

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

LIST E

No of 2009

IN THE MATTER OF TIMBERCORP SECURITIES LIMITED
(IN LIQUIDATION)
ACN 092 311 469

TIMBERCORP SECURITIES LIMITED
(IN LIQUIDATION) ACN 092 311 469
IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE
MANAGED INVESTMENTS SCHEMES LISTED IN SCHEDULE 1
AND ORS ACCORDING TO THE SCHEDULE

Plaintiffs

CERTIFICATE OF EXHIBIT

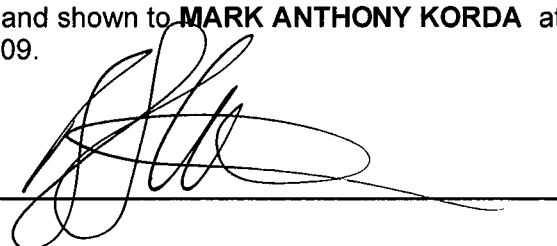
Date of document: 10 November 2009
Filed on behalf of: the Plaintiffs

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This is the exhibit marked "**MAK-22**" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 10 November 2009.

Before me: _____



BRIDGET ELLEN SLOCUM
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-22**"
Fenceport Trust Deed

Leon Zwier

and

Fenceport Proprietary Limited
ACN 139 604 121

Deed of Settlement

(Timbercorp Forestry Assets Sale Trust)

Arnold Bloch Leibler

Lawyers and Advisers

Arnold Bloch Leibler
Ref: PHC:RP:MM:01-1499489
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THIS DEED is made on

2 November

2009

PARTIES

LEON ZWIER

of 3/7 Marine Avenue, St. Kilda, Victoria
("Settlor")

and

FENCEPORT PROPRIETARY LIMITED

ACN 139 604 121

of Level 24, 333 Collins Street, Melbourne, Victoria
("Trustee")

Original Declaration Of Trust
Stamped with \$200.00
Doc ID 2513674, 05 Nov 2009
SRO Victoria Duty. J/M2

BACKGROUND

- A The Settlor desires to make provision for the Beneficiaries (as defined in this Deed).
- B For that purpose the Settlor has transferred or is about to transfer to the Trustee the Settled Sum.
- C The trust is a fixed trust known as the "Timbercorp Forestry Assets Sale Trust" (the "Trust") or such other name as the Trustee may, from time to time, direct.
- D The Trustee consented to become the Trustee of this Trust on the trusts and with and subject to the powers and provisions set out in this Deed.

AGREED TERMS

1 Interpretation and effect of the deed

1.1 Definitions

In this Deed (including the background and any schedules to this Deed) unless the contrary intention appears -

- (a) "Accounting Period" means each period of twelve months ending on the balance date in each year but -
 - (i) the period commencing on the date of this Deed and ending on the balance date next ensuing the date of this Deed shall be an Accounting Period; and
 - (ii) the period commencing on the day following the last balance date before the Vesting Day and ending on the Vesting Day shall be an Accounting Period.
- (b) "balance date" means 30 June in each year or such other date (if any) as the Trustee may from time to time nominate provided that no nomination shall be made which has the effect of making any Accounting Period exceed one year.

