;
- (20) **Environmental Law:** under an Environmental Law:
 - (a) a Government Agency takes action against the Borrower or a Security Provider;
 - (b) there is a Claim made against or suffered by the Borrower or a Security Provider or the Borrower;
 - (c) the Borrower or a Security Provider is obliged to make expenditure, alter or cease the mode of conduct of any part of its business; or
 - (d) an Authorisation is not granted or ceases to be in full force and effect for any reason or is varied in a manner;
 which has a Material Adverse Effect;
- (21) **change of control:** the Sponsor ceases to be the Holding Company of the Borrower or a Security Provider.

13.2 Consequences of default

- (1) If an Event of Default occurs the Lender may by notice to the Borrower:
 - (a) declare the Amount Owning in relation to this Agreement to be either:
 - (i) payable on demand; or
 - (ii) immediately due and payable without further demand, notice or other legal formality of any kind; or
 - (b) declare the Facility terminated and the Commitment of the Lender cancelled;
 or make all of those declarations or
 - (c) enforce all or any of the Securities,
- (2) A notice given under clause 13.2(1) is effective on receipt.
- (3) If the Lender gives a notice under clause 13.2(1)(a)(ii), the Borrower must immediately pay to the Lender the Amount Owning in relation to this Agreement in full.

14. Interest on overdue amounts

14.1 Default interest

- (1) The Borrower must pay interest to the Lender on demand on any amount due and payable by the Borrower under a Transaction Document but unpaid (including interest payable under this clause 14.1).

- (2) Interest under clause 14.1(1):
- (a) accrues on each unpaid amount from and including the due date for payment to the date of actual payment at the rate determined by the Lender to be the sum of 4% per annum and the rate of interest determined in accordance with clause 6.1(2) calculated with reference to successive periods of 1 month, starting on the due date for payment;
 - (b) accrues from day to day;
 - (c) is calculated on the basis of the actual number of days elapsed (including the first day but excluding the last) and a 365 day year; and
 - (d) may be compounded by the Lender at intervals selected by the Lender at not less than 1 month intervals.

14.2 Additional interest

If a liability under a Transaction Document becomes merged in a judgment, the Borrower must, as an independent obligation, pay interest on the amount of that liability to the Lender. Interest on the amount of that liability will accrue from the date the amount becomes due until the date the amount is paid, both before and after judgment, at the rate which is the higher of:

- (1) the rate payable under the judgment; and
- (2) the rate referred to in clause 14.1(2).

15. Indemnities

15.1 General Indemnity

- (1) The Borrower unconditionally and irrevocably indemnifies the Lender against any Claim suffered or incurred or payable by the Lender arising directly or indirectly as a result of:
 - (a) an Event of Default or Potential Event of Default or the exercise or attempted exercise by the Lender of a right or power arising from an Event of Default or Potential Event of Default; or
 - (b) the failure by the Borrower to draw down an Advance for any reason (including failure to satisfy a condition precedent but excluding default by the Lender); or
 - (c) the failure of the Borrower to make a prepayment in accordance with a notice of prepayment or a repayment of an Advance or any part of an Advance being made on any day other than the last day of an Interest Period for that Advance and in accordance with this Agreement.
- (2) Without limiting clause 15.1(1), the indemnity of the Borrower includes an indemnity against loss of profit or other loss, cost, penalty, expense or Tax incurred or payable by the Lender in:
 - (a) liquidating or redeploying funds acquired from third parties; or
 - (b) terminating, reversing or varying arrangements to fund the Facility or any part of it or any interest rate or currency hedge, related trading position or

other derivatives arrangement put in place by the Lender in respect of the Facility or any part of it.

The amount of loss of profit or other loss may be determined by the Lender by reference to a pool of funds and averaging techniques rather than by reference to a specific borrowing or a specific contract made in respect of the Facility or any part of it.

- (3) Without limiting clause 15.1(1), the indemnity of the Borrower includes an indemnity for legal costs and other expenses (and Taxes on those amounts) on a full indemnity basis.

15.2 Currency Indemnity

- (1) If an amount payable by the Borrower or a Security Provider under the Transaction Documents is received or recovered by the Lender or a Controller in a currency other than Dollars (whether under a judgment, in the winding up of the Borrower or a Security Provider or otherwise) the obligations of the Borrower or the Security Provider are discharged only to the extent that the Lender or Controller may purchase Dollars with that other currency in accordance with its usual banking procedures on receipt of that amount.
- (2) If the amount in Dollars which may be purchased under clause 15.2(1) is, after deducting any costs of exchange and any other related costs and Taxes, less than the relevant sum payable under the Transaction Documents, the Borrower indemnifies the Lender or Controller in respect of, and will immediately pay to the Lender or to the Controller, the amount of the shortfall.

