

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

LIST E

S CI 2010

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 2004 TIMBERCORP CITRUS PROJECT  
(ARSN 108 887 538) AND THE 2005 TIMBERCORP CITRUS PROJECT (ARSN 114 091 299)  
AND ORS ACCORDING TO THE SCHEDULE

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 23 February 2011

Filed on behalf of: The Plaintiffs

Prepared by:

**Allens Arthur Robinson**  
Lawyers  
530 Collins Street  
Melbourne VIC 3000

Solicitor code: 21455  
DX 30999 Melbourne  
Tel 9614 1011 Fax 9614 4661  
Ref (mkwm:cchm:306250099)  
Matthew.Whittle@aar.com.au  
Clint.Hinchen@aar.com.au

This is the exhibit marked '**PWK35**' now produced and shown to PAUL WILLIAM KIRK at the time of swearing his affidavit on 23 February 2011.

Before me


  
**DANIELLE RUTH NAHUM**  
of 530 Collins Street, Melbourne  
Victoria 3000  
An Australian Legal Practitioner  
within the meaning of the  
Legal Profession Act 2004

Exhibit '**PWK35**'

Extension to the Costa Heads of  
Agreement dated 26 November  
2009

## **Extension of the Costa Heads of Agreement - Kangara**

**Align Funds Management Limited in its capacity as responsible  
entity of the Timbercorp Orchard Trust (Receivers and  
Managers Appointed)**

**Align Funds Management Limited in its capacity as responsible  
entity of the Timbercorp Primary Infrastructure Fund**

**OIM #2 Pty Ltd in its capacity as trustee of the Timbercorp  
Orchard Trust #2 (Receivers and Managers Appointed)**

**Timbercorp Limited (In Liquidation)**

**Timbercorp Securities Limited (In liquidation)**

**Timbercorp Asset Management Pty Ltd (In liquidation)**

**Citruscorp Management Pty Ltd (In liquidation)**

**Grapecorp Management Pty Ltd (In liquidation)**

**CostaExchange Ltd**

**Agriexchange Murtho Pty Ltd**

**Grape Exchange Management Euston Pty Ltd**

**Mark Anthony Korda and Leanne Kylie Chesser**

**Allens Arthur Robinson  
Level 27  
530 Collins Street  
Melbourne VIC 3000 Australia  
Tel +61 3 9614 1011  
Fax +61 3 9614 4661  
[www.aar.com.au](http://www.aar.com.au)**

## Extension of the Costa Heads of Agreement - Kangara

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## Extension of the Costa Heads of Agreement - Kangara

Date	2009
Parties	
1.	<b>Align Funds Management Limited</b> (ACN 105 684 231) of Level 33, 360 Collins Street, Melbourne, Victoria 3000 in its capacity as responsible entity of the Timbercorp Orchard Trust (ARSN 106 557 297) ( <b>Receivers &amp; Managers Appointed</b> ) ( <i>TOT RE</i> ).
2.	<b>Align Funds Management Limited</b> (ACN 105 684 231) of Level 33, 360 Collins Street, Melbourne, Victoria 3000 in its capacity as responsible entity of the Timbercorp Primary Infrastructure Fund (ARSN 116 024 830) ( <i>TPIF RE</i> ).
3.	<b>OIM #2 Pty Ltd</b> (ACN 112 691 997) of Level 33, 360 Collins Street, Melbourne, Victoria 3000 in its capacity as trustee of the Timbercorp Orchard Trust #2 ( <b>Receivers &amp; Managers Appointed</b> ) ( <i>TOT #2 Trustee</i> ).
4.	<b>Timbercorp Limited (In Liquidation)</b> (ACN 055 185 067) of Level 8, 461 Bourke Street, Melbourne, Victoria ( <i>Timbercorp</i> ).
5.	<b>Timbercorp Securities Limited (In liquidation)</b> (ACN 092 311 469) of Level 8, 461 Bourke Street, Melbourne Victoria 3000 in its personal capacity and in its capacity as responsible entity of the relevant Timbercorp Grower Schemes ( <i>TSL</i> ).
6.	<b>Timbercorp Asset Management Pty Ltd (In liquidation)</b> (ACN 105 888 364) of Level 8, 461 Bourke Street, Melbourne, Victoria ( <i>Timbercorp Asset Management</i> ).
7.	<b>Citruscorp Management Pty Limited (In Liquidation)</b> (ACN 105 995 257) of Level 8, 461 Bourke Street, Melbourne, Victoria ( <i>Citruscorp</i> ).
8.	<b>Grapecorp Management Pty Limited (In liquidation)</b> (ACN 105 995 195) of Level 8, 461 Bourke Street, Melbourne, Victoria ( <i>Grapecorp</i> ).
9.	<b>CostaExchange Limited</b> (ACN 002 687 961) of Level 2, 768 Lorimer Street, Port Melbourne, Victoria 3207 (formerly known as Chiquita Brands South Pacific Limited) ( <i>CostaExchange</i> ).
10.	<b>Agriexchange Murtho Pty Limited</b> (ACN 093 583 049) (formerly known as Kangara Foods Pty Ltd and Chiquita Agribusiness Management Pty Ltd) ( <i>Agriexchange</i> ).
11.	<b>Grape Exchange Management Euston Pty Limited</b> (formerly known as Bella Vista Management Pty Ltd) (ACN 116 769 870) of Level 1, 170 Little Malop Street Geelong Victoria 3220 ( <i>BV Management</i> ).

