

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

S CI 2010

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

**TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION) (ACN 092 311 469)**  
**IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE 2004 TIMBERCORP TABLE**  
**GRAPE PROJECT (ARSN 108 648 086) AND THE 2005 TIMBERCORP TABLE GRAPE**  
**PROJECT (ARSN 113 512 236) AND ORS ACCORDING TO THE SCHEDULE**  
Plaintiffs

**CERTIFICATE IDENTIFYING EXHIBIT**

Date of document: 23 December 2010

Filed on behalf of: the Plaintiffs

Prepared by:

**ARNOLD BLOCH LEIBLER**

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

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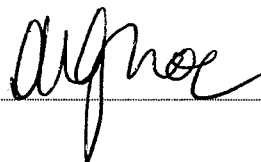
Fax: 9229 9900

Ref: 01-1570028

(Leon Zwier - lzwier@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 23 December 2010.

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

**Exhibit "MAK-1"**  
**Bella Vista Grower Rights Deed**  
**executed 23 December 2010**

" MAK - 1 "

Allens Arthur Robinson



## Bella Vista Grower Rights Deed

**Align Funds Management Limited (formerly known as Orchard Investments Management Limited) (ACN 105 684 231)**  
in its capacity as responsible entity of the Timbercorp Orchard Trust (ARSN 106 557 297)  
(Receivers and Managers Appointed)

**Michael Fung and Paul William Kirk**  
in their capacities as Receivers and Managers of the assets of TOT RE

**Timbercorp Securities Limited (In Liquidation) (ACN 092 311 469)**  
in its personal capacity and in its capacity as responsible entity of  
the 2005 Timbercorp Table Grape Project and in its capacity as responsible entity of the 2004  
Timbercorp Table Grape Project

**Timbercorp Limited (In Liquidation) (ACN 055 185 067)**

**Mark Anthony Korda and Leanne Kylie Chesser**  
in their capacities as Liquidators of TSL and Timbercorp

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

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**Date**

2010

**Parties**

1. **Align Funds Management Limited (formerly known as Orchard Investments Management Limited)** (ACN 105 684 231) in its capacity as responsible entity of the Timbercorp Orchard Trust (ARSN 106 557 297) (Receivers and Managers Appointed) incorporated in Victoria of Level 33, 360 Collins Street, Melbourne, Victoria, 3000 (**TOT RE**).
2. **Michael Fung and Paul William Kirk** in their capacity as joint and several receivers and managers of the assets of Align Funds Management Limited (formerly known as Orchard Investments Management Limited) (ACN 105 684 231) in its capacity as responsible entity of the Timbercorp Orchard Trust (ARSN 106 557 297) (Receivers and Managers Appointed) (**Receivers**).
3. **Timbercorp Securities Limited (In Liquidation)** (ACN 092 311 469) in its personal capacity and in its capacity as responsible entity of the 2004 Timbercorp Table Grape Project (ARSN 108 648 086) and in its capacity as responsible entity of the 2005 Timbercorp Table Grape Project (ARSN 113 512 226) c/o KordaMentha of Level 24, 333 Collins Street, Melbourne, Victoria, 3000 (**TSL**).
4. **Timbercorp Limited (In Liquidation)** (ACN 055 185 067) c/o KordaMentha of Level 24, 333 Collins Street, Melbourne, Victoria, 3000 (**Timbercorp**).
5. **Mark Anthony Korda and Leanne Kylie Chesser** in their capacities as joint and several liquidators of TSL and Timbercorp of Level 24, 333 Collins Street, Melbourne, Victoria, 3000 (**Liquidators**).

**Recitals**

- A TOT RE is the owner of the Land and Water Rights.
- B The Land and Water Rights are currently used in connection with the 2004 Table Grape Project and the 2005 Table Grape Project and, for that purpose, are encumbered by head-leases, sub-leases and licence agreements which were entered into by certain companies in the Timbercorp group of companies, the Growers, and TOT RE.
- C In connection with the receivership of TOT RE, the Receivers are conducting sales processes for the sale of the Land and Water Rights.
- D This Deed sets out arrangements with respect to the extinguishment of the Grower Rights in respect of the Land and Water Rights and the surrender of the Head Leases.

It is agreed as follows.

## 1. Definitions and Interpretation

### 1.1 Definitions

The following definitions apply unless the context requires otherwise.

**2004 Table Grape Project** means the 2004 Timbercorp Table Grape Project (ARSN 108 648 086).

**2005 Table Grape Project** means the 2005 Timbercorp Table Grape Project (ARSN 113 512 226).

**Bella Vista Rights Proceeding** means a proceeding to determine which person or persons have any rights to all or any part of the Net Proceeds.

**Claimant** means each person who has any rights to all or any part of the Net Proceeds, to be determined by the Court in the Bella Vista Rights Proceeding.

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

**Costa Holdings** means Costa Holdings Investments Pty Ltd (ACN 140 921 053).

**Court** means the Supreme Court of Victoria.

**Crop Sale Agreements** means:

- (a) the Sale of Table Grape Agreement 2004 Timbercorp Table Grape Project between TOT RE, the Receivers, the Liquidators, TSL (in its personal capacity and in its capacity as responsible entity of the 2004 Table Grape Project), Timbercorp, Grapecorp Management Pty Ltd and Costa Holdings Investments Pty Ltd dated 11 February 2010;
- (b) the Interim Management Agreement between the same parties in connection with the maintenance of the table grapes for the 2004 Table Grape Project and the 2005 Table Grape Project as amended and extended;
- (c) the 2011 Sale of Table Grape Agreement 2004 Timbercorp Table Grape Project dated 20 December 2010 between the same parties (with the exception of Grapecorp Management Pty Ltd); and
- (d) the 2011 Sale of Table Grape Agreement 2005 Timbercorp Table Grape Project between the same parties (with the exception of Grapecorp Management Pty Ltd) dated 20 December 2010.