15.3 Survival of Indemnities

- (1) The indemnities in this Agreement are continuing obligations of the Borrower, separate and independent from the other obligations of the Borrower and survive the termination of this Agreement or any other Transaction Document.
- (2) It is not necessary for the Lender to incur expense or make payment before enforcing a right of indemnity under this Agreement.

16. Bill reliquification

16.1 Request for Bills

The Lender may require the Borrower to deliver to it Bills drawn in accordance with this clause by giving the Borrower a notice specifying:

- (1) the time by which the Bills must be delivered;
- (2) the person to whom the Bills are to be drawn payable; and
- (3) the maturity dates of the Bills as selected by the Lender, which must be no later than the last day of the Interest Period of the corresponding outstanding Advance.

16.2 Drawing of Bills

Bills to be delivered by the Borrower to the Lender will be prepared by the Lender and must be drawn by the Borrower on the Lender as acceptor but with the face amount blank and, if drawn payable to the Borrower, must be endorsed by the Borrower.

16.3 Completion of Bills

- (1) Subject to clause 16.3(2), the Lender is authorised to complete Bills delivered to it under clause 16.1 by inserting as the face amount on a Bill any amount the Lender selects.
- (2) The discounted face value of all Bills dealt with by the Lender in accordance with this clause 16 and still outstanding at any time must not exceed the amount of the Principal Outstanding at that time.

16.4 Dealing with Bills

The Lender may deal with Bills completed under clause 16.3 as it thinks fits.

16.5 Indemnity

The Lender indemnifies the Borrower against any liability incurred by the Borrower by reason of the Borrower delivering Bills to the Lender under this clause 16 or the Lender completing and dealing with those Bills under this clause 16.

16.6 Set-off

If the Lender does not discharge a Bill dealt with in accordance with this clause by payment on presentation, and that Bill is subsequently presented to the Borrower and paid by the Borrower, the amount paid by the Borrower is considered to have been paid to the Lender and applied in reduction of the Amount Owed.

16.7 Power of attorney

- (1) The Borrower irrevocably appoints the Lender and each Authorised Officer of the Lender to be its several attorneys to sign and deliver on behalf of the Borrower any Bill required to be signed and delivered by the Borrower under this clause 16.
- (2) If the Lender requires, the Borrower must ratify and confirm anything done or caused to be done by its attorney pursuant to the power and authority granted by the Borrower under this clause 16.

17. Assignment

- (1) The Borrower may not, without the prior written consent of the Lender, create or allow to exist an interest (by way of security or otherwise) in the Transaction Documents or assign or otherwise dispose of or deal with its rights under the Transaction Documents.
- (2) Subject to paragraphs (3) and (4), the Lender may assign, novate, transfer, sub-participate or otherwise dispose of or deal with all or any part of its rights or obligations under the Transaction Documents with the consent of the Borrower (which consent must not be unreasonably withheld), except that the Borrower's consent is not required if all or any part of the Lender's rights and obligations are assigned, novated, transferred, sub-participated or otherwise disposed of to any subsidiary or Related Body Corporate (as defined under the Corporations Act) of the Lender.
- (3) The Lender may, without being required to obtain the consent of the Borrower or to provide any prior notice to the Borrower, assign, transfer, sub-participate or otherwise dispose of or deal with any part of its rights and benefits under the Transaction Documents to any person (including without limitation a trustee of a

trust or a corporate vehicle established for the purposes of securitisation), provided that the Lender will remain the party administering and servicing the facility provided under the Transaction Documents.

- (4) The Lender may, without being required to obtain the consent of the Borrower or to provide any prior notice to the Borrower, assign, novate, transfer, sub-participate or otherwise dispose of or deal with any part of its rights and obligations under the Transaction Documents if an Event of Default subsists.
- (5) The Lender may, in exercising its rights under this clause, disclose to any ratings agency or government agency or authority or to any party with whom it is proposing to enter or has entered, into any kind of arrangement under this clause such information in relation to the Transaction Documents or in relation to the Borrower as that party reasonably requires without being required to obtain the Borrower's consent or to provide any prior notice to the Borrower.
- (6) Where the Lender exercises its rights under this clause, the Borrower will execute such documents and do such acts as may reasonably be required by the Lender so long as the Borrower's rights or obligations under the Transaction Documents are not adversely affected.