- (c) **"Beneficiaries"** means each of the managed investment schemes set out in the Schedule of which Timbercorp Securities Limited (in liquidation) ACN 092 311 469 is the responsible entity and **"Beneficiary"** means any one of them.
- (d) **"Deed"** means this Deed and includes this Deed as varied by any modification or alteration lawfully made to this Deed and includes the background, any supplemental deed and any schedule to this Deed.
- (e) **"interest"** includes any interest contingent interest possibility expectancy or spes of whatever nature and whether liable or not to be defeated or diminished by the exercise of any power or by reason of any other matter or circumstance.
- (f) **"Net Income"** in relation to an Accounting Period means the net income of the Trust Fund in that Accounting Period for trust law purposes, unless otherwise determined by the Trustee.
- (g) **"pay"** includes transfer convey and assign.
- (h) **"perpetuity period"** means the perpetuity period applicable to dispositions effected by this Deed under the rule known as the rule against perpetuities (as modified by statute) (which rule as so modified is referred to in this Deed as "the rule against perpetuities") and that period is the period of 80 years commencing on the date of this Deed, but in relation to so much of the Trust Fund as consists of property situate in a jurisdiction under the law of which some shorter perpetuity period applies to this Deed shall be that shorter period.
- (i) **"persons"** shall include companies corporations partnerships and all juristic persons recognised by the law applicable to this Deed or by any other law.
- (j) **"Sale and Purchase Deed"** means the Sale and Purchase Deed - Forestry Assets dated 30 September 2009 between Timbercorp Limited (in liquidation) ACN 055 185 067 and its relevant related entities in relation to forestry assets of those companies (sellers), the liquidators of the sellers, and Australian Bluegum Plantations Pty. Limited ACN 139 400 623.
- (k) **"set aside"** in relation to a Beneficiary includes placing sums to the credit of that Beneficiary in the books of account of the Trust Fund.
- (l) **"Settled Sum"** means \$20.00.
- (m) **"Surrender Deeds"** has the same meaning as the Surrender Deeds referred to in the Sale and Purchase Deed.
- (n) **"Tax Act"** means the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* (as the case may be).
- (o) **"Trust Fund"** means –
 - (i) the Settled Sum;
 - (ii) all moneys, investments and property paid, transferred to, or accepted by, the Trustee as additions to the Trust Fund arising under, or pursuant to, the terms of the Sale and Purchase Deed and the Surrender of Grower Sub-Leases to which the members of the Beneficiaries are, or may, become entitled;
 - (iii) all accumulations of income to the Trust Fund;
 - (iv) all accretions and additions to the Trust Fund from any source;
 - (v) all other investments and property from time to time representing the money, investments, property, accumulations, accretions and additions to the Trust Fund,

and, without limitation, including any specific asset for the time being forming part of the Trust Fund, and any part or parts thereof respectively.

- (p) **"Trust Fund Entitlement"** means in respect of a Beneficiary, such proportion of the Trust Fund as determined by, or agreed with the approval of, the Supreme Court of Victoria or any other competent court.
- (q) **"Trustee"** means the person named in this Deed as the Trustee or such other Trustee or Trustees for the time being of this Trust.
- (r) **"Vesting Day"** means -
 - (i) the first to occur of the following dates namely -
 - (A) 30 June 2089;
 - (B) such date being earlier than the day specified in clause 1.1(r)(i)(A) or appointed at any time pursuant to clause 1.1(r)(ii) (as the case may be) as the Trustee may appoint;
 - (C) the last day of the perpetuity period; or
 - (ii) such date being later than the day specified in clause 1.1(r)(i)(A) or appointed at any time pursuant to clause 1.1(r)(i)(B) (as the case may be) as the Trustee may, subject to the date being within the perpetuity period, appoint;

PROVIDED that notwithstanding anything to the contrary contained in this Deed all appointments powers and dispositions made or exercised pursuant to this Deed or contained in this Deed which, but for this provision would or might vest take effect or be exercisable after the expiration of the perpetuity period, shall vest and take effect on and be exercisable only until the last day of the perpetuity period.

1.2 Interpretation

In this Deed -

- (a) the singular means and includes the plural and vice versa;
- (b) any gender means and includes all other genders;
- (c) references to any legislation or to any section or provision of any legislation shall include any statutory modification, variation, replacement or re-enactment thereof or any statutory provision substituted therefor and any ordinances, by-laws, regulations or other statutory instruments issued thereunder; and
- (d) the index and headings contained in this Deed shall not be taken into account in the construction of this Deed.

2 Declaration of trust

In consideration of the premises the Settlor as Settlor declares that the Trustee shall and the Trustee declares that it will, as and from the date of this Deed, hold the Trust Fund and the income thereof upon the trusts and with and subject to the powers and provisions hereinafter expressed concerning the same.

