

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

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

Defendants

**AFFIDAVIT OF MARK ANTHONY KORDA
(FENCEPORT RIGHTS RIGHTS PROCEEDING)**

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

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 01-1601361

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

I, **MARK ANTHONY KORDA** of Level 24, 333 Collins Street, Melbourne in the State of Victoria, Chartered Accountant, **MAKE OATH AND SAY** that:

1 I am:

- (a) with Leanne Kylie Chesser, the liquidator of Timbercorp Securities Limited (in liquidation) (ACN 092 311 469) (**TSL**); and
- (b) with Mark Francis Xavier Mentha, the liquidator of Olivecorp Management Limited (in liquidation) (ACN 089 542 343) (**OML**).

2 I am authorised by Ms Chesser and Mr Mentha to make this affidavit on their behalf. References in this affidavit to "we", "us", "our" or "ourselves" and "Liquidators" are



references to Ms Chesser and me when referring to TSL, and to Mr Mentha and me when referring to OML.

- 3 Except where I otherwise indicate, I make this affidavit from my own knowledge. Where I depose to matters from information and belief, I believe those matters to be true.

Personal background and experience

- 4 I am a chartered accountant and a partner of the firm KordaMentha Pty Ltd (ACN 100 169 391) (**KordaMentha**). I am a Registered Liquidator and an Official Liquidator of the Court. I am a member of the Insolvency Practitioners Association of Australia and a member of the Institute of Chartered Accountants. Before founding KordaMentha in 2002, I had a 24 year career with the firm Arthur Andersen, during which I held the positions of Director of Corporate Finance, Managing Partner Asia Pacific Corporate Recovery Services Practice and Managing Partner Australia Accounting and Audit Practice. I was also a Member of the Australian Executive Committee and Board of Partners. I have been practising in the area of corporate insolvency and financial reconstructions for over 20 years.

Voluntary Administration and Liquidation of TSL, OML and the Timbercorp Group

- 5 On 23 April 2009:
- (a) Ms Chesser and I were appointed as voluntary administrators of TSL; and
 - (b) Mr Mentha and I were appointed as voluntary administrators of OML.
- 6 Also on 23 April 2009, one or more of us, and two other KordaMentha partners, namely Craig Peter Shepard and Clifford Stuart Rocke, were appointed as voluntary administrators of the other companies in the Timbercorp group (together the **Timbercorp Group**). All of the appointments made on 23 April 2009 by those companies were pursuant to section 436A of the *Corporations Act 2001* (Cth) (**Act**).
- 7 On 29 June 2009, at the second meeting of creditors of all of the Timbercorp Group and a separate meeting of the creditors of TSL, the creditors resolved to wind up the Timbercorp Group and TSL respectively. From 29 June 2009, Ms Chesser and I have been the liquidators of TSL, and Mr Mentha and I have been the liquidators of OML.



Timbercorp Olive Projects

- 8 TSL is the responsible entity (**RE**) of four olive projects the subject of this proceeding (the **Fenceport Rights Proceeding**), which are registered managed investment schemes under Part 5C of the Act. Those registered projects are the:
- (a) 2001 Olive Project (ARSN 094 383 082);
 - (b) 2002 Olive Project (ARSN 098 233 455);
 - (c) 2003 Olive Project (ARSN 104 648 473); and
 - (d) 2004 Olive Project (ARSN 108 744 378).
- 9 In addition, there is one olive scheme managed by OML the subject of the Fenceport Rights Proceeding, called the 2000 Timbercorp Olive Project (Private Offer) (Unregistered) (**2000 Private Olive Scheme**). The 2000 Private Olive Scheme was only offered to sophisticated or professional investors. As such, it was not required to be (and accordingly was not) registered under Part 5C of the Act.
- 10 I refer to the five olive projects referred to in paragraphs 8 and 9 above collectively as the "**Boort Olive Projects**".
- 11 The members of the Fenceport Rights Projects are referred to in the governing documents as "**Growers**" and I adopt that terminology here. The purpose of the Boort Olive Projects was the cultivation of olives for commercial sale.

Background to and issues in dispute in the Fenceport Rights Proceeding

- 12 On 13 December 2011, I swore an affidavit in the Fenceport Rights Proceeding in my capacities as the director of the first plaintiff, Fenceport Proprietary Limited (ACN 139 604 121) (**Fenceport**), and a liquidator of the second plaintiff, Olivecorp Land Pty Ltd (in liquidation) (ACN 090 141 512) (**OLPL**) (my **First Affidavit**). The background to the Fenceport Rights Proceeding is set out in paragraphs 5 - 40 of my First Affidavit. Particularly, at paragraph 29, I state that:

"This proceeding has been commenced to determine:

(a) what rights Fenceport, OLPL and the Growers (if any) have to the Net Boort Proceeds;



(b) what the value is of any such rights of Fenceport, OLPL and the Growers; and

(c) how much (if any) of the Net Sale Proceeds each of Fenceport, OLPL and the Growers are entitled to."

13 Similar apportionment proceedings were commenced in relation to the net sale proceeds relating to other Timbercorp projects. Those proceedings are:

- (a) the "**Almond Land Rights Appeal Proceeding**", being proceeding no S CI 2009 10688 in this Honourable Court, which relates to the 2002, 2005, 2006 and 2007 Timbercorp Almond Projects and the 2002 Timbercorp Almond Private Offer Project and in respect of which the judgment given by her Honour Justice Davies on 15 June 2011 is presently subject to appeal in the "**Almond Land Rights Appeal Proceeding**", being Court of Appeal proceeding no S APCI 2011 0103;
- (b) the "**BB Olives Rights Proceeding**", being proceeding no S CI 2010 1354 in this Honourable Court, which relates to the 2006, 2007 and 2008 Timbercorp Olive Projects;
- (c) the "**Solara Rights Proceeding**", being proceeding no S CI 2011 6606 in this Honourable Court, which relates to the 2005 Timbercorp Citrus Project; and
- (d) the "**Liparoo and Yungera Rights Proceeding**", being proceeding no S CI 2011 6604 in this Honourable Court, which relates to the 2001, 2002, 2003, 2004 and 2005 Timbercorp Almond Projects and the 2002 Almond Private Offer Project,

(together with the Fenceport Rights Proceeding, the "**Apportionment Proceedings**").

14 At paragraph 39 of my First Affidavit, I state that:

"... [T]he plaintiffs intend to ... enter into without prejudice negotiations with [the Defendant] Growers with a view to seeking a compromise of the dispute as to the parties' entitlement to the Boort Net Proceeds."

The Fenceport Rights Deed of Compromise

15 From approximately August 2011, I facilitated discussions between, on the one hand, members of the Timbercorp Growers Group, which has represented Growers in the

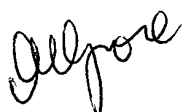


Timbercorp projects throughout the administration and liquidation of TSL, and on the other hand, the secured creditors claiming an interest in the Net Sale Proceeds, with a view to reaching a settlement of the Apportionment Proceedings.

- 16 Following settlement offers and negotiations, which continued throughout the first half of this year, each of the parties to the Fenceport Rights Proceeding and TSL entered into a Deed of Compromise of the Fenceport Olives Rights Proceeding on 25 July 2012 (**Fenceport Rights Deed of Compromise**). Now produced and shown to me and marked "**MAK-1**" is a true copy of the Fenceport Rights Deed of Compromise.
- 17 Although not a party to the Fenceport Rights Proceeding, TSL is a party to the Fenceport Rights Deed of Compromise.
- 18 Pursuant to clause 4 of the Fenceport Rights Deed of Compromise, TSL will receive, hold and distribute the "Boort Settlement Amount" (as that term is defined in clause 1.1 of the Fenceport Rights Deed of Compromise).
- 19 Further, pursuant to clause 9 of the Fenceport Rights Deed of Compromise, at the request of the "**Representative Growers**" (being the first to fifth defendants to the Fenceport Rights Proceeding), TSL was to perform certain administrative roles in connection with the Compromise and this Application, including:
 - (a) distributing the "First Notice to Participant Growers" and the "Second Notice to Participant Growers" to "Participant Growers" (as those terms are defined in the Fenceport Rights Deed of Compromise);
 - (b) establishing and operating a telephone hotline facility and email facility:
 - (i) to receive and, in accordance with instructions provided by the Representative Growers, address comments and questions from Growers in relation to the Fenceport Rights Deed of Compromise; and
 - (ii) receive any objections to the Compromise made by Growers;
 - (c) in respect of Growers who have raised comments, questions or made objections, recording with appropriate detail:
 - (i) the identity of those Growers;



- (ii) the comments and questions raised by those Growers and the responses provided to those Growers; and
 - (iii) any objections made by those Growers and any response provided in relation to those objections;
- (d) acting in accordance with a protocol agreed with the Representative Growers regarding:
 - (i) the comments and questions which:
 - (A) may be answered by TSL without further reference to the Representative Growers;
 - (B) will be required to be provided by TSL to the Representative Growers for the preparation of an appropriate response;
 - (ii) the objections:
 - (A) to which TSL may respond without further reference to the Representative Growers;
 - (B) which will be required to be provided by TSL to the Representative Growers for the preparation of an appropriate response; and
 - (iii) the confidentiality of communications between TSL, the Participant Growers and the Representative Growers in relation to comments, questions and any objections raised by any Participant Growers;
- (e) providing to the Representative Growers, on a timely basis, a record, with appropriate detail, of:
 - (i) all comments, questions and answers given by TSL in accordance with the protocol which do not require preparation of a response by the Representative Growers;
 - (ii) all comments and questions requiring preparation of a response from the Representative Growers;

A handwritten signature in black ink, appearing to read 'Alfons', is located in the bottom right corner of the page.

- (iii) any objections by the Participant Growers to which TSL has provided a response in accordance with the agreed protocol; and
- (iv) any objections requiring the preparation of a response by the Representative Growers; and
- (f) providing on a timely basis to relevant Growers any responses to comments, questions or objections settled by the Representative Growers.