18. Set-off

18.1 Set-off

The Lender may, at any time if an Event of Default subsists, without notice to the Borrower or any other person, set-off and apply the whole or any part of the Amount Owed against any credit balance on any account of the Borrower with the Lender and any money owing by the Lender to the Borrower irrespective of:

- (1) whether the account is subject to notice;
- (2) whether the account is matured or the amount is due; or
- (3) the currency of the account or the amount owing.

18.2 Currency conversion

If the currency of the Borrower's account or the amount owing referred to in clause 18.1 is not Dollars, the Lender may for the purpose of clause 18.1:

- (1) purchase Dollars with the currency in which the Borrower's account is maintained or the currency of the amount owing in accordance with its usual banking procedures; and
- (2) apply the amount purchased, after deducting any costs of exchange and any other related costs and Taxes, in accordance with clause 18.1.

18.3 Additional right

The right of set-off contained in clause 18.1 is in addition to any general or banker's lien, right of set-off, right to combine accounts or other right to which the Lender is entitled.

19. Preservation of rights

19.1 No merger

- (1) No Transaction Document merges, discharges, postpones or adversely affects in any other way the rights, remedies or powers of the Lender under any other Transaction Document.
- (2) Nothing in any Transaction Document merges, discharges, postpones or adversely affects in any other way a Security or any of the rights, remedies or powers of the Lender against any person.
- (3) If a judgment is made in favour of the Lender against the Borrower or a Security Provider in respect of the Amount Owed or any part of it, the Lender holds the judgment collaterally with the Transaction Documents as security for payment of the Amount Owed and no Transaction Document merges in the judgment.

19.2 Moratorium legislation

To the extent permitted by law, a provision of a law is excluded if it does or may, directly or indirectly:

- (1) lessen or vary in any other way the Borrower's obligations under a Transaction Document; or
- (2) delay, curtail or prevent or adversely affect in any other way the exercise by the Lender or a Controller appointed by the Lender of any of its rights, remedies or powers under a Transaction Document.

19.3 Waiver and exercise of rights

- (1) A waiver by the Lender of a provision of or of a right under a Transaction Document is binding on the Lender only if it is given in writing and is signed by the Lender or an Authorised Officer of the Lender.
- (2) A waiver is effective only in the specific instance and for the specific purpose for which it is given.
- (3) A single or partial exercise of a right by the Lender does not prevent another exercise or attempted exercise of that right or the exercise of another right.
- (4) Failure by the Lender to exercise or delay in exercising a right does not prevent its exercise or operate as a waiver.
- (5) The Lender is not liable for any loss, cost or expense of the Borrower caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

19.4 Rights cumulative

The rights, remedies and powers under the Transaction Documents of the Lender, or a Controller appointed by the Lender, are cumulative and do not exclude any other rights, remedies or powers.

19.5 Further assurances

The Borrower must, at its own expense, whenever requested by the Lender, promptly do or cause to be done, and cause each Security Provider to do or cause to be done, anything which the Lender reasonably considers necessary or desirable to:

- (1) give full effect to a Transaction Document; or
- (2) more fully secure the rights, remedies and powers of the Lender under a Transaction Document or to enable the Lender to exercise those rights, remedies and powers; or
- (3) perfect or complete any transfer or assignment referred to in clause 17 and the benefit of any Security in relation to any transfer or assignment,

including signing and delivering documents.

19.6 Time of the essence

Time is of the essence of the performance of each of the Borrower's obligations to pay money under each Transaction Document.

20. Notices

20.1 Requirements

All notices must be:

- (1) in legible writing and in English;
- (2) addressed to the recipient at the address or facsimile number set out below or to any other address or facsimile number that a party may notify to the other.

to the Borrower:

Address: Level 8, 461 Bourke Street
Melbourne Vic 3000
Attention: General Manager, Corporate Finance
Facsimile No: (03) 9670 4271

to the Lender:

Address: Australia and New Zealand Banking Group Limited
Level 10, 530 Collins Street
Melbourne VIC 3000

Attention: Manager, Corporate & Institutional Banking

Facsimile No: (03) 9273 3161

- (3) signed by the party or, where the sender is a company, by an Authorised Officer or under the common seal of the sender; and
- (4) sent to the recipient by hand, prepaid post (airmail if to or from a place outside Australia) or facsimile.