3 Purpose of the Trust

The sole purposes of establishing the Trust are:

- (a) to hold the Trust Fund for the benefit of the responsible entity of each Beneficiary in proportion to their respective fixed Trust Fund Entitlements;
- (b) to invest all or any part of the Trust Fund to achieve the purposes in clause 3(a) without any obligation on the Trustee to have regard to generating income or accretion of capital; and

- (c) to give the Trustee the widest possible discretion in the exercise of its powers in the administration and management of the Trust.

4 Income of the Trust Fund

4.1 The Trustee may at any time before the expiration of any Accounting Period with respect to all or any part or parts of the Net Income of the Trust Fund for such Accounting Period determine -

- (a) to pay apply or set aside the same to or for the Beneficiaries in proportion to their respective Trust Fund Entitlement; or
- (b) to accumulate the same.

4.2 In respect of any amount paid applied or set aside to or for any Beneficiary, to set aside a sum which in the opinion of the Trustee will be sufficient to meet the obligations of the Trustee for income tax for that Accounting Period on that amount pursuant to any law which imposes income tax on the Trustee and -

- (a) to the extent that any sum set aside is inadequate to meet the tax actually assessed, the Trustee may, without prejudice to any other rights given to the Trustee by law or by this Deed, resort to the income of the Trust Fund for any subsequent Accounting Period or may recover the amount of such inadequacy from any money in the Trustee's hands belonging to the Beneficiary in respect of whose income the assessment is issued; and
- (b) if it appears to the Trustee that any provision made was excessive, the amount of the excess shall be credited in the books of account of the Trust Fund to the Beneficiary in respect of whom the provision was made and shall be treated as though it had been set aside for that Beneficiary in the Accounting Period in which the provision was first made

PROVIDED that nothing in this clause shall oblige the Trustee to set aside any sum aforesaid or affect any rights of the Trustee in the event of any assessment of tax being made against the Trustee in respect of any amount so paid applied or set aside.

4.3 The following provisions apply to any determination made pursuant to clause 4.1 -

- (a) the Trustee may identify, segregate and treat as income any amounts received, or derived, by the Trustee (whether directly or indirectly actually or notionally) from whatever sources and whether in or out of Australia including (without limitation) –
 - (i) capital gains for income tax purposes; and
 - (ii) income derived as franked dividends; and
 - (iii) income derived as unfranked dividends

for the purpose of dealing with the same separately and, where the income of an Accounting Period is directly or indirectly derived from different sources, in making a determination to pay, apply or set aside income for a Beneficiary or to accumulate the same, to determine from what source or sources that income is derived and the precise character and nature thereof and the Trustee may make different determinations in respect of one or more beneficiaries provided that no such determination shall be made except in accordance with the provisions of clause 4.1;

- (b) the validity of any determination to accumulate income shall be conditional upon the law in force in relation to this Deed permitting the same and shall (except as provided in the next succeeding paragraph) be irrevocable;