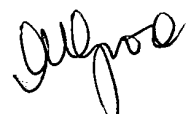
First Notice to Participant Growers and associated correspondence

20 Clause 6.1 of the Fenceport Rights Deed of Compromise provides that, as soon as practicable after execution of the deed, the Representative Growers would draft and seek the other parties' comments on the terms of the First Notice to Participant Growers. Pursuant to clause 6.1(c), the First Notice to Participant Growers was to, amongst other things:

- (a) provide information about the Fenceport Rights Proceeding;
- (b) explain that the interests of the Growers are represented in the Fenceport Rights Proceeding by the Representative Growers;
- (c) refer to the Fenceport Rights Deed of Compromise and its key features;
- (d) explain that the Representative Growers consider the compromise reached under the Fenceport Rights Deed of Compromise to be in the best interests of Growers; and
- (e) explain the various roles being undertaken by TSL at the request of, and on the instruction of, the Representative Growers in connection with this Application and pursuant to the Fenceport Rights Deed of Compromise.

21 I am informed by Jane Sheridan of Arnold Bloch Leibler (**ABL**), our solicitors, that throughout early August 2012, she and the lawyers for the Representative Growers settled the terms of:

- (a) a First Notice to Participant Growers in accordance with clause 6.1(c) of the Fenceport Rights Deed of Compromise;



- (b) a set of frequently asked questions and answers in respect of the Fenceport Rights Deed of Compromise, as referred to in clause 6.1(c)(xvi) of the Fenceport Rights Deed of Compromise (**FAQs**);
- (c) a short letter to Growers notifying Growers of the Fenceport Rights Deed of Compromise and the First Notice to Growers (referred to in more detail in paragraph 26 of this affidavit); and
- (d) an advertisement to be published in *The Australian* newspaper in respect of the Fenceport Rights Deed of Compromise, in accordance with clause 6.2(b)(iii) of the Fenceport Rights Deed of Compromise (referred to in more detail in paragraph 27(a) of this affidavit).

22 I am further informed by Ms Sheridan that, in accordance with our instructions, she prepared:

- (a) a 'Direction to Pay' form, by which a Grower whose payment under the Fenceport Rights Deed of Compromise is subject to a competing claim can direct TSL to pay that Grower's payment under the Fenceport Rights Deed of Compromise to wholly or partly satisfy the competing claim; and
- (b) a 'Bank Account Nomination Form', which a Grower can complete in order to direct TSL to make distributions under the Fenceport Rights Deed of Compromise to an account nominated by the Grower.

23 I refer to the documents listed in paragraphs 21(a), 21(b), 21(c) and 22 collectively as the **Grower Information Documents**. Now produced and shown to me and marked "MAK-2" is a bundle of documents comprising true copies of the Grower Information Documents.

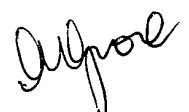
Upload of Grower Information Documents to Webpages

24 I am informed by Jane Sheridan that on or about 13 August 2012:

- (a) ABL established a page on its website dedicated to the Apportionment Proceedings, and that the hyperlink to that page is:

< <http://www.abl.com.au/timbercorp/compromises.htm> >

(**ABL Compromises Webpage**);



- (b) an electronic copy of the Fenceport Rights Deed of Compromise was uploaded to the ABL Compromises Webpage; and
- (c) electronic copies of the Grower Information Documents were uploaded to the ABL Compromises Webpage.

25 I am informed by Antony Munro, a director of KordaMentha who has been assisting us in the liquidation of TSL and other Timbercorp companies and has been extensively involved in the Apportionment Proceedings, that on or about 13 August 2012:

- (a) KordaMentha established a page on its website dedicated to the Apportionment Proceedings, and that the hyperlink to that page is:

< <http://www.kordamentha.com/creditor-information/australia/51/14> >

(KordaMentha Compromises Webpage);

- (b) an electronic copy of the Fenceport Rights Deed of Compromise was uploaded to the KordaMentha Compromises Webpage; and
- (c) electronic copies of the Grower Information Documents were uploaded to the KordaMentha Compromises Webpage.

Informing Growers of the Grower Information Documents and the Hotline

26 On 13 August 2012, we engaged a mailing house, Direct Mail Solutions, to send a short letter to Growers notifying them of:

- (a) the compromise the subject of the Fenceport Rights Deed of Compromise;
- (b) where they could obtain the Fenceport Rights Deed of Compromise and the Grower Information Documents; and
- (c) where inquiries about the compromise, the Fenceport Rights Deed of Compromise or the Grower Information Documents could be directed,

(Short Letter to Growers). Now produced and shown to me and marked "**MAK-3**" is a true copy of the Short Letter to Growers.



27 Pursuant to clause 6.2(b)(ii) of the Fenceport Rights Deed of Compromise, the Short Letter to Growers was sent both:

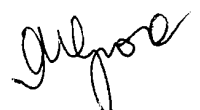
- (a) by email, to the personal and business (where known) email address(es) of Growers that had most recently been communicated to TSL; and also
- (b) by post, to the last personal and business (where known) postal address(es) of Growers that had been communicated to TSL.

28 I am informed by Ishbel Jorgensen of the Timbercorp Grower Management Team (to which I refer in more detail in paragraph 31, below) that:

- (a) a total of 1,704 emails in respect of the Short Letter to Growers in relation to the Fenceport Rights Deed of Compromise were sent to Growers, comprised of:
 - (i) 1,006 emails to Growers' business email addresses; and
 - (ii) 698 emails to Growers' personal email addresses;
- (b) of the 1,704 emails sent, 258 "bounced back" (that is, did not send to the relevant email address); and
- (c) a total of 2,730 hard copies of the Short Letter to Growers in relation to the Fenceport Rights Deed of Compromise were sent to Growers, and 117 of those letters were returned to us:

29 On 10 August 2012 we instructed our staff to send a draft notice in relation to the Fenceport Rights Deed of Compromise to *The Australian* newspaper. On or about 11 August 2012, *The Australian* provided a proof of the notice, which we instructed our staff to approve for publication. On 14 August 2012, the notice was published in *The Australian* newspaper. That notice was titled "**Timbercorp Olive Projects**" and:

- (a) specified the Timbercorp Olive Projects relevant to the Fenceport Rights Proceeding (being the five olive projects referred to in paragraphs 8 and 9 above);
- (b) stated that the parties had reached a compromise of the dispute the subject of the Fenceport Rights Proceeding; and



- (c) stated where the First Notice to Growers was available and to where Growers could direct any inquiries or comments.

Now produced to me and marked "MAK-4" is a true copy of the notice published in *The Australian* newspaper on 14 August 2012 in relation to the Fenceport Rights Deed of Compromise.

Inquiry Hotline and Grower Email Facility

- 30 Since our appointment as administrators, we have caused TSL to maintain a telephone hotline facility and email facility through which Growers could ask questions and update personal information relating to their holdings as Growers. The telephone number for that hotline is (03) 8615-1200 (**Hotline**) and the email address is < investorqueries@timbercorp.com.au > (**Grower Email Facility**).
- 31 The Timbercorp Grower Management Team, under our ultimate supervision, manage the Hotline and Grower Email Facility. There are currently five members of the Timbercorp Grower Management Team and the team reports to Ishbel Jorgensen, General Manager Operations, Timbercorp Limited (in liquidation) (ACN 055 185 067). The Hotline and Grower Email Facility are monitored from 8:30 am to 5:30 pm each business day.
- 32 As the members of the Timbercorp Grower Management Team were familiar with the Growers and the database maintained by Timbercorp in relation to Growers, we considered it appropriate that we use the Hotline and Grower Email Facility as the telephone hotline facility and email facility required under the Fenceport Rights Deed of Compromise.
- 33 In August 2012, we agreed a protocol with the lawyers for the Representative Growers which sets out how the Timbercorp Grower Management Team should respond to comments, questions and objections made by Growers to the Hotline and Grower Email Facility (**Agreed Protocol**) and the form of a report that would be prepared by the Timbercorp Grower Management Team to record details of the comments, questions and objections and responses given to such communications (**Communications Report**). In accordance with clause 9(d) of the Fenceport Rights Deed of Compromise, the Agreed Protocol sets out:
- (a) how calls and emails should be recorded;



- (b) how comments and questions should be answered;
- (c) how to respond to comments and objections; and
- (d) how to refer comments, questions and objections to Clarendon Lawyers, the solicitors for the Representative Growers.

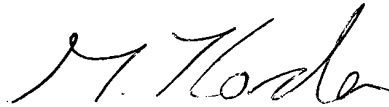
Now produced and shown to me and marked "**MAK-5**" is a true copy of the Agreed Protocol and the Communications Report.

- 34 I am informed by Antony Munro that on 9 August 2012, he, Leanne Chesser, Ishbel Jorgensen, Jane Sheridan and Jing Chang of ABL and Celia Armstrong of Clarendon Lawyers met with the Timbercorp Grower Management Team and explained to them the general nature and background of the Fenceport Rights Deed of Compromise, the Grower Information Documents, the Agreed Protocol and the Communications Report.
- 35 The Hotline and Grower Email Facility commenced receiving comments, questions and objections from Growers in relation to the compromise the subject of Fenceport Rights Deed of Compromise on 14 August 2012 and continues to receive such communications.
- 36 I am informed by Mr Munro that, in accordance with the Agreed Protocol, as a telephone call is received on the Hotline or an email is sent to the Grower Email Facility, the Timbercorp Grower Management Team document, in the Communications Report for that day, that telephone call or email and the response to that telephone call or email by the Timbercorp Grower Management Team. The Timbercorp Grower Management Team also indicate in the Communications Report whether the telephone call or email requires a response or further action on behalf of the Representative Growers (**Escalated Queries and Comments**).
- 37 The completed Communications Report for each day is provided by Mr Munro to Clarendon Lawyers following the relevant day. Now produced and shown to me and marked "**Confidential MAK-6**" is a compact disc containing true copies of the Communications Reports for each day from 14 August 2012 to 17 September 2012. I ask for an order that exhibit **Confidential MAK-6** be marked confidential and kept in a sealed envelope and not be available for inspection, subject to further order, as it

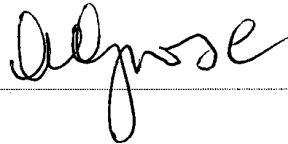


contains personal private information of Growers that call the Hotline or send an email to the Grower Email Facility.