## Extension of the Costa Heads of Agreement - Kangara

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12.	<b>Mark Anthony Korda and Leanne Kylie Chesser in their capacity as joint and several liquidators of Timbercorp Securities Limited (In Liquidation) (ACN 092 311 469), Timbercorp Limited (In Liquidation) (ACN 055 185 067), Citruscorp Management Pty Ltd (In Liquidation) (ACN 105 995 257), Timbercorp Asset Management Pty Ltd (In Liquidation) (ACN 105 888 364) and Grapecorp Management Pty Ltd (In Liquidation) (ACN 105 995 195) (<i>Liquidators</i>).</b>
<b>Recitals</b>	
A	The Parties entered into the Costa Heads of Agreement in respect of Kangara, Bella Vista and Solora South on 24 July 2009 with an End Date in respect of Kangara of 30 September 2009, which was extended to 30 October 2009 by TOT RE, CostaExchange, Agriexchange and BV Management exercising an option in accordance with clause 1.16 of the Costa Heads of Agreement.
B	On 22 October 2009 Stephen Graham Longley and Paul William Kirk were appointed by Permanent Nominees (Aust.) Limited as joint and several receivers and managers of all of the assets charged by Align Funds Management Limited in its capacity as responsible entity of the Timbercorp Orchard Trust, pursuant to a fixed and floating charge registered with the Australian Securities and Investments Commission as charge 994221.
C	On 30 October 2009, the End Date of the Costa Heads of Agreement in respect of Solora South was extended to 30 November 2009 by TOT #2 Trustee, CostaExchange and Agriexchange exercising an option in accordance with clause 1.18 of the Costa Heads of Agreement.
D	On 30 October 2009, the Costa Heads of Agreement in respect of Kangara and Bella Vista terminated.
E	Several of the Parties have entered into the Sale of Crop Deeds.
F	The Parties enter into this Agreement to put the terms of the Costa Heads of Agreement and the Sale of Crop Deeds which relate specifically to Kangara back on foot for the Term in accordance with this Agreement and to record and give effect to their common intention.

**It is agreed** as follows.

### **1. Definitions and Interpretation**

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#### **1.1 Definitions**

The following definitions apply unless the context requires otherwise.

**Agreement** means this Extension of the Costa Heads of Agreement - Kangara.

## Extension of the Costa Heads of Agreement - Kangara

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**Bella Vista** means the land described in Folio Identifier 1 / 1067588 and Folio Identifier 22 / 1093662 (previously part of the land described in cancelled Folio Identifier 2 / 1067588).