- (c) if at the end of any Accounting Period the amounts in respect of which determinations have been made pursuant to clause 4.1 shall exceed the Net Income of the Trust Fund for such Accounting Period the amount of such excess shall be deducted from the amounts which the Trustee has accumulated and only the balance of such amounts (if any) shall be accumulated and if any deficiency shall remain then the Trustee shall (to the extent of the deficiency) be deemed to have applied the capital of the Trust Fund pursuant to clause 6;
 - (d) a determination to pay apply or set aside any amount to or for the benefit of any Beneficiary shall be irrevocable and may be made and satisfied (inter alia) by:
 - (i) a resolution of the Trustee that:
 - (A) a portion of the Net Income of the Trust Fund for the Accounting Period; or
 - (B) a portion of the net income of the Trust Fund as defined in subsection 95(1) of the Tax Act for the Accounting Period,
 be allocated to that Beneficiary or otherwise dealt with for the benefit of that Beneficiary;
 - (ii) placing such amount to the credit of such Beneficiary in the books of account of the Trust Fund;
 - (iii) drawing any cheque in respect of such amount made payable to or for the credit or benefit of such Beneficiary; or
 - (iv) paying the same over to or for the benefit of such Beneficiary in such manner and to such person on behalf of such Beneficiary as the Trustee shall think fit;
 - (e) the Trustee shall have an absolute discretion in the making of any determination and shall not be required to assign any reason therefor; and
 - (f) without limiting the ability of the Trustee to make a determination by other means, the Trustee may effect a determination for the purposes of this clause by oral declaration or by written statement whether or not published to any person and a certificate by the Trustee as to any determination shall be prima facie evidence that such determination was made as and when set out in such certificate.
- 4.4 Any income which the Trustee shall determine to accumulate shall be added to and form part of the capital of the Trust Fund and may be dealt with in the same manner as the capital of the Trust Fund.
- 4.5 The Trustee shall hold so much of the Net Income of the Trust Fund for each Accounting Period as shall not be the subject of a determination effectually made in relation to such Accounting Period in trust for the Beneficiaries as the Trustee would hold the corpus of the Trust Fund pursuant to clause 5 as if the last day of that Accounting Period were the Vesting Day.
- 4.6 Any amount set aside for any Beneficiary and any amount held by the Trustee in trust for any Beneficiary pursuant to clause 4.5, shall cease to form part of the Trust Fund and upon such setting aside or becoming subject to such trust (as the case may be) shall thereafter be held by the Trustee on a separate trust for such Beneficiary absolutely with power to the Trustee pending payment over thereof to such Beneficiary to invest or apply or deal with such fund or any resulting income therefrom or any part thereof in the manner provided for in this Deed.

5 Capital and income after the Vesting Day

As from the Vesting Day the Trustee shall stand possessed of the Trust Fund and the income thereof on trust for the Beneficiaries in proportion to their respective Trust Fund Entitlement absolutely.

6 Capital

The Trustee may at any time or times and from time to time before the Vesting Day pay convey or transfer the whole or any part of the Trust Fund either in addition to or in substitution for any share of income to the Beneficiaries in proportion to their respective Trust Fund Entitlement and for that purpose may raise any such sum or sums out of the capital or borrow any sum or sums in such manner as the Trustee thinks fit.

7 Trustee powers

7.1 General Powers

The Trustee has all of the powers of a natural person in respect of the Trust Fund as conferred by law on a trustee, as though the Trustee were the absolute owner beneficially and acting in its personal capacity, or as necessary to enable the Trustee to fulfil its obligations under this Deed.

7.2 Specific Powers

The Trustee shall, without limiting the powers set out in clause 7.1 or otherwise conferred upon trustees by law, have the following powers -

- (a) to apply and invest all moneys at any time forming part of the Trust Fund in any form of investments whether involving liabilities or not, with or without security and upon such terms and conditions as the Trustee shall think fit;
- (b) to make or purchase any such investments for cash or in consideration of an annuity or otherwise and upon such terms and conditions as the Trustee shall in its absolute discretion think fit and to make or purchase any such investment for a sum greater than the amount of the Trust Fund for the time being and to agree to pay for any such investment wholly or in part from any future moneys which may come into the hands of the Trustee including dividends profits interest or other income paid or payable in respect of any such investments;
- (c) to advance and lend moneys to any persons (including the Trustee) and whether alone or severally or jointly and severally with any person and upon such terms with or without security or interest as the Trustee shall deem fit;
- (d) to vary or transpose any investments into or for any other or others of any nature whatsoever and to vary the terms of or property comprised in any security;
- (e) to pay out of the Trust Fund or the income thereof all costs charges and expenses incidental to the management of the Trust Fund or to the exercise of any power authority or discretion contained in this Deed or in carrying out or performing the trusts hereof which the Trustee may at any time incur including all income tax or other taxes payable in respect of the Trust Fund costs in any way connected with the preparation and execution of these presents and all moneys which the Trustee may be required to pay as settlement gift stamp or revenue duties in respect of the Trust Fund or on these presents;
- (f) to pay or make good or treat as paid out of or as a charge on income, any amounts which may be treated by the Trustee as deductions for income tax purposes and insofar as such deductions cannot be paid or met out of the income of the then current Accounting Period, the Trustee shall have the power to borrow