SWORN at Melbourne)
in the State of Victoria)
by **MARK ANTHONY KORDA**)
this 18th day of September 2012)



Before me:



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

SCHEDULE OF PARTIES

FENCEPORT PROPRIETARY LIMITED (ACN 139 604 121)

First Plaintiff

and

OLIVECORP LAND PTY LTD (IN LIQUIDATION) (ACN 090 141 512)

Second Plaintiff

and

MARK ANTHONY KORDA

(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))

Third Plaintiff

and

MARK FRANCIS XAVIER MENTHA

(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))

Fourth Plaintiff

and

CON MOSHOPOLOUS

(in his capacity as a Grower in the 2000 Timbercorp Olive Project (Private Offer)

(Unregistered))

First Defendant

and

PAULINE EMMA HAMMER

(in her capacity as a Grower in the 2001 Timbercorp Olive Project (ARSN 094 383 082))

Second Defendant

and

DAVID SYDNEY BUTTERFIELD

(in his capacity as a Grower in the 2002 Timbercorp Olive Project (ARSN 098 233 455))

Third Defendant

and

GRAHAM GOLDENBERG

(in his capacity as a Grower in the 2003 Timbercorp Olive Project (ARSN 104 648 473))

Fourth Defendant

and

SHUN KING LI

(in his capacity as a Grower in the 2004 Timbercorp Olive Project (ARSN 108 744 378))

Fifth Defendant

r43.06

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

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

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

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

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 01-1601361

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

This is the exhibit marked "**MAK-1**" now produced and shown to **MARK ANTHONY KORDA**
at the time of swearing his affidavit on 18 September 2012.

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

Before me: _____

Exhibit "MAK-1"
Fenceport Rights Deed of Compromise

"1 MAK-1"

Fenceport Proprietary Limited
ACN 139 604 121

Olivecorp Land Pty Ltd (in liquidation)
ACN 090 141 512

Mark Anthony Korda
(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))

Mark Francis Xavier Mentha
(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))

Constantine Moshopolous
(in his capacity as a representative of the Growers in the 2000 Timbercorp Olive Project (Private Offer) (Unregistered))

Pauline Emma Hammer
(in her capacity as a representative of the Growers in the 2001 Timbercorp Olive Project (ARSN 094 383 082))

David Sydney Butterfield
(in his capacity as a representative of the Growers in the 2002 Timbercorp Olive Project (ARSN 098 233 455))

Graham Goldenberg
(in his capacity as a representative of the Growers in the 2003 Timbercorp Olive Project (ARSN 104 648 473))

Shun King Li
(in his capacity as a representative of the Growers in the 2004 Timbercorp Olive Project (ARSN 108 744 378))

Timbercorp Securities Limited (in liquidation)
ACN 092 311 469

Deed of Compromise for the Fenceport Rights Proceeding

Arnold Bloch Leibler
Ref: JCS JYC 011601361
ABL/2111671

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THIS DEED is made on 25 July 2012

PARTIES

FENCEPORT PROPRIETARY LIMITED

ACN 139 604 121

c/- KordaMentha, Level 24, 333 Collins Street, Melbourne, VIC 3000
("Fenceport")

OLIVECORP LAND PTY LTD (IN LIQUIDATION)

ACN 090 141 512

KordaMentha, Level 24, 333 Collins Street, Melbourne, VIC 3000
("OLPL")

MARK ANTHONY KORDA

(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))
c/- KordaMentha, Level 24, 333 Collins Street, Melbourne, VIC 3000
("Korda")

MARK FRANCIS XAVIER MENTHA

(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))
c/- KordaMentha, Level 24, 333 Collins Street, Melbourne, VIC 3000
("Mentha")

CONSTANTINE MOSHOPOLOUS

(in his capacity as a representative of the Growers in the 2000 Timbercorp Olive Project
(Private Offer) (Unregistered))
c/- Clarendon Lawyers, Level 17, Rialto North Tower, 525 Collins Street, Melbourne, VIC
3000
("Moshopolous")

PAULINE EMMA HAMMER

(in her capacity as a representative of the Growers in the 2001 Timbercorp Olive Project
(ARSN 094 383 082))
c/- Clarendon Lawyers, Level 17, Rialto North Tower, 525 Collins Street, Melbourne, VIC
3000
("Hammer")

DAVID SYDNEY BUTTERFIELD

(in his capacity as a representative of the Growers in the 2002 Timbercorp Olive Project
(ARSN 098 233 455))
c/- Clarendon Lawyers, Level 17, Rialto North Tower, 525 Collins Street, Melbourne, VIC
3000
("Butterfield")

GRAHAM GOLDBERG

(in his capacity as a representative of the Growers in the 2003 Timbercorp Olive Project
(ARSN 104 648 473))
c/- Clarendon Lawyers, Level 17, Rialto North Tower, 525 Collins Street, Melbourne, VIC
3000
("Goldenberg")

SHUN KING LI

(in his capacity as a representative of the Growers in the 2004 Timbercorp Olive Project (ARSN 108 744 378))
c/- Clarendon Lawyers, Level 17, Rialto North Tower, 525 Collins Street, Melbourne, VIC 3000
("LI")

TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION)

ACN 092 311 469
c/- Arnold Bloch Leibler, Level 21, 333 Collins Street, Melbourne VIC 3000
("TSL")

RECITALS

- A Timbercorp Limited (in liquidation) ("**Timbercorp**") and its subsidiary entities (together, the "**Timbercorp Group**") conducted various agribusiness projects involving the management, cultivation, harvesting, processing and sale of almonds, olives and citrus, including the Olive Projects.
- B Each entity in the Timbercorp Group is currently in liquidation.
- C OLPL is currently in liquidation.
- D The Growers are investors in the Olive Projects which were conducted on the Boort Land.
- E TSL is the responsible entity for the Olive Projects other than the 2000 Timbercorp Olive Project (Private Offer) (Unregistered) for which Olivecorp Management Limited (in liquidation) (ACN 089 542 343) ("**OML**") is the project manager.
- F Fenceport provided the Fenceport Advance to OLPL and Olivecorp Processing and obtained the Fenceport Security over the assets of OLPL, Olivecorp Processing and TSL used in the Olive Projects, including the Boort Land ("**Boort Assets**").
- G In the course of the liquidation of OLPL, and with Court approval, the Boort Assets were sold ("**Olive Sale**") and the Fund constituted.
- H A dispute exists between Fenceport, OLPL and the Growers regarding the allocation amongst them of the Fund.
- I The Liquidators are, jointly and severally, the stakeholders of the Fund and await the orders of the Court regarding disbursement of the Fund.
- J TFL claims that a number of the Growers are TFL Debtors.
- K TSL claims that a number of the Growers are Timbercorp Debtors.
- L On 13 December 2011, Fenceport commenced Supreme Court of Victoria Proceeding No. S CI 2011 6777, seeking, among other things, declarations as to its, and other relevant parties', rights, if any, to the Fund ("**Fenceport Rights Proceeding**").
- M The interests of OLPL in the Fenceport Rights Proceeding are represented by the liquidators of that company.
- N By order made on 16 December 2011 in the Fenceport Rights Proceeding, pursuant to rule 16.01(2) of the Rules:

- (a) Moshopolous was appointed as representative of the Growers in the 2000 Timbercorp Olive Project (Private Offer) (Unregistered);
 - (b) Hammer was appointed as representative of the Growers in the 2001 Timbercorp Olive Project;
 - (c) Butterfield was appointed as representative of the Growers in the 2002 Timbercorp Olive Project;
 - (d) Goldenberg was appointed as representative of the Growers in the 2003 Timbercorp Olive Project; and
 - (e) Li was appointed as representative of the Growers in the 2004 Timbercorp Olive Project,
- (collectively, the "**Representative Growers**").
- O The Parties have agreed to compromise the Fenceport Rights Proceeding on the terms set out in this Deed.
 - P The Representative Growers consider that it is for the benefit of the class of persons whom they respectively represent that the Fenceport Rights Proceeding be compromised on the terms set out in this Deed.
 - Q Fenceport and OLPL each support the Fenceport Rights Proceeding being compromised on the terms set out in this Deed and, together with the Representative Growers, will seek the Court's approval of the Compromise.

AGREED TERMS

1 Definitions and interpretation

1.1 Definitions

In this document, unless the context requires otherwise:

"Almond Land Appeal Deed of Compromise" means the deed of compromise dated on or about the date of this Deed to give effect to the compromise of the Almond Land Rights Appeal Proceeding;

"Almond Land Rights Appeal Proceeding" means Supreme Court of Victoria Proceeding No. APCI 2011 0103;

"Approval Application" means the application or applications to the Court for the orders referred to in clause 3.1(a);

"BB Olives Deed of Compromise" means the deed of compromise dated on or about the date of this Deed to give effect to the compromise of the BB Olives Rights Proceeding;

"BB Olives Rights Proceeding" means Supreme Court of Victoria Proceeding No. S CI 2010 1354;

"Boort Extinguishment Date" means 11 January 2010 being the date on which:

- (a) the liquidators of TSL extinguished all of the rights of the Growers in respect of the 2001 Timbercorp Olive Project, the 2002 Timbercorp Olive Project, the 2003 Timbercorp Olive Project and the 2004 Timbercorp Olive Project conducted on the Boort Land; and

- (b) the liquidators of OML extinguished all of the rights of the Growers in respect of the 2000 Timbercorp Olive Project (Private Offer) (Unregistered) conducted on the Boort Land;

"Boort Land" means the land the subject of the Fenceport Rights Proceeding which was owned by OLPL and on which the Olive Projects were conducted;

"Boort Settlement Amount" means \$1,815,000.