**Business Day** means Monday to Friday excluding public holidays in Victoria.

**Commencement Date** means the date as defined in clause 2.1.

**Corporations Act** means the *Corporations Act 2001* (Cth).

**CostaExchange Group** means CostaExchange and Agriexchange.

**Costa Heads of Agreement** means the Costa Heads of Agreement dated 24 July 2009 between TOT RE, Align Funds Management Limited (ACN 105 684 231) in its capacity as responsible entity of the Timbercorp Primary Infrastructure Fund (ARSN 116 024 830), OIM #2 Pty Ltd (ACN 112 691 997) in its capacity as trustee of the Timbercorp Orchard Trust #2, Timbercorp, TSL, Citruscorp Management Pty Ltd (In Liquidation) (ACN 105 995 257), CostaExchange Ltd (ACN 002 687 961) (formerly known as Chiquita Brands South Pacific Limited), Timbercorp Asset Management Pty Ltd (In Liquidation) (ACN 105 888 364), Grapecorp, Mark Anthony Korda and Leanne Kylie Chesser in their capacity as joint and several liquidators of TSL, Timbercorp, Citruscorp, Timbercorp Asset Management and Grapecorp, Agriexchange Murtho Pty Ltd (ACN 093 583 049) (formerly known as Kangara Foods Pty Ltd and Chiquita Agribusiness Management Pty Ltd) and BV Management.

**End Date** means the End Date as defined in the Costa Heads of Agreement.

**Grower Schemes** means the Grower Schemes as defined in the Costa Heads of Agreement.

**Kangara** means the land comprising the Kangara Project Land, Kangara Wine Grape Vineyard and Kangara 'S' Orchard, more particularly described in Certificates of Title Volume 5097 Folio 564, Volume 5097 Folio 565, Volume 5097 Folio 566, Volume 5509 Folio 065, Volume 5509 Folio 066, Volume 5131 Folio 062, Volume 6018 Folio 805, Volume 6018 Folio 804 and Volume 6018 Folio 807.

**Kangara End Date** means 30 November 2009 or such other date as may be agreed in writing between TOT RE, Timbercorp, TSL, Citruscorp, CostaExchange and Agriexchange, which must be no later than 3 months after the Commencement Date.

**Parties** means the parties to this Agreement.

**Sale of Crop Deeds** means Sale of Crop Deeds as defined in the Costa Heads of Agreement.

**Solara South** means the land comprising the Solara Project Land and Solara 150 Orchard, more particularly described in Certificates of Title Volume 5955 Folio 914, Volume 5955 Folio 915, Volume 5955 Folio 916 and Volume 5955 Folio 917.

**Solara Project Land** has the meaning given the term in the Costa Heads of Agreement.

**Term** means the period from and including the Commencement Date to and including the Termination Date.

**Termination Date** has the meaning given to that term in clause 2.2 of this Agreement.

## Extension of the Costa Heads of Agreement - Kangara

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*Timbercorp Group* means Timbercorp and its controlled entities.

### 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (e) A reference to a clause, schedule or annexure is a reference to a clause of, or schedule or annexure to, this Agreement.
- (f) A reference to an agreement or document (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document, and includes the recitals, and schedules and annexures to that agreement or document.
- (g) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
- (h) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (i) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (j) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (k) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (l) A reference to *dollars* and \$ is to Australian currency.
- (m) A reference to a *right* or *obligation* of any two or more people comprising a single party confers that right, or imposes that obligation, as the case may be, on each of them severally and each two or more of them jointly. A reference to that party is a reference to each of those people separately (so that, for example, a representation or warranty by that party is given by each of them separately).

## Extension of the Costa Heads of Agreement - Kangara

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- (n) A reference to an *asset* includes any real or personal, present or future, tangible or intangible property or asset (including intellectual property) and any right, interest, revenue or benefit in, under or derived from the property or asset.
- (o) Mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.
- (p) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.

## 2. Term

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### 2.1 Commencement Date

This Agreement will commence on the date it is signed by the parties.

### 2.2 Termination Date

This Agreement will terminate on the earlier of:

- (a) the Kangara End Date; or
- (b) the date this Agreement is validly terminated under the terms of this Agreement or at law.

## 3. Terms of Costa Heads of Agreement back on foot

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### 3.1 Bella Vista rights terminated

- (a) The Parties agree and acknowledge that on 30 October 2009, the Costa Heads of Agreement in respect of Bella Vista was terminated.
- (b) This Agreement does not apply to extend the End Date in relation to Bella Vista under the Costa Heads of Agreement.
- (c) The Parties agree and acknowledge that BV Management retains all its rights under the Costa Heads of Agreement in relation to all matters set out in that agreement up to and including 30 October 2009, including the right to be reimbursed by TOT RE under clause 4.4 of the Costa Heads of Agreement for the period from and including 1 July 2009 to and including 30 October 2009, being the End Date in relation to Bella Vista.
- (d) TOT RE agrees that clause 2.7 of the Costa Heads of Agreement continues to operate as amended in the manner set out in clause 3.2(c).