or raise money or obtain financial accommodation for the purpose of meeting any expenses or disbursements included in or giving rise to such deductions and to apply future income in meeting or making good any such deductions or in discharging such charge on income to the extent that they have not been paid or made good out of the income of the Accounting Period current at the time when such deductions arose and in repaying any moneys so borrowed or raised for the purpose and it is expressly declared that the Trustee is not required to apply capital to meet such deductions or any part thereof;

- (g) to open any account or accounts with any bank or banks and to operate in all usual ways any such account or accounts;
- (h) to give effectual receipts and discharges for any moneys received by or on behalf of the Trustee or otherwise relating to any of the acts matters and things provided for in this Deed;
- (i) to take such action as the Trustee shall think fit for the adequate protection of any part or parts of the Trust Fund and to do all such other things as may be incidental to the exercise of the powers and authorities conferred on the Trustee by this Deed; and
- (j) generally to exercise or concur in exercising all the foregoing powers and discretions contained in this Deed or otherwise by law conferred in any part of the world and notwithstanding that the Trustee or any person being a director or shareholder of a Trustee (being a company) has or may have a direct or personal interest (whether as trustee of any other settlement or in the Trustee's personal capacity or as a shareholder or director or member or partner of any company or partnership or otherwise) in the mode or result of exercising such power or discretion or may benefit either directly or indirectly as a result of the exercise of any such power or discretion and notwithstanding that the Trustee for the time being is the sole Trustee.

8 Distinction of Trust Fund

Subject to and without derogating from the powers given by clauses 6 and 7, the Trust Fund established by this Deed shall be separate and distinct from the trust fund referred to in any other deed of settlement whether created by the Settlor or by any other person.

9 Responsibility of Trustee

9.1 No Trustee shall be responsible for -

- (a) any loss or damage occasioned to the Trust Fund or any part thereof or to any person by the exercise of any discretion or power hereby or by law conferred on the Trustee or by any alleged failure to exercise any such discretion or power; or
- (b) any breach of duty or trust whatsoever -

unless the same shall be proved to have been committed made or omitted in personal conscious and fraudulent bad faith by the Trustee charged to be so liable.

9.2 All persons claiming any interest in the income or capital of the Trust Fund shall be deemed to take with notice of and subject to the protection hereby conferred on the Trustee.

10 Restrictions on exercise of powers by Trustee

10.1 Subject always to any express provision to the contrary contained in this Deed, every discretion vested in the Trustee shall be absolute and uncontrolled and every power

vested in the Trustee shall be exercisable at the absolute and uncontrolled discretion of the Trustee and the Trustee shall have the like discretion in deciding whether or not to exercise any such power.