"Boort Settlement Entitlement" means, in respect of a Grower, its entitlement, from time to time, to the Boort Settlement Amount (together with any applicable interest on that amount from the date on which the payment provided by clause 4(a) is made by the Liquidators to TSL) on the basis of a rateable distribution of that amount between the Growers in the Olive Projects in accordance with the number of Lots they held in those projects as at the Boort Extinguishment Date;

"Business Day" means a day which is not a Saturday, Sunday or public holiday in Victoria;

"Claim" includes any claim or liability of any kind (including one which is prospective or contingent and the amount of which is not ascertained) and costs (whether or not the subject of a court order);

"Compromise" means the compromise set out in clause 2;

"Court" means the Supreme Court of Victoria;

"Costs" includes legal fees and disbursements;

"Deed" means this document, including any schedule or annexure to it;

"Draft Orders" means the draft orders set out in schedule 3 to this Deed;

"Fenceport Advance" means the \$26 million advanced by Fenceport to OLPL and Olivecorp Processing on or about 2 November 2009;

"Fenceport Secured Debt" means the sum of:

- (a) the total amount owed to Fenceport in respect of the Fenceport Advance secured by the Fenceport Security as at the date the payment referred to in clause 4(c)(i) is made to Fenceport, including interest accrued to that date; and
- (b) Fenceport's costs in preparation for, and of, the Fenceport Rights Proceeding including the Approval Application as at the date the payment referred to in clause 4(c)(i) is made to Fenceport;

"Fenceport Security" means the security set out in schedule 2 to this Deed;

"First Notice to Growers" has the meaning set out at clause 6.1(b);

"Fund" means the net sale proceeds of the Olive Sale (including, for the avoidance of doubt, inclusive of all interest) held on trust by the Liquidators, from time to time, pursuant to orders of Justice Croft made on 12 November 2009 and taking into account any other amount which may be deducted pursuant to any subsequent order of the Court;

"Growers" means each "Grower" as that term is defined in the constituent document of each Olive Project, including, for the avoidance of doubt, where applicable, the Grower's legal personal representatives;

"Liparoo and Yungera Deed of Compromise" means the deed the compromise dated on or about the date of this Deed to give effect to the compromise of the Liparoo and Yungera Rights Proceeding;

"Liparoo and Yungera Rights Proceeding" means Supreme Court of Victoria Proceeding No. S CI 2011 6604;

"Liquidators" means Korda and Mentha;

"Lot" means a Grovelot as that term is defined in the constituent documents of each Olive Project;

"Olive Projects" means each of the olive projects listed in schedule 1 to this Deed;

"Olivecorp Processing" means Olivecorp Processing Facility Pty Ltd (In Liquidation) (ACN 098 581 081);

"Party" means a party to this Deed;

"Representative Growers' Costs Correspondence" means:

- (a) the letter from Clarendon Lawyers (solicitors for the Representative Growers) to Arnold Bloch Leibler dated 18 January 2012, including the Framework as referred to and defined in that letter; and
- (b) the letter from Arnold Bloch Leibler to Clarendon Lawyers dated 3 February 2012;

"Rules" means the *Supreme Court (General Civil Procedure) Rules 2005* (Vic);

"Second Notice to Growers" has the meaning set out at clause 6.3(b);

"Solara Deed of Compromise" means the deed the compromise dated on or about the date of this Deed to give effect to the compromise of the Solara Rights Proceeding;

"Solara Rights Proceeding" means Supreme Court of Victoria Proceeding No. S CI 2011 6606;

"TFL" means Timbercorp Finance Pty Ltd (in liquidation) (ACN 054 581 190);

"TFL Debtor" means a Grower who entered into a loan agreement with TFL:

- (a) pursuant to which TFL agreed to lend a specified amount or amounts to that Grower to be used by that Grower to pay liability owed to TSL relating to that Grower's investments in the Olive Projects; and
- (b) under which TFL claims that indebtedness to TFL remains outstanding;

"TFL Indebtedness" means, in respect of a TFL Debtor, its indebtedness to TFL from time to time according to the books and records of TFL;

"Timbercorp Debtor" means a Grower who TSL claims is indebted to TSL;

"Timbercorp Indebtedness" means, in respect of a Timbercorp Debtor, its indebtedness, from time to time, to TSL according to the books and records of TSL;

1.2 Interpretation

- (a) Reference to:
 - (i) the singular includes the plural and the plural includes the singular;
 - (ii) a Party includes the Party's successors, permitted substitutes and permitted assigns (and, where applicable, the Party's legal personal representatives); and
 - (iii) a thing includes the whole and each part of it separately.
- (b) 'Including' and similar expressions are not words of limitation.
- (c) Headings and any table of contents or index are for convenience only and do not form part of this Deed or affect its interpretation.
- (d) A provision of this Deed must not be construed to the disadvantage of a Party merely because that Party was responsible for the preparation of the Deed or the inclusion of the provision in the Deed.

1.3 Parties

- (a) If a Party consists of more than 1 person, this Deed binds each of them separately and any 2 or more of them jointly.
- (b) An obligation in favour of more than 1 person is for the benefit of them separately and jointly.
- (c) A Party that is a trustee is bound both personally and in that Party's capacity as a trustee.
- (d) A Party holds the benefit of any release provided for in this Deed for themselves and, where applicable, for that Party's present and former, directors, officers, employees, contractors, agents and partners.

2 Compromise

Subject to the condition precedent set out in clause 3 being satisfied, the Parties agree to compromise the Fenceport Rights Proceeding by:

- (a) the making of the payments in accordance with clause 4; and
- (b) the giving of releases in accordance with clause 5.

3 Condition Precedent

3.1 Court Orders

It is a condition precedent to the Compromise that, on or before 31 December 2012:

- (a) the Court in the Fenceport Rights Proceeding:
 - (i) pursuant to rule 16.01(4) of the Rules, approves the Compromise and orders that the Compromise shall be binding on the absent persons who are represented respectively by the Representative Growers, in the form of, or substantially to the effect of, paragraph 1 of the Draft Orders; and
 - (ii) makes orders in the form of, or substantially to the effect of, paragraphs 2 and 3 of the Draft Orders;
- (b) the Court makes orders in the Solora Rights Proceeding in accordance with clause 3.1(a) of the Solora Deed of Compromise;
- (c) the Court makes orders in the BB Olives Rights Proceeding in accordance with clause 3.1(a) of the BB Olives Deed of Compromise;

- (d) the Court makes orders in the Liparoo and Yungera Rights Proceeding in accordance with clause 3.1(a) of the Liparoo and Yungera Deed of Compromise; and
- (e) the Court makes orders in the Almond Land Rights Appeal Proceeding in accordance with clause 3.1(a) of the Almond Land Appeal Deed of Compromise.

3.2 Procuring Court Orders

The parties will do all things reasonably necessary to procure the Court to make orders in the terms referred to in clause 3.1.

4 Payments

- (a) As soon as practicable after the condition precedent set out in clause 3.1 is satisfied, the Liquidators will pay to TSL from the Fund, the Boort Settlement Amount by direct deposit into the following interest bearing bank account:

Account name: Mark Korda and Leanne Chesser as Liquidators of
Timbercorp Securities Limited (in Liquidation)
TSL – Olives (Boort)

Bank: Macquarie Bank Limited
BSB: 183334
Account number: 301881645
- (b) TSL will hold the Boort Settlement Amount on trust (as applicable) for the Growers in the Olive Projects for distribution to, or on behalf of, those Growers in accordance with their respective Boort Settlement Entitlements on the following basis.
 - (i) In respect of each Grower who is not a TFL Debtor immediately prior to the time of distribution to each such Grower in accordance with this clause, TSL will pay its Boort Settlement Entitlement as soon as practicable to or at the direction of that Grower (in each case, into a bank account nominated by each such Grower).
 - (ii) In respect of each Grower who:
 - (A) is a TFL Debtor immediately prior to the time of distribution to each such Grower in accordance with this clause; and
 - (B) directs and authorises TSL by notice in writing to pay its TFL Indebtedness to the extent possible out of its Boort Settlement Entitlement,

TSL will, as soon as practicable, pay to TFL that Grower's TFL Indebtedness (to the extent possible) out of the Grower's Boort Settlement Entitlement and remit the balance of that Grower's Boort Settlement Entitlement (if any) to the Grower.
 - (iii) In respect of each Grower who:
 - (A) is a TFL Debtor immediately prior to the time of distribution to each such Grower in accordance with this clause; and
 - (B) has a Boort Settlement Entitlement for a sum greater than its TFL Indebtedness and directs and authorises TSL by notice in writing to pay only part of its TFL Indebtedness out of its Boort Settlement Entitlement,

TSL will, as soon as practicable, pay to TFL that part of that Grower's TFL Indebtedness out of the Grower's Boort Settlement Entitlement and retain

the balance of that Grower's Boort Settlement Entitlement on trust pending agreement in writing between TFL and the relevant Grower, or court order, as to the manner in which it is to be disbursed.

(iv) In respect of each Grower who:

- (A) is a TFL Debtor immediately prior to the time of distribution to each such Grower in accordance with this clause; and
- (B) does not give a direction or authorisation to TSL in relation to payment of its TFL Indebtedness,

TSL will continue to hold that Grower's Boort Settlement Entitlement on trust pending agreement in writing between TFL and the relevant Grower, or court order, as to the manner in which it is to be disbursed.

(c) On the same date as the payment under clause 4(a) is made to TSL, the Liquidators will pay:

(i) to Fenceport (to the extent possible) from the balance of the Fund after payment of the amount referred to in clause 4(a), the Fenceport Secured Debt, into the following bank account:

Account name: Fenceport Pty Ltd
Bank: Macquarie Bank Limited
BSB: 183334
Account number: 301881686

(ii) to OLPL the balance, if any, of the Fund after payment of the amounts referred to in clauses 4(a) and 4(c)(i), into the following bank account:

Account name: Olivecorp Land Pty Ltd
Bank: ANZ
BSB: 013128
Account number: 835428785

(d) For the purposes of clause 4(b)(i):

(i) if a Grower:

- (A) is a Timbercorp Debtor and not a TFL Debtor; and
- (B) so directs and authorises TSL by notice in writing prior to the date on which TSL would otherwise make a payment to the Grower under clause 4(b)(i),

TSL will:

- (C) deduct from the payment due to that Grower under clause 4(b)(i) such amount of that Grower's Timbercorp Indebtedness as is specified in the notice and pay that deducted amount to TSL in full or part satisfaction (as the case may be) of that Grower's Timbercorp Indebtedness; and
- (D) pay the balance (if any) of the payment due to the Grower under clause 4(b)(i) out of the Grower's Boort Settlement Entitlement to the Grower's nominated bank account; and

(ii) for the avoidance of doubt, upon TSL making all applicable payments in respect of a Grower in accordance with clause 4(d), TSL will have discharged its obligations to that Grower under clause 4(b)(i) and thereupon will be entitled to the benefit of the release in clause 5.2 from that Grower.