20.2 Receipt

Without limiting any other means by which a party may be able to prove that a notice has been received by the other party, a notice will be considered to have been received:

- (1) If sent by hand, when left at the address of the recipient;
- (2) If sent by pre-paid post, 3 days (if posted within Australia to an address in Australia) or 7 days (if posted from one country to another) after the date of posting; or
- (3) If sent by facsimile, on receipt by the sender of an acknowledgment or transmission report generated by the sender's machine indicating that the whole facsimile was sent to the recipient's facsimile number;

but if a notice is served by hand, or is received by the recipient's facsimile on a day that is not a Business Day, or after 5:00 pm (recipient's local time) on a Business Day, the notice will be considered to have been received by the recipient at 9:00 am on the next Business Day.

21. General provisions

21.1 Invalid or unenforceable provisions

If a provision of a Transaction Document is invalid or unenforceable in a jurisdiction:

- (1) It is to be read down or severed in that jurisdiction to the extent of the invalidity or unenforceability; and
- (2) that fact does not affect the validity or enforceability of:
 - (a) that provision in another jurisdiction; or
 - (b) the remaining provisions.

21.2 Consents and approvals

- (1) The Lender may give its approval or consent conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless a Transaction Document expressly provides otherwise.
- (2) If, under a Transaction Document, the Lender must or may form an opinion or hold a considered view, that opinion may be formed or view held in its absolute discretion on its behalf by its board of directors or an Authorised Officer of the Lender.
- (3) The Lender may give reasons in respect of a matter described in clause 21.2(1) or (2) but is not obliged to do so.

21.3 Lender's certificate

A certificate signed by an Authorised Officer of the Lender stating an amount due, owing or payable or a rate or any other matter for the purpose of a Transaction Document is sufficient evidence of the matter stated unless the contrary is proved.

21.4 Certifications

Any document or thing required to be certified by the Borrower or a Security Provider must be certified by an Authorised Officer of the Borrower or the Security Provider, as the case requires, or in any other manner that the Lender approves.

21.5 Amendment

This Agreement may be amended only by a document signed by all parties.

21.6 Counterparts

This Agreement may be signed in counterparts and all counterparts taken together constitute one document.

21.7 Successors and assigns

This Agreement is binding on, and has effect for the benefit of, the parties and their respective successors and permitted assigns.

22. Governing law and jurisdiction

22.1 Governing law

This Agreement is governed by the laws of Victoria.

22.2 Jurisdiction

The Borrower irrevocably and unconditionally:

- (1) submits to the non-exclusive jurisdiction of the courts of Victoria; and
- (2) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

22.3 Service of process

The Borrower agrees that a document required to be served in proceedings about a Transaction Document may be served:

- (1) by being delivered to or left at its address for service of notices under clause 20.1; or
- (2) in any other way permitted by law.

Each attorney executing this Agreement states that the attorney has no notice of revocation or suspension of the power of attorney under which the attorney executes this Agreement.

Schedule 1
Form of Drawdown Notice

To: Australia and New Zealand Banking Group Limited
Level 10
530 Collins Street
MELBOURNE VIC 3000

[date]

Dear Sirs,

Facility Agreement (now called \$150 million Eligible Loans Facility) between Timbercorp Finance Pty Limited and Australia and New Zealand Banking Group) dated 16 December 2005 (as amended)

We refer to the Facility Agreement and give notice that we intend to draw down an Advance on [specify date]. Terms defined in the Facility Agreement have the same meaning in this Drawdown Notice.

The proposed Drawdown Date is [specify date].

The amount of the Advance to be drawn down is \$[specify amount], which is an amount determined in accordance with clause 5.2(3). The amount of the Advance complies with the terms of the Facility Agreement and in respect of this Advance we have provided you with all the details of the Eligible Loans required under clause 5 of the Facility Agreement.

The proceeds of the Advance should be [paid by bank cheque payable to [] in the amount of \$[] and the balance] paid into the following bank account: [specify account details].

Subject to clause 6.1(4) and clause 6.4 of the Facility Agreement, the Interest Period for the Advance will be [1 month].