11 General provisions relating to the Trustee

- 11.1 A sole Trustee for the time being is authorised, notwithstanding that such Trustee is the sole Trustee, to receive capital and other moneys and to give valid and effectual receipts therefor for all purposes and for the purposes of any statutory enactments including the receipt of capital moneys which may or may not be deemed to be capital moneys.
- 11.2 Any Trustee who is a solicitor or accountant or any firm of which he may be a member, shall be entitled to make all usual and proper charges for both the Trustee's professional and other services in the administration of the trusts hereof and for the Trustee's time and trouble that the Trustee would have been entitled to make if not a Trustee and so employed.
- 11.3 Any Trustee may, from time to time, charge and retain out of the Trust Fund such Trustee's commission as is reasonable having regard to any charges from time to time being made and paid pursuant to clause 11.2.
- 11.4 The Trustee shall not be bound in any case to act personally but shall be at full liberty to act as manager or to employ any contractors, managers, solicitors, accountants, clerks, workmen, employees or servants or any agents to transact all or any business of whatever nature including the receipt and payment of money and the Trustee shall decide the remuneration to be allowed and paid and all charges and expenses so incurred.
- 11.5 The Trustee (and if there is a sole corporate Trustee, that Trustee) shall have power at any time and from time to time to appoint any person or persons (and if more than one either jointly or severally) to be the attorney or agent of the Trustee (and either with or without power for any such attorney or agent to delegate) to exercise any powers or discretionary authorities conferred on the Trustee by this Deed and in particular but, without limiting the generality of the foregoing, any powers or authorities under clause 7 or to act in a specific transaction or class of transactions or generally and in a particular place or in any place in relation to executing any document or doing any act or receiving notice, moneys or other property in respect of the Trust Fund or any asset for the time being comprised therein or to be acquired by the Trustee or in respect of any business carried on or proposed to be carried on by the Trustee or in respect of the exercise of any power conferred on the Trustee by this Deed or by law whether or not the Trustee has disclosed to any such attorney or to any person dealing with such attorney that in respect of the power to be so delegated they are acting as trustees and for the purposes aforesaid the Trustee may execute any power of attorney or other instrument.
- 11.6 The Trustee shall be entitled to be indemnified out of the assets for the time being comprising the Trust Fund against liabilities incurred by the Trustee in the execution or attempted execution or as a consequence of the failure to exercise any of the trusts authorities powers and discretions hereof or by virtue of being the Trustee hereof but the Trustee shall not be entitled to be indemnified by any Beneficiary personally in respect of any liabilities or other matters aforesaid other than in respect of any duty or tax imposed on the Trustee by any statute and which the Trustee is entitled to recover from a Beneficiary by law.
- 11.7 Any Trustee being a natural person, may with the consent of any other Trustee or Trustees, appoint any person to be an alternate Trustee in his or her place and so that any such appointment shall have effect during such period only as such Trustee may from time to time be absent from the place where the Trust Fund is being administered

and each Trustee may by power under his or her hand, revoke or alter such appointment as alternate Trustee.

- 11.8 If at any time there is more than one Trustee they shall act jointly and they may, in writing, delegate the exercise of all or any of the powers or discretionary authorities hereby conferred on the Trustees, to a committee of the Trustees or to one or more of the Trustees.
- 11.9 Any exercise by the Trustee of any power discretion or authority conferred on the Trustee by this Deed (including, without limiting the generality of the foregoing, the revocation addition to and variation of the trusts terms and conditions herein contained pursuant to clause 19) may be made (but without derogating from anything contained in clause 4.3(f)) -
- (a) in writing signed by the Trustee or, where clause 11.10 applies, by a majority of the Trustees; or
 - (b) if there is more than one Trustee, by a resolution duly passed at a meeting of the Trustees; or
 - (c) as provided in clause 11.10(c); or
 - (d) in the case of a corporate Trustee, in the manner set out in clauses 11.11 and 11.12.
- 11.10 If at any time there is more than one Trustee, in the event of disagreement between the Trustees as to any matter affecting the Trust Fund or as to the exercise or omission or abstention from exercising any of the Trustees' powers and discretions hereunder -
- (a) the matter for decision shall be referred to a vote of all the Trustees (either at a meeting of the Trustees or by telephone facsimile transmission or post or by such other technology);
 - (b) in the event of there being a majority for or against the proposal the Trustees shall subject as hereinafter in this clause provided give effect to the wishes of such majority as though it were a decision by all the Trustees;
 - (c) in the event of deadlock, the matter shall if any Trustee so requires be referred for decision to an arbitrator appointed in accordance with any arbitration law currently in force in the place where a majority of the Trustees are resident and if a majority is not resident within one jurisdiction in the place where this Deed was executed by the Settlor and the Trustees shall give effect to the award of the arbitrator under such arbitration as though it were a decision by all the Trustees and if any Trustee shall fail to do so any other Trustee may do so in the name of all the Trustees

PROVIDED NEVERTHELESS that no revocation addition or variation shall be made pursuant to clause 19 except by the unanimous decision of the Trustees.