(e) For the purposes of clause 4(b)(ii):

(i) if a Grower:

- (A) is a Timbercorp Debtor and a TFL Debtor; and
- (B) so directs and authorises TSL by notice in writing prior to the date on which TSL would otherwise make a payment to the Grower under clause 4(b)(ii),

TSL will:

- (C) deduct from the payment due to that Grower under clause 4(b)(ii) such amount of that Grower's Timbercorp Indebtedness as is specified in the notice and pay that deducted amount to TSL in full or part satisfaction (as the case may be) of that Grower's Timbercorp Indebtedness; and
 - (D) pay the balance (if any) of the payment due to the Grower under clause 4(b)(ii) out of the Grower's Boort Settlement Entitlement to the Grower's nominated bank account;
- (ii) for the avoidance of doubt, upon TSL making all applicable payments in respect of a Grower in accordance with clause 4(e), TSL will have discharged its obligations to that Grower under clause 4(b)(ii) and thereupon will be entitled to the benefit of the release in clause 5.2 from that Grower.
- (f) For the purposes of clauses 4(b)(iii) and 4(b)(iv), if a Grower is a Timbercorp Debtor and a TFL Debtor, the Grower will not give any direction or authorisation to TSL to pay any part of that Grower's Timbercorp Indebtedness out of its Boort Settlement Entitlement pending agreement in writing between TFL and the relevant Grower, or relevant Court Order, as to the manner in which that entitlement is to be disbursed.
- (g) The giving of any authorisation or direction by a Grower to TSL under clause 4(b):
- (i) does not constitute an admission of liability by the Grower to TFL in respect of the Grower's TFL Indebtedness; and
 - (ii) is without prejudice to the Grower's rights (if any) against TFL in relation to the Grower's TFL Indebtedness.
- (h) Nothing in the receipt by TFL of any payment from TSL in accordance with clause 4(b) constitutes a waiver of any rights which TFL may have against a Grower in respect of that Grower's remaining TFL Indebtedness. The benefit of this clause is held by TSL on trust for TFL.
- (i) TSL (in its personal capacity) will pay the Representative Growers' costs:
- (i) of and incidental to the Approval Application; and
 - (ii) of and incidental to the directions hearing before the Honourable Justice Davies on 16 December 2011 in the Fenceport Rights Proceeding,
- in accordance with the terms agreed in the Representative Growers' Costs Correspondence. For the avoidance of doubt, payment of the Representative Growers' costs in accordance with this clause is not to be made out of the Fund or any of the funds received by TSL and held on trust for the Growers in accordance with clauses 4(a) and 4(b).

5 Releases

5.1 Representative Growers, Fenceport, OLPL and the Liquidators

Upon satisfaction of the condition precedent in clause 3.1, and the making of the payments in clauses 4(a) and 4(c), the Representative Growers on behalf of the

Growers, Fenceport, OLPL and the Liquidators release and discharge each other from all Claims in relation to:

- (a) their respective entitlements to the Fund; and
- (b) the allocation and disbursement of the Fund under the Compromise,

and this Deed may be pleaded by any Party as a full and complete defence to any such Claim.

5.2 TSL

Upon:

- (a) the releases in clause 5.1 taking effect; and
- (b) the making of a payment or, as applicable, all payments to, or at the direction of, or on the authorisation of, a Grower under clauses 4(b), 4(d) or 4(e) by which that Grower's Boort Settlement Entitlement is disbursed in full,

the Representative Grower for that Grower releases TSL on behalf of that Grower from all Claims in relation to:

- (a) that Grower's entitlement to the Fund;
- (b) the allocation and disbursement of the Fund under the Compromise in respect of that Grower; and
- (c) TSL's obligations to that Grower under clauses 4(b), 4(d) or 4(e) (as the case may be),

and this Deed may be pleaded by TSL as a full and complete defence to any such Claim.

6 Notices to Growers

6.1 First Notice to Growers

- (a) As soon as practicable after this Deed is executed, the Representative Growers will seek the other Parties' comments on the terms of a first notice to Growers, and to this end:
 - (i) the Representative Growers will prepare and circulate among the Parties a draft of the first notice; and
 - (ii) the other Parties will, as soon as practicable thereafter, provide any comments to the Representative Growers on the draft of the first notice.
- (b) The Parties will thereafter confer in good faith in relation to any necessary further comments on the draft first notice and the Representative Growers will finalise the form of the first notice (the finalised form being the **"First Notice to Growers"**).
- (c) The First Notice to Growers will, among other things:
 - (i) provide information about the Fenceport Rights Proceeding;
 - (ii) explain that the interests of the Growers are represented in the Fenceport Rights Proceeding by the Representative Growers;
 - (iii) refer to the Compromise reached between the Parties and explain the key features of this Deed including the various payments contemplated under the Deed;
 - (iv) explain that the Compromise is considered by the Representative Growers as being in the best interests of the Growers;

- (v) alert the Growers to consider any potential tax consequences of the Compromise;
- (vi) explain that if the Court approves the Compromise the Growers will be bound by the Compromise in respect of their individual entitlements (if any) out of the Fund;
- (vii) explain the various roles being undertaken by TSL at the request of, and on the instruction of, the Representative Growers in connection with the Approval Application and under this Deed;
- (viii) explain when the Growers may expect to receive a payment under the Compromise from TSL;
- (ix) explain the mechanism by which each Grower is to provide their individual bank account details to TSL for the purposes of receipt of a payment under the Compromise;
- (x) explain that some Growers are TFL Debtors and Timbercorp Debtors and how the Compromise will apply to the individual circumstances of the Growers (having regard, amongst other things, to the offer of settlement made by TFL to TFL Debtors (amongst others) by letter dated 8 February 2012);
- (xi) explain how each Grower can access private information in relation to their individual circumstances in respect of the Compromise including the number of Lots they held in the Olive Projects as at the Boort Extinguishment Date and, where applicable, their TFL Indebtedness and Timbercorp Indebtedness (as the case may be);
- (xii) explain, in respect of any payment due to the Growers under the Compromise:
 - (A) the right of each Grower to make a direction and authorisation to TSL in accordance with clauses 4(b), 4(d) and 4(e); and
 - (B) the consequences, where applicable, of making or not making such a direction or authorisation;
- (xiii) explain the consequences if the Court does not approve the Compromise;
- (xiv) explain to the Growers what their options are in connection with the Approval Application;
- (xv) inform the Growers that, without prejudice to any other course they may be advised to take, they may:
 - (A) address any comments or questions in relation to the Compromise, the Approval Application, or their individual circumstances; and
 - (B) raise any objection to the Compromise,

to the Representative Growers through TSL using either a specified telephone hotline facility or by a specified email address, and that a reply will be provided to their comments or questions and, as appropriate, their comments and objections will be noted for the purposes of the hearing of the Approval Application;
- (xvi) refer the Growers to a set of 'frequently asked questions' and related answers which they should review before considering whether it is necessary to ask any questions of the Representative Growers through TSL relating to the Compromise or in connection with the Approval Application; and

- (xvii) inform the Growers that a further notice will be provided to them as soon as practicable after it becomes known whether or not the condition precedent to the Compromise has been satisfied.

6.2 Provision of the First Notice to Growers

As soon as practicable after it has been finalised in accordance with clause 6.1(b), the Representative Growers will provide to TSL the First Notice to Growers and, as soon as practicable thereafter:

- (a) the Representative Growers will cause the First Notice to Growers to be uploaded to the pre-existing Timbercorp section of the Clarendon Lawyers website <http://www.clarendonlawyers.com.au/timbercorp.php>; and
- (b) TSL will (on instruction from, and on behalf of, the Representative Growers):
 - (i) cause the First Notice to Growers to be uploaded to:
 - (A) a new section within the Timbercorp section of the KordaMentha website <http://www.kordamentha.com/creditor-information/australia/51> which will address the Compromise;
 - (B) the pre-existing "Timbercorp Olive Schemes" section of the KordaMentha website <http://www.kordamentha.com/creditor-information/australia/51/05>; and
 - (C) a new section within the Timbercorp section of the Arnold Bloch Leibler website <http://www.abl.com.au/timbercorp/timbercorp.htm> which will address the Compromise;
 - (ii) send to the Growers, by post and by email to their last known postal and email addresses most recently communicated to TSL and recorded in its books and records, a short letter bringing to their attention that the First Notice to Growers has been uploaded to the websites referred to in clause 6.2(a) and 6.2(b) and specifying the relevant links to those websites; and
 - (iii) cause to be published an advertisement on a business day in 'The Australian' newspaper containing information similar to that to be set out in the letter referred to in clause 6.2(b)(ii).

6.3 Second Notice to Growers

- (a) As soon as practicable after it becomes known whether the condition precedent in clause 3 has been satisfied, the Representative Growers will seek the other Parties' comments on the terms of a second notice, and to this end:
 - (i) the Representative Growers will prepare and circulate among the other Parties a draft of the second notice; and
 - (ii) the other Parties will, as soon as practicable thereafter, provide any comments to the Representative Growers on the draft of the second notice.
- (b) The Parties will confer in good faith in relation to any necessary further comments on the draft of the second notice and the Representative Growers will finalise the form of the second notice (the finalised form being the "**Second Notice to Growers**").
- (c) The Second Notice to Growers will, among other things:
 - (i) explain whether the condition precedent to the Compromise set out in clause 3 has been satisfied; and
 - (ii) if the condition precedent to the Compromise set out in clause 3:

- (A) has been satisfied, confirm when the Growers may expect to receive a payment under the Compromise; and
- (B) has not been satisfied, confirm the consequences.