We represent and warrant that:

- (a) the proceeds of the Advance will be used only for the purpose specified in clause 2.2(1) of the Facility Agreement;
- (b) each representation and warranty made by the Borrower or a Security Provider in, or in connection with, a Transaction Document, including, without limitation, those set out in clause 11.1 of the Facility Agreement, repeated as at the date of this Drawdown Notice and the Drawdown Date, are true and not misleading, by omission or in any other way; and
- (c) no Event of Default or Potential Event of Default has occurred which remains unremedied or which has not been waived in writing or will occur as a result of the drawdown.

For and on behalf of
Timbercorp Finance Pty Ltd
by its Authorised Officer

Signature of Authorised Officer

Name of Authorised Officer

Schedule 2 Securities

1. ~~Deed of Amendment and Cross Collateralisation \$28 million Eligible Loans Facility.~~
2. ~~Deed of Guarantee and Indemnity/\$28 million Eligible Loans Facility by the Borrower, Timbercorp Limited, Timbercorp Securities Limited, Timbercorp Finance (Vic) Pty Ltd, Timbercorp Forestry Pty Ltd, Timbercorp Lands Pty Ltd.~~
3. ~~Offer to Provide Security/\$28 million Eligible Loans Facility.~~
4. ~~Deed of Amendment and Undertaking.~~
1. Deed of Guarantee and Indemnity/\$28 million Eligible Loans Facility from Timbercorp Limited, Timbercorp Securities Limited, Timbercorp Finance (Vic) Pty Ltd, Timbercorp Forestry Pty Ltd and Timbercorp Lands Pty Ltd to the Lender dated 16 December 2005. ✓
2. Deed of Guarantee and Indemnity/\$60 million Eligible Loans Facility from Almond Land Pty Ltd, Almonds Australia Pty Ltd, Almond Management Pty Ltd, Avcorp Management Pty Ltd, BB Olives Pty Ltd, Jindalee Enterprises Pty Ltd, Mango Land Pty Ltd, Mangocorp Management Pty Ltd, OIM #4 Pty Ltd, Olivecorp Land Pty Ltd, Olivecorp Management Limited, Olivecorp Processing Facility Pty Ltd, Timbercorp Finance Pty Ltd, Timbercorp Finance (Vic) Pty Ltd, Timbercorp Forestry Pty Ltd, Timbercorp Lands Pty Ltd, Timbercorp Limited, Timbercorp Plantations 2002 IAB Pty Ltd, Timbercorp Plantations Pty Ltd, Timbercorp Securities Limited and Timbercorp Treasury Pty Ltd to the Lender dated on or about September 2007. ✓
4. Offer to Provide Security from the Borrower to the Lender registered 17 August 2004 (ASIC Charge no 1073193) (Grower Loans). ✓
5. Offer to Provide Security from the Borrower to the Financier registered 20 December 2005 (ASIC Charge no 1245799). ✓

Schedule 3
Condition Precedent Certificate

To: Australia and New Zealand Banking Group Limited
Level 10
530 Collins Street
MELBOURNE VIC 3000

This condition precedent certificate is given on [insert date] under clause 4.1(1) of the Facility Agreement dated on or about [date] between Timbercorp Finance Pty Ltd and the Lender. Terms defined in the Facility Agreement have the same meaning in this condition precedent certificate.

I, [], being [a director/secretary] of [name of Borrower or Security Provider] (the "Company"),
certify as follows:

1. Documents

True, complete and up to date copies of each of the following are attached to this Certificate:

- (a) the certificate of registration of the Company (marked "A");
- (b) an extract of minutes (marked "B") of a duly convened meeting of the directors of the Company:
 - (i) approving execution of each Transaction Document to which it is a party [and the granting of the power of attorney referred to in paragraph 1(c) below];
 - (ii) authorising the appointment of its Authorised Officers; and
 - (iii) acknowledging that each Transaction Document to which it is a party will benefit the Company,

which minutes are in full force and effect and have not been varied or revoked;

- (c) [a signed power of attorney (marked "C") under which the Company validly signs the Transaction Documents to which it is a party, which power of attorney is in full force and effect and has not been varied or revoked;]

2. Specimen Signatures

The following signatures are the true and usual signatures of the Authorised Officers of the Company:

	Name	Title	Signature
(a)			
(b)			
(c)			

[Certified constitutions already supplied]

Schedule 4

Eligible Loans Criteria

The Borrower acknowledges that the Grower Loans meet the following Criteria:

A loan is an Eligible Loan if (unless otherwise agreed by the Lender):