- 11.11 Every Trustee which is a corporation or company, may exercise or concur in exercising any discretion or power conferred on the Trustee by this Deed by a resolution of such corporation or company or by a resolution of its board of directors or governing body or may delegate the right and power to exercise or concur in exercising any such discretion or power to a representative appointed for the purpose by its board of directors or governing body.
- 11.12 Every Trustee, not being a sole Trustee, which is a corporation or company may attend meetings of the Trustees by its representative appointed as provided in clause 11.11.

12 Accounts and records

- 12.1 The Trustee shall keep complete and accurate books of account and records of all receipts and expenditures on account of the Trust Fund.
- 12.2 Promptly after the close of each Accounting Period the Trustee shall prepare a written accounting report (prepared in accordance with generally accepted accounting procedures) for such period consisting of a balance sheet, a statement of income and expenditure and a list of assets held at the close of such year, and a copy shall be given on request to the responsible entity of each Beneficiary. The accounting report shall include the names and addresses of all persons or firms having custody of all or any part of the assets of the Trust Fund.
- 12.3 The Trustee shall be entitled, but not obliged, to have the accounts of the Trust Fund audited by an auditor appointed by the Trustee at the expense of the Trust Fund.

13 Trustee's right to refuse disclosure

Without prejudice to any right of the Trustee under the general law to refuse disclosure of any document, it is declared that the Trustee shall not be bound to disclose to any person any of the following documents -

- (a) any document disclosing any deliberations of the Trustee (or, if more than one, any of them) as to the manner in which the Trustee should exercise any power or any discretion conferred upon the Trustee by this Deed or disclosing the reasons for any particular exercise or non-exercise of any such power or any such discretion or the material upon which such reasons shall be or might have been based; or
- (b) any other document relating to the exercise or proposed exercise of any power or any discretion conferred on the Trustee by this Deed (not being legal advice obtained by the Trustee at the cost of the Trust Fund).

14 Vacation of office by Trustee

The office of a Trustee shall be ipso facto determined and vacated if such Trustee being an individual shall be found to be a lunatic or of unsound mind or if he shall become subject to any bankruptcy law or if such Trustee being a corporation or company shall enter into liquidation whether compulsory or voluntary (not being merely a voluntary liquidation for the purposes of amalgamation or reconstruction).

15 New Trustee may accept account rendered

- 15.1 Any person becoming a Trustee of the Trust Fund may accept the account rendered and the property delivered to him by the continuing Trustee or his predecessors in office without being bound to enquire further as to the assets of the Trust Fund.
- 15.2 Any person ceasing to be a Trustee may be given a full and complete discharge by the responsible entity of each Beneficiary and such discharge shall be effective to release the person ceasing to be a Trustee from all obligations in relation to the Trust Fund or any part thereof as against any Beneficiary and such discharge shall bind all persons who have or might take any interest in the Trust Fund or any part thereof or who have or might have a right to have the Trust Fund properly administered in accordance with the trusts declared in this Deed.
- 15.3 Notwithstanding the provisions of clauses 15.1 and 15.2, a person ceasing to be a Trustee shall not be released by any discharge by the responsible entity of each

Beneficiary from any obligation arising from any acts or omissions fraudulently concealed by such Trustee at the time when such discharge is given.

16 Resignation and Appointment of Trustee

- 16.1 Any Trustee and any person who may by succession become a Trustee may resign or renounce such position by notice in writing to the responsible entity of each Beneficiary and, on the giving of such notice, the Trustee giving the notice shall for all purposes cease to be a Trustee or to be a person who may by succession become a Trustee provided that a sole remaining Trustee shall not resign except on or after appointing a new Trustee or new Trustees (by Deed which appointment is accepted by the new Trustee or new Trustees) in his place.