6.4 Provision of the Second Notice to Growers

As soon as practicable after it has been finalised in accordance with clause 6.3(b), the Representative Growers will provide to TSL the Second Notice to Growers and, as soon as practicable thereafter:

- (a) the Representative Growers will cause the Second Notice to Growers to be circulated in the same manner as is set out in respect of the First Notice to Growers under clause 6.2(a); and
- (b) TSL will (on instruction from, and on behalf of, the Representative Growers) cause the Second Notice to Growers to be circulated in the same manner as is set out in respect of the First Notice to Growers under clause 6.2(b).

7 Application for Court approval

- (a) Each of the Parties (as applicable) will use their best endeavours to do all things necessary, including steps contemplated by this Deed, to make the Approval Application and to enable the Court to hear the Approval Application at the earliest opportunity convenient to the Court, including, for the avoidance of doubt, seeking the orders set out in the Draft Orders (or orders substantially to the same effect).
- (b) On the hearing of the Approval Application, subject to the Court making the order in paragraph 1 of the Draft Orders (or an order substantially to the same effect), the Parties will consent to the Court making each of the other orders set out in paragraphs 2 and 3 of the Draft Orders (or orders substantially to the same effect).
- (c) Nothing in clause 7(b) will preclude the Representative Growers from informing the Court of any matter which they, or any of them, consider appropriate to disclose to the Court in connection with the Approval Application in their role as representative parties.

8 Failure to satisfy condition precedent

If the condition precedent in clause 3.1 is not satisfied by 31 December 2012 then this Deed ceases to have any effect. In that event:

- (a) no Party will have any right or entitlement as a result of or by reason of the Parties having entered into this Deed or having conditionally agreed to the Compromise; and
- (b) this Deed, any documents prepared or circulated pursuant to this Deed, and any other documents prepared or circulated in anticipation of, or for the purpose of, the Approval Application may not be referred to or tendered in evidence in the Fenceport Rights Proceeding, the Liparoo and Yungera Rights Proceeding, the Solara Rights Proceeding, the BB Olives Rights Proceeding or the Almond Land Rights Appeal Proceeding.

9 Role of TSL

At the request of the Representative Growers, TSL will perform the following administrative roles in connection with the Compromise and the Approval Application:

- (a) to distribute the First Notice to Growers in accordance with clause 6;
- (b) to establish and operate effectively an appropriate telephone hotline facility and email facility to:
 - (i) receive and, in accordance with instructions from the Representative Growers, address comments and questions from the Growers in connection with the Compromise and the Approval Application; and
 - (ii) receive any objections to the Compromise made by the Growers;
- (c) in respect of the Growers who have raised comments, questions or made objections, to record with appropriate detail:
 - (i) the identity of those Growers;
 - (ii) the comments and questions raised by those Growers and the responses provided to those Growers; and
 - (iii) any objections made by those Growers and any response provided in relation to those objections;
- (d) to act in accordance with a protocol agreed with the Representative Growers regarding:
 - (i) the comments and questions which:
 - (A) may be answered by TSL without further reference to the Representative Growers;
 - (B) will be required to be provided by TSL to the Representative Growers for the preparation of an appropriate response;
 - (ii) the objections:
 - (A) to which TSL may respond without further reference to the Representative Growers;
 - (B) which will be required to be provided by TSL to the Representative Growers for the preparation of an appropriate response;
 - (iii) the confidentiality of communications between TSL, the Growers and the Representative Growers in relation to comments, questions and any objections raised by any Growers;
- (e) to provide to the Representative Growers, on a timely basis, a record, with appropriate detail, of:
 - (i) all comments, questions and answers given by TSL in accordance with the protocol which do not require preparation of a response by the Representative Growers;
 - (ii) all comments and questions requiring preparation of a response from the Representative Growers;
 - (iii) any objections by the Growers to which TSL has provided a response in accordance with the agreed protocol; and
 - (iv) any objections requiring the preparation of a response by the Representative Growers;
- (f) to provide on a timely basis to relevant Growers any responses to comments, questions or objections settled by the Representative Growers;
- (g) to record, with appropriate detail, in an affidavit to be filed on behalf of the Representative Growers in connection with the Approval Application:

- (i) the tasks which TSL has undertaken at the request and on the instruction of the Representative Growers;
 - (ii) the substance of all comments and questions raised to TSL by the Growers and the responses provided by TSL to those Growers; and
 - (iii) the nature of any objections made to TSL by Growers and the responses provided by TSL to those Growers;
- (h) to provide the Second Notice to Growers in accordance with clause 6;
- (i) to make the payments referred to in clause 4(b);
- (j) to act in accordance with any direction or authorisation given by Growers in accordance with clause 4(b);
- (k) to perform such other administrative roles as agreed with the Representative Growers or the other parties in connection with the Compromise and the Approval Application; and
- (l) to provide appropriately qualified personnel to undertake the foregoing.

10 No Waiver

A failure to exercise or a delay in exercising any right, power or remedy under this Deed 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.

11 Execution of counterparts

This Deed may be executed in any number of counterparts. Each counterpart is an original but the counterparts together are one and the same instrument.

12 Electronic delivery of document

If a party delivers an executed counterpart of this document or any other document executed in connection with it ("**Relevant Document**") by facsimile or other electronic means:

- (a) the delivery will be deemed to be an effective delivery of an originally executed counterpart; and
- (b) the party will still be obliged to deliver an originally executed counterpart, but the failure to do so will not affect the validity or effectiveness of the Relevant Document.

13 Entire Agreement

This Deed contains the entire agreement between the Parties with respect to its subject matter.

14 Further Assurances

At the reasonable request of another Party, each Party will do anything reasonably necessary or desirable (including executing agreements and documents) to give full effect to this Deed and the transactions contemplated by it.

15 Stamp Duty

All stamp duty (including fines, penalties and interest) payable on or in connection with the declaration of trust provided in clause 4(b) is payable by TSL.

16 Goods and Services Tax

All payments to be made under this Deed are inclusive of GST, if any.

17 Execution by Attorney or Agent

Any Party may execute this Deed by its attorney or agent. Each attorney or agent executing this Deed that, as at the date of executing this Deed, it has no notice of the revocation or suspension of its power of attorney or agency.

18 Governing law and exclusive jurisdiction

This Deed is governed by the law in force in Victoria. The Parties submit to the exclusive jurisdiction of the courts of Victoria or any competent Federal court exercising jurisdiction in Victoria and waive any right to claim that those courts are an inconvenient forum.

SCHEDULE 1

Olive Projects

- 1 2000 Timbercorp Olive Project (Private Offer) (Unregistered)
- 2 2001 Timbercorp Olive Project (ARSN 094 383 082)
- 3 2002 Timbercorp Olive Project (ARSN 098 233 455)
- 4 2003 Timbercorp Olive Project (ARSN 104 648 473)
- 5 2004 Timbercorp Olive Project (ARSN 108 744 378)

SCHEDULE 2

Fenceport Security

- 1 A fixed and floating charge given by OLPL in favour of Fenceport;
- 2 A fixed and floating charge given by Olivecorp Processing in favour of Fenceport;
- 3 A fixed charge given by OML in favour of Fenceport;
- 4 A fixed charge given by TSL in favour of Fenceport;
- 5 A mortgage of land given by OLPL in favour of Fenceport; and
- 6 A mortgage of land given by Olivecorp Processing in favour of Fenceport.

SCHEDULE 3

Draft Orders

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

List D

SCI 2011 6777

BETWEEN

FENCEPORT PROPRIETARY LIMITED (ACN 139 604 121) AND ORS ACCORDING TO THE SCHEDULE
ATTACHED

Plaintiffs

and

CONSTANTINE MOSHOPOLOUS (IN HIS CAPACITY AS REPRESENTATIVE OF THE GROWERS IN THE
2000 TIMBERCORP OLIVE PROJECT (PRIVATE OFFER) (UNREGISTERED) AND ORS ACCORDING TO
THE SCHEDULE ATTACHED

Defendants

DRAFT MINUTE OF ORDER

JUDGE:

DATE MADE:

ORIGINATING PROCESS:

HOW OBTAINED:

ATTENDANCE:

OTHER MATTERS:

By a deed of compromise, a copy of which is annexed to this Order (*Deed of Compromise*), the parties have agreed to compromise the proceeding (the *Compromise*) conditional upon, among other things, the Court making orders satisfying the condition precedent set out in clause 3 of the Deed of Compromise (including ordering that the Compromise shall be binding on the absent persons represented respectively by the First, Second, Third, Fourth and Fifth Defendants pursuant to rule 16.01(4) of Chapter 1 of the *Supreme Court (General Civil Procedure) Rules 2005* (the *Rules*)).

THE COURT ORDERS THAT:

1. Pursuant to rule 16.01(4) of Chapter 1 of the Rules, the Court approves the Compromise and orders that it shall be binding on the absent persons who are represented respectively by the First, Second, Third, Fourth and Fifth Defendants.