1. **(Title)** The Lender is Timbercorp Finance Pty Ltd and the loan is a loan to an Investor who holds an interest in the Project managed by Timbercorp Securities Limited.
2. **(currency)** it is denominated in Australian dollars;
3. **(not overdue):**
 - (1) on the Drawdown Date, it is not a loan in respect of which any payment is over 30 days past due;
 - (2) on any day after the Drawdown Date it is not a loan in respect of which any payment is over 60 days past due;
4. **(no dispute or other arrangement)** on the Drawdown Date and any day after the Drawdown Date, it is not, and is not likely to be in the future, the subject of any dispute or set-off between the Borrower and the relevant Investor, or a discount, refund or denial of liability by the relevant Investor to pay any part of it, whether such refusal or denial is justified or not;
5. **(repayable)** to the best of the Borrower's knowledge, the relevant Investor is able to repay the loan;
6. **(origination)** it was originated by the Borrower or its authorised representatives in its ordinary course of business and in its personal capacity;
7. **(principal repayments)** additional payments of principal, whether they be as a result of increased loan repayments or one-off payments, are not available for redraw;
8. **(loan type)** the loan is:
 - (1) repayable by equal monthly instalments of principal and interest calculated at the "Interest Rate" which equals the "Current Instalment" until and including the "Maturity Date" over a term not more than 10 years (each a "P&I Loan"); or
 - (2) an "Interest Only Loan" where the monthly repayments for an initial term not to exceed 3 years (the "Interest Only Term") are sufficient to repay the accrued interest only, and then the "Loan Balance" is repaid in equal monthly instalments of principal and interest, calculated at the interest rate over a term not more than 7 years from the expiry of the Interest Only Term (each an "Interest Only Loan"); or
 - (3) an "Instalment Loan" where "Loan Balance" for the loan is repayable in twelve equal monthly instalments until and including the "Maturity Date" and such a loan has a term no more than 12 months and accrues no interest (each an "Instalment Loan"); or
 - (4) a Grower Loan.
9. **(valid obligations)** it constitutes the valid, binding and irrevocable obligation of the relevant Investor enforceable against the relevant Investor in accordance with its terms subject to no right of recession, set-off, discount, counterclaim or other defence other than

those generally provided for under the law of the an Australian jurisdiction and it is governed by the law of an Australian jurisdiction;

10. **(segregation)** it can be easily segregated and identified for ownership and related security purposes on any day;
11. **(financing activities)** it arises directly or indirectly from the financing or the provision of other services by the Borrower or property provided by the Borrower or any of its Related Body Corporate, and in relation to services giving rise to the loan, the services have been provided, this includes loans provided to the Investors as "Business Loans", where the Borrower takes the equivalent security as for its normal financing activities;
12. **(ownership)** it is owned by the Borrower and is free and clear of any adverse claims or Security Interests, and is evidenced by a contract in writing or an invoice or similar evidence of the debt which will be sufficient to prove a claim therefore against the relevant Investor in relevant courts;
13. **(no dispute with Investor)** on the relevant Drawdown Date and thereafter, there is no dispute between the Borrower and the relevant Investor in relation to the financing or other services or property (as applicable) giving rise to the loan, or in relation to similar services or property, which would or may result in the relevant Investor disputing its liability to pay, or refusing to pay, all or any part of that loan;
14. **(withholding taxes)** the payment of the loan to the Borrower is not subject to withholding taxes;
15. **(no other dispute or default)** it is not subject to any dispute not already referred to with respect to the financing or other services or property which gave rise to the loan and no officer or employee of the Borrower is aware of an Investor being in default of any material provision of the finance documents to which it is a party;
16. **(acceptable to Lender)** it is not a loan in respect of which the Lender has notified the Borrower that the Lender has determined that such loan or the relevant class of loans to which it belongs are not acceptable as Security;
17. **(no notice from Lender)** it is not a loan due from an Investor which the Lender has notified the Borrower that loans from such Investor are not eligible loans;
18. **(debt)** it is a loan the amounts outstanding of which remains a debt, has not been paid and has not been discharged by set-off or otherwise;
19. **(Decreasing Monthly Instalments)** in relation to the above, the Borrower can agree to a decrease in the monthly instalment for a loan where the adjusted equal monthly instalment schedule will not extend the maturity date of the loan beyond its original date;
20. **(related entities)** it is not payable by a Related Body Corporate of the Borrower or the Sponsor and the Investor under loan is not related to, affiliated with or under common control with the Borrower, the Sponsor or any of their Related Body Corporate;
21. **(no government investor)** the Investor is not an Australian government agency or instrumentality;
22. **(unconditional payment)** the stated amount of the loan is unconditionally payable on the stated maturity date;
23. **(no contingent payment)** it does not provide for any contingent payment by the relevant Investor under the loan (other than any adjustment to the amount of the loan upon non-payment of the stated amount on its stated maturity date);