17 Annexure of instruments to Trust Deed

- 17.1 A copy of all instruments effecting a variation in the Vesting Day, of every revocation addition or variation made pursuant to clause 19 and every resignation of a Trustee pursuant to clause 16 shall be endorsed on or attached to this Deed and every such copy shall be sufficient evidence to any person having dealings with the Trustee as to the facts to which it relates.
- 17.2 Any person dealing with the Trustee may rely upon a copy of this Deed and of any instruments endorsed or, attached to, or referred to in any memorandum endorsed on or to this Deed, certified to be a true copy by the Trustee or (if more than one Trustee) by a Trustee or by a person purporting to be the lawyer for the Trustee, to the same extent as he might rely on the original.

18 Proper law

Subject to any rule of law to the contrary, the proper law of this Trust shall be the place of incorporation of the first Trustee.

19 Amendment of Trust Deed

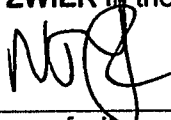
- 19.1 The Trustee for the time being may, at any time and from time to time, by deeds, revocable or irrevocable, revoke add to or vary all or any of the trusts terms and conditions contained in this Deed or the trusts terms and conditions contained in any variation or alteration made thereto from time to time and may in like manner declare any new or other trusts terms and conditions concerning the Trust Fund or any part or parts thereof the trusts whereof shall have been so revoked added to or varied provided that the rule against perpetuities is not thereby infringed and provided that such new or other trusts powers discretions alterations or variations -
- (a) shall not be in favour of or result in any benefit to the Settlor or the Trustee;
 - (b) shall not change the Beneficiaries or a Beneficiary's Trust Fund Entitlement without the approval of the Supreme Court of Victoria or any other competent court; and
 - (c) shall not affect the beneficial entitlement to any amount set aside for any Beneficiary prior to the date of the variation alteration or addition.
- 19.2 Save as provided in this clause 19 these presents shall not be capable of being revoked added to or varied.

SCHEDULE BENEFICIARIES

1. 1997 Timbercorp Eucalypts Project (ARSN 112 309 234);
2. 1998 Timbercorp Eucalypts Project (ARSN 112 309 216);
3. 1999 Timbercorp Eucalypts Project (ARSN 085 827 872);
4. 2000 Timbercorp Eucalypts Project (ARSN 091 172 093);
5. 2001 Timbercorp Eucalypts Project (ARSN 094 392 000);
6. 2002 Timbercorp Eucalypts Project (ARSN 098 233 571);
7. 2003 Timbercorp Eucalypts Project (ARSN 103 183 446);
8. 2004 Timbercorp Eucalypts Project (ARSN 108 099 645);
9. 2004 Timbercorp Timberlot (Single Payment) Project (ARSN 108 336 830);
10. 2005 Timbercorp Timberlot (Single Payment) Project (ARSN 111 683 491);
11. 2007/2008 Timbercorp Timberlot (Single Payment) Project (ARSN 122 510 981); and
12. 1999 Timbercorp Eucalypts Double Rotation Project (Private Offer) (Unregistered).

EXECUTED as a DEED

SIGNED SEALED and DELIVERED by
LEON ZWIER in the presence of



Signature of witness

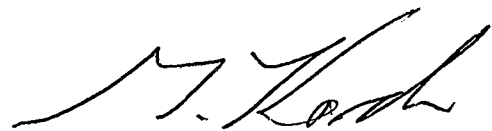
NICOLE JANELLE FLINT

Name of witness (print)



Leon Zwier

EXECUTED by FENCEPORT
PROPRIETARY LIMITED by its sole
director and sole company secretary



Signature of sole director and sole company
secretary

Mark Anthony Korda

Name of sole director and sole company
secretary (print)