THE COURT ORDERS FURTHER BY CONSENT THAT:

2. The proceeding is dismissed.
3. There be no order as to costs.

DATE: 2012

SCHEDULE OF PARTIES

FENCEPORT PROPRIETARY LIMITED (ACN 139 604 121)

First Plaintiff

and

OLIVECORP LAND PTY LTD (IN LIQUIDATION) (ACN 090 141 512)

Second Plaintiff

and

MARK ANTHONY KORDA
(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))

Third Plaintiff

and

MARK FRANCIS XAVIER MENTHA
(in his capacity as liquidator of Olivecorp Land Pty Ltd (in liquidation))

Fourth Plaintiff

and

CONSTANTINE MOSHOPOLOUS
(in his capacity as a representative of the Growers in the 2000 Timbercorp Olive Project
(Private Offer) (Unregistered))

First Defendant

and

PAULINE EMMA HAMMER
(in her capacity as a representative of the Growers in the 2001 Timbercorp Olive Project
(ARSN 094 383 082))

Second Defendant

and

DAVID SYDNEY BUTTERFIELD
(in his capacity as a representative of the Growers in the 2002 Timbercorp Olive Project
(ARSN 098 233 455))

Third Defendant

and

GRAHAM GOLDENBERG

(in his capacity as a representative of the Growers in the 2003 Timbercorp Olive Project
(ARSN 104 648 473))

Fourth Defendant

and

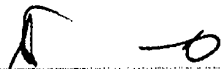
SHUN KING LI

(in his capacity as a representative of the Growers in the 2004 Timbercorp Olive Project
(ARSN 108 744 378))

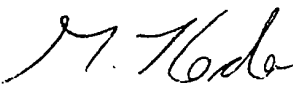
Fifth Defendant

EXECUTED as a DEED

SIGNED SEALED and DELIVERED on)
behalf of **FENCEPORT PROPRIETARY**)
LIMITED by its sole director and secretary)
in the presence of:)



Signature of witness




Mark Anthony Korda




Name of witness (print)

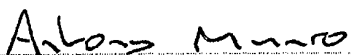
EXECUTED by OLIVECORP LAND PTY)
LTD (IN LIQUIDATION) by being signed)
sealed and delivered in its name and on its)
behalf by **MARK ANTHONY KORDA** in his)
capacity as liquidator in the presence of:)



Signature of witness



Mark Anthony Korda

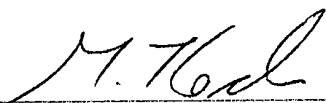


Name of witness (print)


SIGNED SEALED and DELIVERED by)
MARK ANTHONY KORDA in his capacity)
as liquidator of Olivecorp Land Pty Ltd (in)
liquidation) in the presence of:)



Signature of witness



Mark Anthony Korda

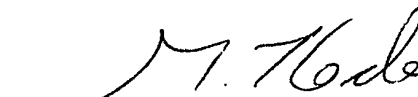


Name of witness (print)


SIGNED SEALED and DELIVERED by)
MARK ANTHONY KORDA as attorney for)
MARK FRANCIS XAVIER MENTHA in his)
capacity as liquidator of Olivecorp Land Pty)
Ltd (in liquidation) under a power of attorney)
dated 31 August 2011 in the presence of:)



Signature of witness



Mark Anthony Korda


Name of witness (print)

SIGNED SEALED and DELIVERED by)
CHRISTOPHER JAMES LOUIS GARNAUT)
as attorney for **CONSTANTINE**)
MOSHOPOLOUS in his capacity as)
representative of the Growers in the 2000)
Timbercorp Olive Project (Private Offer))
(Unregistered) under a power of attorney)
dated 31 January 2012 in the presence of:)

Signature of witness

Christopher James Louis Garnaut

Name of witness (print)

SIGNED SEALED and DELIVERED by)
CHRISTOPHER JAMES LOUIS GARNAUT)
as attorney for **PAULINE EMMA HAMMER**)
in her capacity as representative of the)
Growers in the 2001 Timbercorp Olive)
Project (ARSN 094 383 082) under a power)
of attorney dated 14 March 2012 in the)
presence of:)

Signature of witness

Christopher James Louis Garnaut

Name of witness (print)

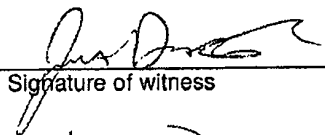
SIGNED SEALED and DELIVERED by)
MARK ANTHONY KORDA as attorney for)
MARK FRANCIS XAVIER MENTHA in his)
capacity as liquidator of Olivecorp Land Pty)
Ltd (in liquidation) under a power of attorney)
dated 31 August 2011 in the presence of:)

Signature of witness

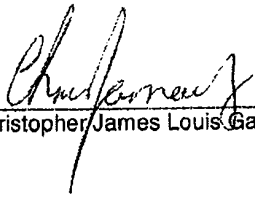
Mark Anthony Korda

Name of witness (print)

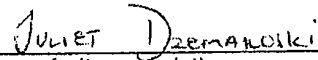
SIGNED SEALED and DELIVERED by)
CHRISTOPHER JAMES LOUIS GARNAUT)
as attorney for **CONSTANTINE**)
MOSHOPOLOUS in his capacity as)
representative of the Growers in the 2000)
Timbercorp Olive Project (Private Offer))
(Unregistered) under a power of attorney)
dated 31 January 2012 in the presence of:)



Signature of witness

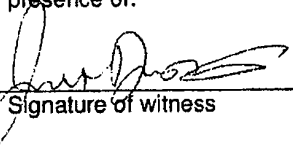


Christopher James Louis Garnaut

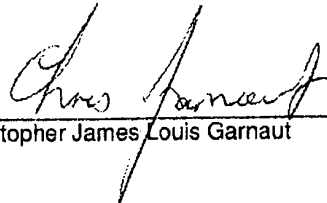


Name of witness (print)

SIGNED SEALED and DELIVERED by)
CHRISTOPHER JAMES LOUIS GARNAUT)
as attorney for **PAULINE EMMA HAMMER**)
in her capacity as representative of the)
Growers in the 2001 Timbercorp Olive)
Project (ARSN 094 383 082) under a power)
of attorney dated 14 March 2012 in the)
presence of:)



Signature of witness

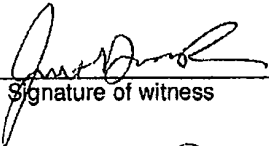


Christopher James Louis Garnaut



Name of witness (print)

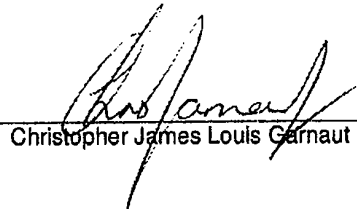
SIGNED SEALED and DELIVERED by)
CHRISTOPHER JAMES LOUIS GARNAUT)
as attorney for DAVID SYDNEY)
BUTTERFIELD in his capacity as)
representative of the Growers in the 2002)
Timbercorp Olive Project (ARSN 098 233)
455) under a power of attorney dated 9)
February 2012 in the presence of:)



Signature of witness

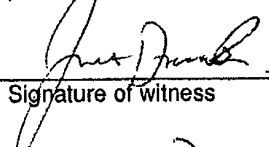
JULIET DZEMALOSKI

Name of witness (print)



Christopher James Louis Garnaut

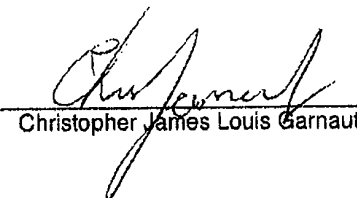
SIGNED SEALED and DELIVERED by)
CHRISTOPHER JAMES LOUIS GARNAUT)
as attorney for GRAHAM GOLDENBERG)
in his capacity as representative of the)
Growers in the 2003 Timbercorp Olive)
Project (ARSN 108 648 473) under a power)
of attorney dated 1 February 2012 in the)
presence of:)



Signature of witness

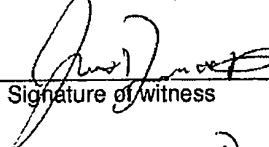
JULIET DZEMALOSKI

Name of witness (print)



Christopher James Louis Garnaut

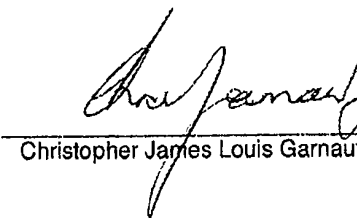
SIGNED SEALED and DELIVERED by)
CHRISTOPHER JAMES LOUIS GARNAUT)
as attorney for SHUN KING LI in his)
capacity as representative of the Growers in)
the 2004 Timbercorp Olive Project (ARSN)
108 744 378) under a power of attorney)
dated 9 February 2012 in the presence of:)



Signature of witness

JULIET DZEMALOSKI

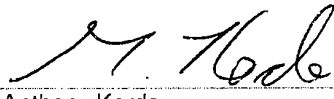
Name of witness (print)




Christopher James Louis Garnaut

EXECUTED by **TIMBERCORP**)
SECURITIES LIMITED (IN LIQUIDATION))
by being signed sealed and delivered in its)
name and on its behalf by **MARK**)
ANTHONY KORDA in his capacity as)
liquidator in the presence of:)


Signature of witness


Mark Anthony Korda


Name of witness (print)

r43.06

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

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

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

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

Prepared by:

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

Solicitor's Code: 54
DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 01-1601361

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

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

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

Before me:

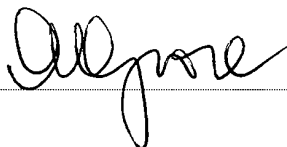


Exhibit "MAK-2"
**The Grower Information Documents in respect
of the Fenceport Rights Deed of Compromise**



Level 17 Rialto North Tower
525 Collins Street Melbourne
Victoria 3000 Australia

T 03 8681 4400 F 03 8681 4499
www.clarendonlawyers.com.au
ABN 15 774 771 940

13 August 2012

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

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

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

Introduction

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

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

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

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

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



Next steps

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

as soon as it is known.

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

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

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

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

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

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

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



Important Information for Growers

1 Background to the dispute

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

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

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

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

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

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



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

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

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

2 Fenceport Rights Proceeding

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

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

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

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

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



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

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

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

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

3 Details of the Compromise

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm.



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

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

Under the terms of the Compromise:

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

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

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



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

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

4 Court approval

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

5 Benefit of the Compromise to the Growers

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

6 Application to the Court for approval of the Compromise

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm



shortly after the conclusion of the directions hearing.

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

7. Rights of Growers in connection with the Approval Application

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

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

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

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

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

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

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



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

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

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

8 Distribution of the Boort Settlement Amount to Growers

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

Growers who are recorded in the books and records of:

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

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

A direction to pay form is available at any of:

www.clarendonlawyers.com.au



www.kordamentha.com/creditor-information/Australia/51
www.abl.com.au/timbercorp/compromises.htm.

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

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

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

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

www.clarendonlawyers.com.au
www.kordamentha.com/creditor-information/Australia/51
www.abl.com.au/timbercorp/compromises.htm.