### 3.2 Kangara terms

- (a) The Parties agree to put the terms of the Costa Heads of Agreement and the Sale of Crop Deeds as they relate specifically to Kangara back on foot for the Term, with the exception of the amendments in clause 3.2(c), as if TOT RE, Timbercorp, TSL, Citruscorp, CostaExchange and Agriexchange agreed to extend the End Date in



## Extension of the Costa Heads of Agreement - Kangara

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accordance with the process described in the definition of End Date in the Costa Heads of Agreement on or prior to 30 October 2009.

- (b) The Parties agree that in relation to Kangara:
- (i) the End Date in the Costa Heads of Agreement is deemed to be extended to 30 November 2009;
  - (ii) the terms of the Costa Heads of Agreement are deemed to continue to operate and never terminated on 30 October 2009, subject to the amendments in clause 3.2(c);
  - (iii) for the purposes of the definition of 'Extended Period' in the Sale of Crop Deeds, the Costa Heads of Agreement, being the rent reduction agreement referred to in that definition, is deemed never terminated on 30 October 2009 and the rent reduction period is deemed extended to the Kangara End Date.
- (c) The following terms of the Costa Heads of Agreement are amended by this Agreement:
- (i) paragraph (b) 'Costs and expenses' contained under the heading 'Kangara Wine Grape Vineyard: Commercial Terms' in Schedule 3 is deleted;
  - (ii) clause 2.7 is deleted and replaced with the following:

'2.7 TOT RE irrevocably and unconditionally directs Agriexchange to pay so much of the Kangara Rent Receivable Amount (if any) as may be owing to TOT RE by Agriexchange during the period up to and including 30 October 2009, after Agriexchange has exercised the right of set-off under clause 7.9, to BV Management in respect of TOT RE's obligation to BV Management under clause 4.4 for the period from and including 1 July 2009 to and including 30 October 2009, provided that BV Management has verified to both TOT RE and Agriexchange (without any obligation on Agriexchange to verify any such payments) that such amount has been properly incurred in accordance with this Agreement.';
  - (iii) clause 7.7 is deleted and replaced with the following:

'7.7 Without limiting clause 7.5, the costs and expenses incurred by the CostaExchange Group entities in performing their Management Obligations includes the Outgoings that the CostaExchange Group entities must pay in accordance with this Agreement.';
  - (iv) clause 7.8 is deleted and replaced with the following:

'7.8 The CostaExchange Group entities agree and acknowledge that they must continue to perform their respective Management Obligations although they may have no recourse to costs and expenses other than those as described in clause 7.5 of this Agreement.';
  - (v) the following new clause 7.11A is inserted after clause 7.11:

## Extension of the Costa Heads of Agreement - Kangara

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'7.11A Notwithstanding any other clause of this Agreement, the Parties acknowledge and agree that until the End Date no amounts are payable by the Timbercorp Group entities or the Liquidators under or in connection with the Kangara Head Lease, the 2004 Citrus Management Agreement, the 2005 Citrus Management Agreement or this Agreement.'; and

(vi) the following new clause 7.11B is inserted after clause 7.11A:

'7.11B For the avoidance of doubt, CostaExchange acknowledges that it has no right to set off, deduct or withhold any amount due and payable by it to any Timbercorp Group entity under the 2004 Citrus Management Agreement or the 2005 Citrus Management Agreement:

- (a) relating to the period prior to 23 April 2009 against any amounts that any Timbercorp Group entity may be or become, liable to pay under the 2004 Citrus Management Agreement or the 2005 Citrus Management Agreement relating to the period after 23 April 2009; or
  - (b) relating to the period after 23 April 2009 against any amounts that any Timbercorp Group entity may be or become, liable to pay under the 2004 Citrus Management Agreement or the 2005 Citrus Management Agreement relating to the period prior to 23 April 2009.'.
- (d) In acknowledgement of clause 3.1, and for the removal of doubt, to the extent that any clause in the Costa Heads of Agreement refers to Kangara and Bella Vista, as of the Commencement Date the relevant clause in the Costa Heads of Agreement now refers only to Kangara, except where it is otherwise specifically referred to in this Agreement.