24. **(not subject to write-off)** it is not subject to a write-off (irrespective of whether the Borrower has itself actually written off the loan in its own accounts);
25. **(place of business)** it is a loan in respect of which the relevant place of business of the related Investor is located in Australia;
26. **(Alternative Finance Package)** the loan does not relate to any finance package which provides for payment of interest in advance, unless the loan is a Grower Loan;
27. **(trustee of super funds)** the loan is not payable by an Investor which acts as trustee of a superannuation fund;
28. **(Collection Policy)** the loan satisfies all the requirements of the Loan Management and Collections Policy of the Borrower and its terms allow the Borrower to comply with its initial loan management and collections policies;
29. **(Managed Investment Scheme)** each loan relates to an investment in a Project;
30. **(Consumer Credit Code)** the loan and each related finance document is not a transaction or contract to which the Consumer Credit Code applies;
31. **(Loans fully drawn)** each loan is fully drawn down such that the Borrower has no further obligation under the finance documents in respect of each loan to advance money to the Investor under those finance documents;
32. **(Total Amount Owing)** any loan at the time of Drawdown is no greater than 5% of the Loan Pool.
33. ~~(not already financed)~~ it is ~~not already subject to a Security to the Lender pursuant to the TF \$20 million Agreement.~~
- 34.33. **(Set Off)** It is free of any right of set off, counterclaim or other equity and is not affected by any Security Interest.

Schedule 5

Pool Parameter Report

A Pool Parameter Report must satisfy the following:

- (1) there must not be more than 3 Eligible Loans having a prevailing "Total Amount Owing" (balance owing plus all accrued interest charges and other amounts) equal to or greater than 3% of the Loan Pool;
- (2) the aggregate of the Total Amount Owing of fewer than 8 Eligible Loans must not account for 15% or more of the Loan Pool;
- (3) the aggregate of the Total Amount Owing of fewer than 40 Eligible Loans must not account for 40% or more of the Loan Pool;
- (4) the Average Default Rate must be less than 3% (where Average Default Rate is the average of the current default ratio (aggregate Total Amount Owing of each delinquent loan divided by the Security Value) for the 3 immediately preceding collection periods. A delinquent loan relates to an amount that remains outstanding after a period of 60 days from the date the amount became due and payable under the terms of the loan);
- (5) the average Total Amount Owing of Eligible Loans divided by the Security Value and multiplied by 100 must be less than 1%;
- (6) the weighted average interest rate of all Eligible Loans must be 9%pa or greater;
- (7) the aggregate Total Amount Owing of all Eligible Loans which are Instalment Loans must not exceed 5% of the Loan Pool or such other percentage as agreed between the Borrower and the Lender;
- (8) the mix of loans that can be included must conform to the following, unless exceeded through the natural amortisation of loans contained in the Loan Pool:
 - (a) the aggregate of the Total Amount Owing of loans with an original term to maturity of greater than 8 years and a remaining term to maturity of greater than 3 years is not to exceed 60% of the Security Value; and
 - (b) the aggregate of the Total Amount Owing of loans that contain an Interest Only Term of greater than or equal to one year and have a remaining term to maturity of greater than 3 years is not to exceed 60% of the Pool Balance.

For the purposes of paragraphs (1), (2) and (3) of the Pool Parameters in this Schedule 5, if there is more than one loan to the same Investor the Total Amount Owing of each such loan will be aggregated.

Executed as an agreement.

The Borrower

Executed by Timbercorp Finance Pty
Ltd ABN 88 054 581 190 in accordance
with section 127 of the *Corporations Act*
2001:

Director/company secretary

Director

Name of director/company secretary
(BLOCK LETTERS)

Name of director
(BLOCK LETTERS)

The Lender

Signed for and on behalf of Australia and
New Zealand Banking Group Limited
by a duly appointed attorney in the
presence of:

Signature of Witness

Signature of Attorney (I have no notice of
revocation of the power of attorney under
which I sign this document)

Name of Witness (please print)

Name of Attorney (please print)