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

9 Timing of payments to Growers

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

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



If a Grower has any TFL Indebtedness and:

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

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

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

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



10 Tax consequences of the Compromise

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

11 Role of TSL

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

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

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

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

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



12 Further information

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

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

13 Key contacts

Telephone Hotline Facility

(03) 8615 1200

Email address

investorqueries@timbercorp.com.au

Frequently Asked Questions and
Notices to Growers

Available online at any of:

www.clarendonlawyers.com.au,

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

Fenceport Rights Proceeding

Frequently Asked Questions

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

1 What Project am I in?

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

2 How many lots do I have?

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

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

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

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

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

5 What's my entitlement under the Compromise?

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

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

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

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

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

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

or by:

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

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

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

7 How am I going to receive my payment?

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

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

or by:

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

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

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

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

or by:

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

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

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

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

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

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

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

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

or by:

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

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

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

or by:

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

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

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

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

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

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

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

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

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

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

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

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

or by:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 How were the Representative Growers chosen?

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

19 Which lawyers are acting for Growers?

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

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

20 Why have the Representative Growers agreed to the Compromise?

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

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

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

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

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

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

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

24 Can I have a copy of the Compromise Deed?

The Compromise Deed is available online at any of:

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

or by:

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

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

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

26 What are the other compromises that require approval?

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

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

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

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

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

www.clarendonlawyers.com.au

www.kordamentha.com/creditor-information/Australia/51

www.abl.com.au/timbercorp/compromises.htm

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

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

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

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

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

30 Can I object to the Compromise?

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

31 What happens if a Grower objects to the Compromise?

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

32 Am I bound by the Compromise?

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

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

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

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

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

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

| Timbercorp Citrus Project | Solara Compromise entitlement per lot | Total entitlement per lot |
|--------------------------------------|--|--|
| 2005 Citrus | \$316.80 | \$316.80 |

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

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

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

35 Why are some Growers getting more than others?

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

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

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

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

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

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

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

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

38 What happened in the Almond Land apportionment proceeding?

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

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

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

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

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

Our ref: CJA:MJF:1000182

13 August 2012

Dear Grower

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

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

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

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

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

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

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

- www.clarendonlawyers.com.au
- www.kordamentha.com/creditor-information/Australia/51
- www.abl.com.au/timbercorp/compromises.htm

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

Yours faithfully



OLIVE DIRECTION TO PAY

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

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

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

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

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

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

OLIVE DIRECTION TO PAY

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

☐

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

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

☐

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

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

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

☐

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

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

DATE:

SIGNATURE/S:

.....

Please send completed form to:

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

Or fax to: 03 9670 4271
Or email to:
investorqueries@timbercorp.com.au

TIMBERCORP

Bank Account Nomination Form

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

Name of financial institution: _____.

Address of branch: _____

Account Name: _____

BSB (Branch no): _____

Account no: _____

Signature: _____

Investment Name (*please print*): _____

Date: _____

Contact no: _____

Please send completed form to:

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

Or fax to: 03 9670 4271
Or email to:
investorqueries@timbercorp.com.au

r43.06

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

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

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

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

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 01-1601361

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

This is the exhibit marked "**MAK-3**" now produced and shown to **MARK ANTHONY KORDA**
at the time of swearing his affidavit on 18 September 2012.

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

Before me:

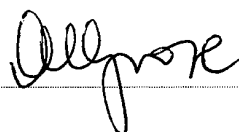


Exhibit "MAK-3"
**Short Letter to Growers in respect of the
Fenceport Rights Deed of Compromise**

"MAK-3"



Level 17 Rialto North Tower
525 Collins Street Melbourne
Victoria 3000 Australia

T 03 8681 4400 F 03 8681 4499
www.clarendonlawyers.com.au
ABN 15 774 771 940

Our ref: CJA:MJF:1000182

13 August 2012

Dear Grower

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

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

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

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

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

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

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

- www.clarendonlawyers.com.au
- www.kordamentha.com/creditor-information/Australia/51
- www.abl.com.au/timbercorp/compromises.htm

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

Yours faithfully

r43.06

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

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

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

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

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 01-1601361

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

This is the exhibit marked "**MAK-4**" now produced and shown to **MARK ANTHONY KORDA**
at the time of swearing his affidavit on 18 September 2012.

MEAGAN LOUISE GROSE

Arnold Bloch Leibler

Level 21, 333 Collins Street

Melbourne 3000

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

Before me: _____

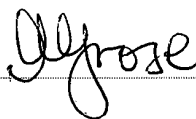


Exhibit "MAK-4"
Notice entitled "Timbercorp Olive Projects"
that was published in *The Australian*
newspaper on 14 August 2012

Public Notices

Timbercorp Olive Projects

NOTICE is given to grower investors in one or more of the following Olive Projects:

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

of a **COMPROMISE** of the dispute between grower investors and other parties to Proceeding No SCI 2011 6777 in the Supreme Court of Victoria in relation to their respective entitlements to the net sale proceeds of the assets used in the Olive Projects.

If the compromise is approved by the Supreme Court of Victoria and the compromises in respect of the other Timbercorp Olive Projects, the Timbercorp Almond Projects and the 2005 Timbercorp Citrus Project are also approved, all grower investors in the Olive Projects will be bound by the terms of the compromise and you will lose any right to seek a different outcome to the dispute.

A notice to grower investors explaining the dispute, the compromise and its effect on the rights and entitlements of grower investors is available on the following websites:

- www.clarendonlawyers.com.au
- www.kordamentha.com/creditor-information/Australia/51
- www.abl.com.au/timbercorp/compromises.htm

or by calling (03) 8615 1200 or by emailing
investorqueries@timbercorp.com.au

It is important that you read the notice carefully as, if approved by the Supreme Court of Victoria, the compromise will affect your rights and entitlements as a grower investor.

r43.06

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

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

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

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

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 01-1601361

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

This is the exhibit marked "**MAK-5**" now produced and shown to **MARK ANTHONY KORDA**
at the time of swearing his affidavit on 18 September 2012.

MEAGAN LOUISE GROSE

Arnold Bloch Leibler

Level 21, 333 Collins Street

Melbourne 3000

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

Before me: _____

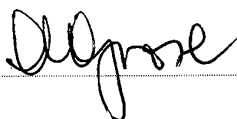


Exhibit "MAK-5"
Agreed Protocol and Communications
Spreadsheet

"MAX-5"

Timbercorp Horticultural Assets Settlement

Protocols for Operators

These protocols are to be followed upon receiving a question by telephone or email from growers in relation to the compromises reached in the Timbercorp Horticultural Asset Settlement proceedings listed below:

- S APCI 2011 0103 Almond Land Rights Appeal Proceeding;
- S CI 2010 1354 Boundary Bend Rights Proceeding;
- S CI 2011 6604 Liparoo and Yungera Rights Proceeding;
- S CI 2011 6606 Solara Rights Proceeding; and
- S CI 2011 6777 Fenceport Rights Proceeding.

1. Recording calls and emails received

(a) Calls

On receipt of a call an operator should record the time and date of the call in the spreadsheet.

The operator should request the following details from the caller to be recorded:

- (i) name; and
- (ii) scheme to which the caller is a member (the caller may not know).

The operator should then allow the caller to ask their question or make their objection to the relevant compromise.

If the caller:

- (i) asks a question and the operator can answer the question (in accordance with section 2), the question and answer or information provided by the operator should be recorded in the spreadsheet;
- (ii) asks a question and the operator cannot answer the question in accordance with section 2, the general nature of the question should be recorded in the spreadsheet and marked for escalation to Clarendon Lawyers; or
- (iii) makes an objection, the general nature of the objection should be recorded in the spreadsheet and marked for escalation to Clarendon Lawyers.

(b) Emails

On receipt of an email an operator should record the following information in the spreadsheet:

- (i) the time and date of the email;
- (ii) name of the person emailing;
- (iii) scheme to which the person is a member (this information may not be provided);
- (iv) any questions asked and the answers or information provided; and
- (v) any objection to the compromise.

2. Answering questions

(a) How to respond

Questions received by call are to be responded to immediately in the call.

Questions received by email are to be answered by return email as promptly as possible.

When answering questions the operator should refer to the frequently asked questions (FAQs) or information on the Timbercorp database.

If the person is not satisfied with the answer given by the operator or the operator is unable to answer the question based on the information in the FAQs or the Timbercorp database, the question is to be forwarded to Clarendon Lawyers.

The operator should tell the person calling or in return email that:

- (i) their question will be referred to Clarendon Lawyers for further consideration; and
- (ii) the person should expect a direct response to their question by Clarendon Lawyers as promptly as possible.

(b) Information to be provided

Operators should not go beyond the scope of the FAQs or the Timbercorp database information when answering questions.

If an operator is unsure of the answer to a question or if the scope of the question goes beyond the information to be provided to growers by operators, the question is to be forwarded to Clarendon Lawyers for further consideration.

3. Responding to objections

Operators should respond to callers and emails with the following information:

- (a) the objection has been recorded; and
- (b) Clarendon Lawyers will be notified of the grower's objection.

4. Referring questions to Clarendon Lawyers

The spreadsheets recording all calls and emails received from growers will be forwarded to Clarendon Lawyers on a daily basis.

The spreadsheets will contain the text of all emails received and the responses to those emails.

Operators must clearly mark on the spreadsheets the questions that are being referred to Clarendon Lawyers for further consideration and answer.

r43.06

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

LIST D
S CI 2011 6777

BETWEEN

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

Plaintiffs

and

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

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

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

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

Solicitor's Code: 54

DX 38455 Melbourne

Tel: 9229 9999

Fax: 9229 9900

Ref: 01-1601361

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

This is the exhibit marked "**Confidential MAK-6**" now produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit on 28 September 2012.

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

Before me: _____

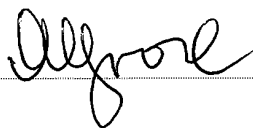


Exhibit "Confidential MAK-6"
Communications Spreadsheets for each day
from 14 August 2012 to 17 September 2012