## 4. Other Terms

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### 4.1 Inconsistency

The Parties agree and acknowledge that where there is any inconsistency between this Agreement and the Costa Heads of Agreement, this Agreement will prevail.

### 4.2 Costs

Each Party must pay its own costs in connection with the preparation and negotiation of this Agreement.

### 4.3 Governing Law

This Agreement is governed by the laws of the State of Victoria, Australia and each party submits to the non-exclusive jurisdiction of the courts of the State of Victoria, Australia.

## Extension of the Costa Heads of Agreement - Kangara

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### **4.4 Amendment**

This Agreement may only be varied or replaced by a document executed by the Parties.

### **4.5 Further Assurance**

Each Party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this Agreement.

### **4.6 No Waiver**

A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

### **4.7 Assignment**

A Party cannot assign, novate or otherwise transfer any of its rights or obligations under this Agreement without the prior written consent of each other Party.

### **4.8 Time of the Essence**

Time is of the essence as regards all dates, periods of time and times specified in this Agreement.

### **4.9 No Relationship**

Other than the Liquidators, no Party has the power to obligate or bind any other Party. Nothing in this Agreement will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between any of the Parties. Nothing in this Agreement will be deemed to authorize or empower any of the Parties to act as agent for or with any other Party.

### **4.10 Notices**

- (a) A notice or other communication required or permitted, under this Agreement, to be served on a person must be in writing and may be served:
  - (i) personally on the person;
  - (ii) by leaving it at the person's current address for service;
  - (iii) by posting it by prepaid post addressed to that person at the person's current address for service;
  - (iv) by facsimile to the person's current number for service; and
  - (v) by email to the person's current email address for service.
- (b) Any Party may change the address, facsimile number or email for service by giving notice to the other Parties.

## Extension of the Costa Heads of Agreement - Kangara

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- (c) If the person to be served is a company, the notice or other communication may be served on it at the company's registered office.
- (d) A notice or other communication is deemed served:
  - (i) if served personally or left at the person's address, upon service;
  - (ii) if posted within Australia to an Australian address, two Business Days after posting and in any other case, seven Business Days after posting;
  - (iii) if served by facsimile, subject to clause 4.10(a)(iv), at the time indicated on the transmission report produced by the sender's facsimile machine indicating that the facsimile was sent in its entirety to the addressee's facsimile;
  - (iv) if served by email, subject to clause 4.10(a)(v), at the time the email containing the notice left the sender's email system, unless the sender receives notification that the email containing the notice was not received by the recipient; and
  - (v) if received after 5.00pm in the place of receipt or on a day which is not a Business Day, at 9.00am on the next Business Day.
- (e) The particulars for service of each Party are set out below.
  - (i) Timbercorp Group entities and the Liquidators:  
Mr Mark Korda  
KordaMentha  
Level 24, 333 Collins Street  
Melbourne Vic 3000  
Facsimile: +61 3 8623 3399  
Email: mkorda@kordamentha.com
  - with a copy to:  
Jane Sheridan  
Arnold Bloch Leibler  
Level 21, 333 Collins Street  
Melbourne Vic 3000  
Facsimile: +61 3 9229 9900  
Email: jsheridan@abl.com.au
  - (ii) TOT RE  
Stephen Graham Longley  
PricewaterhouseCoopers  
Freshwater Place  
2 Southbank Boulevard  
Southbank, Victoria 3006  
Facsimile: +61 3 8613 3203  
Email: Stephen.Longley@au.pwc.com
  - (iii) CostaExchange Group entities:  
Mano Babiolakis  
Level 2, 768 Lorimer Street  
Port Melbourne, Vic 3207  
Facsimile: +61 3 8645 1672  
Email: mano.babiolakis@costaexchange.com.au

## Extension of the Costa Heads of Agreement - Kangara

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### 4.11 Counterparts

This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

### 4.12 No merger

The rights and obligations of the Parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

## 5. Limitation of Liability for TOT RE

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### 5.1 Capacity

TOT RE enters into this Agreement only in its capacity as responsible entity of the Timbercorp Orchard Trust and in no other capacity. Each of the parties to this Agreement acknowledges that the obligations, and any representations and warranties, of TOT RE under this Agreement are:

- (a) limited to Kangara; and
- (b) incurred or given by TOT RE to the Parties in its capacity as responsible entity of the Timbercorp Orchard Trust as it relates to Kangara.

### 5.2 Limitation of TOT RE's liability

- (a) A liability arising under or in connection with this Agreement is limited to and can be enforced against TOT RE only to the extent to which it can be satisfied out of the Kangara property of the Timbercorp Orchard Trust out of which TOT RE is actually indemnified for the liability. This limitation of TOT RE's liability applies despite any other provision of this Agreement and extends to all liabilities and obligations of TOT RE in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Agreement.
- (b) Any party to this Agreement may not sue TOT RE in any capacity other than as responsible entity of the Timbercorp Orchard Trust, including seeking the appointment of a liquidator, an administrator or any similar person to TOT RE or prove in any liquidation, administration or arrangement of or affecting TOT RE (except in relation to property of the Timbercorp Orchard Trust).

### 5.3 Qualifications to limitation

- (a) The limitations in clause 5.2 do not apply to any obligation or liability of TOT RE to the extent that it is not satisfied because under the Timbercorp Orchard Trust Constitution or by operation of law there is a reduction in the extent of TOT RE's indemnification, or TOT RE has no right to indemnification, out of the assets of the Timbercorp Orchard Trust as a result of any fraud, breach of trust or breach of duty by TOT RE relating to this Agreement in its capacity as responsible entity of the Timbercorp Orchard Trust.

## Extension of the Costa Heads of Agreement - Kangara

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- (b) For the avoidance of doubt, if any of the circumstances in clause 5.3(a) arise, TOT RE will be liable both in its personal capacity and in its capacity as responsible entity of the Timbercorp Orchard Trust.

### **5.4 Right to indemnity out of Relevant Trust assets**

Clause 5 is not intended to limit any rights which TOT RE has to be indemnified out of the assets of the Timbercorp Orchard Trust.

## Extension of the Costa Heads of Agreement - Kangara

Executed and delivered as a Deed in Victoria.

Signed sealed and delivered by Align  
Funds Management Limited (ACN 105  
684 231) in its capacity as responsible  
entity of the Timbercorp Orchard Trust  
(ARSN 106 557 297) (Receivers and  
Managers Appointed) by being signed by  
STEPHEN GRAHAM LONGLEY in his  
capacity as joint and several receiver in the  
presence of:

Signature of witness

BERNARD HALL

Name of witness (please print)

C/- PRICEWATERHOUSECOOPERS  
2 Southgate Drive  
Southgate VIC 3006

Address of witness (please print)

Signature of Stephen Graham Longley

Signed sealed and delivered by Align  
Funds Management Limited (ACN 105  
684 231) in its capacity as responsible  
entity of the Timbercorp Primary  
Infrastructure Fund (ARSN 116 024 830) by  
a director and secretary/director:

Signature of director

Signature of director/secretary:

Name of director (please print)

Name of director/secretary (please print)

## Extension of the Costa Heads of Agreement - Kangara

**Executed and delivered as a Deed in Victoria.**

Signed sealed and delivered by Align Funds Management Limited (ACN 105 684 231) in its capacity as responsible entity of the Timbercorp Orchard Trust (ARSN 106 557 297) (Receivers and Managers Appointed) by being signed by STEPHEN GRAHAM LONGLEY in his capacity as joint and several receiver in the presence of:

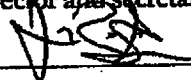
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of Stephen Graham Longley

\_\_\_\_\_  
Name of witness (please print)

\_\_\_\_\_  
Address of witness (please print)

Signed sealed and delivered by Align Funds Management Limited (ACN 105 684 231) in its capacity as responsible entity of the Timbercorp Primary Infrastructure Fund (ARSN 116 024 830) by a director and secretary/director:

  
\_\_\_\_\_  
Signature of director

ANTHONY SAM BATLLIEN

\_\_\_\_\_  
Name of director (please print)

  
\_\_\_\_\_  
Signature of director/secretary

ALAN DAVID FISHER

\_\_\_\_\_  
Name of director/secretary (please print)




## Extension of the Costa Heads of Agreement - Kangara

Signed sealed and delivered by OIM #2  
Pty Ltd (ACN 112 691 997) in its capacity  
as trustee of the Timbercorp Orchard Trust  
#2 (Receivers and Managers Appointed)  
by being signed by ~~STEPHEN GRAHAM~~  
~~LONGLEY~~ in his capacity as joint and  
several receiver in the presence of:

  
Signature of witness

*Bernard Hall*  
Name of witness (please print)

*CP Macmillan & Co Pty Ltd*  
*2 South Bank Ave*  
*Sydney NSW 2002*  
Address of witness (please print)

  
Signature of Stephen Graham Longley

*DAVID LAWRENCE McEVY*  
Address of witness (please print)

Signed sealed and delivered by  
Timbercorp Limited (In Liquidation)  
(ACN 092 311 469) by being signed by  
MARK ANTHONY KORDA in his capacity  
as joint and several liquidator in the  
presence of:

Signature of witness

Name of witness (please print)

Address of witness (please print)

Signature of Mark Anthony Korda

Signed sealed and delivered by  
Timbercorp Securities Limited (In  
Liquidation) (ACN 092 311 469) by being  
signed by MARK ANTHONY KORDA in his  
capacity as joint and several liquidator in  
the presence of:

Signature of witness

Name of witness (please print)

Address of witness (please print)

Signature of Mark Anthony Korda

## Extension of the Costa Heads of Agreement - Kangara

Signed sealed and delivered by OIM #2 Pty Ltd (ACN 112 691 997) in its capacity as trustee of the Timbercorp Orchard Trust #2 (Receivers and Managers Appointed) by being signed by STEPHEN GRAHAM LONGLEY in his capacity as joint and several receiver in the presence of:

Signature of witness

Signature of Stephen Graham Longley

Name of witness (please print)

Address of witness (please print)

Signed sealed and delivered by Timbercorp Limited (In Liquidation) (ACN 092 311 469) by being signed by MARK ANTHONY KORDA in his capacity as joint and several liquidator in the presence of:

Signature of witness

NICK COURTNEY

Name of witness (please print)

cf- 24/333 COLLINS ST

Address of witness (please print)

Signature of Mark Anthony Korda

Leanne Kylie Chesser LKL

Signed sealed and delivered by Timbercorp Securities Limited (In Liquidation) (ACN 092 311 469) by being signed by MARK ANTHONY KORDA in his capacity as joint and several liquidator in the presence of:

Signature of witness

NICK COURTNEY

Name of witness (please print)

cf- 24/333 COLLINS ST

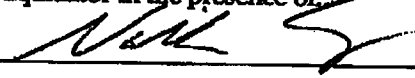
Address of witness (please print)

Signature of Mark Anthony Korda

Leanne Kylie Chesser LKL


Extension of the Costa Heads of Agreement - Kangara

Signed sealed and delivered by  
Timbercorp Asset Management Pty  
Limited (In Liquidation) (ACN 105 888  
364) by being signed by ~~MARK ANTHONY KORDA~~ LEANNE KYLIE CHESSER in her ~~LKL~~  
~~KORDA~~ in his capacity as joint and several  
liquidator in the presence of:

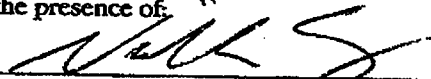
  
Signature of witness

NICK COURTNEY  
Name of witness (please print)

CP 24/333 COLLINS ST  
Address of witness (please print)


  
Signature of ~~Mark Anthony Korda~~  
Leanne Kylie Chess ~~LKL~~

Signed sealed and delivered by  
Citruscorp Management Pty Ltd (In  
Liquidation) (ACN 105 995 257) by being  
signed by ~~MARK ANTHONY KORDA~~ in his LEANNE KYLIE CHESSER in her ~~LKL~~  
capacity as joint and several liquidator in  
the presence of:

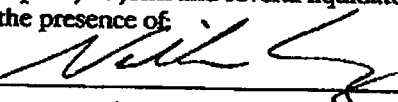
  
Signature of witness

NICK COURTNEY  
Name of witness (please print)

CP 24/333 COLLINS ST  
Address of witness (please print)


  
Signature of ~~Mark Anthony Korda~~  
Leanne Kylie Chess ~~LKL~~

Signed sealed and delivered by  
Grapecorp Management Pty Limited (In  
liquidation) (ACN 105 995 195) by being  
signed by ~~MARK ANTHONY KORDA~~ in his LEANNE KYLIE CHESSER in her ~~LKL~~  
capacity as joint and several liquidator in  
the presence of:

  
Signature of witness

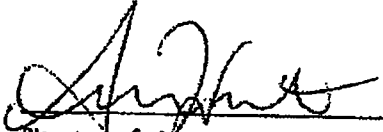
NICK COURTNEY  
Name of witness (please print)

CP 24/333 COLLINS ST  
Address of witness (please print)


  
Signature of ~~Mark Anthony Korda~~  
Leanne Kylie Chess ~~LKL~~

Extension of the Costa Heads of Agreement - Kangara

Signed sealed and delivered by Mark Craig Peter Shepard under Power of Attorney for Mark Anthony Korda in the presence of: Anthony Korda dated 20 December 2004.

  
\_\_\_\_\_  
Signature of witness

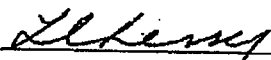
ANDREW KNIGHT  
\_\_\_\_\_  
Name of witness (please print)

  
\_\_\_\_\_  
Signature of Mark Anthony Korda

Signed sealed and delivered for and on behalf of Leanne Kylie Chesser in the presence of:

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name of witness (please print)

  
\_\_\_\_\_  
Signature of Leanne Kylie Chesser

Signed sealed and delivered by CostaExchange Ltd (ACN 002 687 961) by a director and secretary/director:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name of director (please print)

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name of director/secretary (please print)

## Extension of the Costa Heads of Agreement - Kangara

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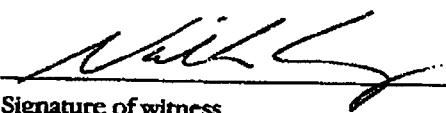
Signed sealed and delivered by ~~Mark~~ *Craig Peter Shepard* under Power of Attorney for Mark Anthony Korda in the presence of: *Anthony Korda dated 20 December 2004.*

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of Mark Anthony Korda

\_\_\_\_\_  
Name of witness (please print)

Signed sealed and delivered for and on behalf of Leanne Kylie Chesser in the presence of:

  
\_\_\_\_\_  
Signature of witness

  
\_\_\_\_\_  
Signature of Leanne Kylie Chesser

*NICK COURTNEY*  
\_\_\_\_\_  
Name of witness (please print)

Signed sealed and delivered by  
CostaExchange Ltd (ACN 002 687 961)  
by a director and secretary/director:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name of director (please print)

\_\_\_\_\_  
Name of director/secretary (please print)

## Extension of the Costa Heads of Agreement - Kangara

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**Signed sealed and delivered by Mark  
Anthony Korda in the presence of:**

---

Signature of witness

---

Signature of Mark Anthony Korda

---

Name of witness (please print)

**Signed sealed and delivered for and on  
behalf of Leanne Kylie Chesser in the  
presence of:**

---

Signature of witness

---

Signature of Leanne Kylie Chesser

---

Name of witness (please print)

**Signed sealed and delivered by  
CostaExchange Ltd (ACN 002 687 961)  
by a director and secretary/director:**



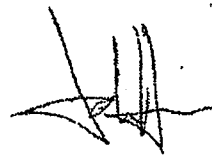
---

Signature of director

*MANOLIS BABIOULAKIS*

---

Name of director (please print)



---

Signature of director/secretary

*JOHN HARRIS*

---

Name of director/secretary (please print)

## Extension of the Costa Heads of Agreement - Kangara

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Signed sealed and delivered by  
Agriexchange Murtho Pty Ltd  
(ACN 093 583 049)  
by a director and secretary/director:



Signature of director

MAND BABIOLAKIS

Name of director (please print)



Signature of director/secretary

JOHN HARRIS

Name of director/secretary (please print)

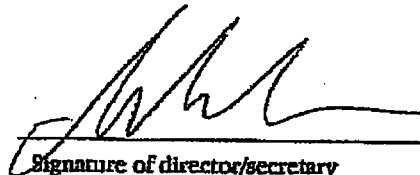
Signed sealed and delivered by Grape  
Exchange Management Ruston Pty Ltd  
(ACN 116 769 870) by a director and  
secretary/director.



Signature of director

GARY MEADOWS

Name of director (please print)



Signature of director/secretary

GEORGE PALATIANDIS

Name of director/secretary (please print)