**Grower Licences** means, in respect of the 2004 Table Grape Project, the licence agreements granted to Growers in respect of the Land on which the 2004 Table Grape Project is conducted and, in respect of the 2005 Table Grape Project, the licence agreements granted to Growers in respect of the Land on which the 2005 Table Grape Project is conducted.

**Grower Rights** means all of the right, title and interest (if any) of the Growers in the assets the subject of the Sale Agreements, including their rights under the Grower Licences.

**Growers** means the investors in the 2004 Table Grape Project and investors in the 2005 Table Grape Project.



**GST** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999*.

**Head Leases** means the following leases:

- (a) Lease between TOT RE (as lessor) and Timbercorp (as lessee) and TSL dated 15 April 2004 (in relation to the 2004 Table Grape Project);
- (b) Lease between TOT RE (as lessor) and Timbercorp (as lessee) and TSL dated 28 April 2005 (in relation to the 2005 Table Grape Project);
- (c) Sublease between Timbercorp (as underlessor) and TSL (as underlessee) dated 15 April 2004 (in relation to the 2004 Table Grape Project); and
- (d) Sublease between Timbercorp (as underlessor) and TSL (as underlessee) dated 28 April 2005 (in relation to the 2005 Table Grape Project).

**Land** means "Property" as that term is defined in the Land Sale Agreement.

**Land Sale Agreement** means the contract between TOT RE, the Receivers, Costa Holdings as trustee for Charlie Costa Investments Trust, Costa Holdings as trustee for Paul Costa Investments Trust and Carmelo Costa for the sale of the Land dated 23 July 2010.

**Liquidators' Acts** means the activities undertaken by or on behalf of the Liquidators, TSL or Timbercorp in respect of:

- (a) providing documents and other assistance to the Receivers at their request (or at the request of their legal advisers) in respect of the sales process being conducted by the Receivers and other matters relevant to the Receivers' receivership;
- (b) negotiating, preparing and executing this Deed and the Crop Sale Agreements;
- (c) preparing for, convening and holding meetings of the Committee of Inspection of TSL or any other Timbercorp company in relation to this Deed, the Crop Sale Agreements, the Court applications, the Sale Agreements or the Surrender Deeds or the deeds to effect the surrender of the Head Leases;
- (d) preparing, filing and appearing at any Court applications contemplated by clause 4.1 of this Deed; and
- (e) preparing and executing the Surrender Deeds or the deeds to effect the surrender of the Head Leases as contemplated by clause 4.2 of this Deed.

**Liquidators' Costs** has the meaning given in clause 6 of this Deed.

**Net Proceeds** means the net proceeds of sale of the Land and Water Rights after payment of:

- (a) the costs and expenses of the Receivers referable to the preservation and realisation of the assets the subject of the Sale Agreements;
- (b) the Receivers' selling costs and expenses;
- (c) the Liquidators' costs and expenses which are to be reimbursed by the Receivers pursuant to clause 6; and
- (d) retentions (if any).

**Sale Agreements** means the Land Sale Agreement and the Water Sale Agreement.

**Secured Creditor** means Permanent Nominees (Aust) Ltd.

**Settlement** has, in respect of the Land Sale Agreement, the meaning given in the Land Sale Agreement and, in respect of the Water Sale Agreement, the meaning given in the Water Sale Agreement.

**Surrender Deeds** means:

- (a) the deed to be executed by TSL in respect of the 2004 Table Grape Project as agent and attorney for Growers under the 2004 Table Grape Project; and
- (b) the deed to be executed by TSL in respect of the 2005 Table Grape Project as agent and attorney for Growers under the 2005 Table Grape Project,

under which TSL surrenders the Grower Licences, and TSL extinguishes all of the Grower Rights, in respect of the Land and Water Rights with effect on and from settlement of the Sale Agreements, in a form acceptable to TOT RE (acting reasonably).

**Water Sale Agreement** means:

- (a) the Contract of Sale of Water Share dated 22 December 2010 between Align and VicSuper Ecosystem Services Pty Ltd as trustee for the VicSuper Future Farming Landscapes Trust to purchase 2,242.8 ML of High Reliability Water Shares; and
- (b) the Contract of Sale of Water Share dated 22 December 2010 between Align and Tandou Limited to purchase 867 ML water entitlement associated with Water Access Licence (WAL ) No. 21482.

**Water Rights** has the meaning given to that term in the Land Sale Agreement.

## 1.2 Interpretation

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

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (e) A reference to a clause, schedule or annexure is a reference to a clause of, or schedule or annexure to, this Deed.
- (f) A reference to an agreement or document (including a reference to this Deed) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document.
- (g) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
- (h) A reference to a party to this Deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).

- (i) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (j) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (k) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (l) A reference to *dollars* and \$ is to Australian currency.
- (m) All references to time are to Melbourne time.
- (n) Mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.
- (o) Nothing in this Deed is to be interpreted against a party solely on the ground that the party put forward this Deed or a relevant part of it.

## 1.3 Consents or approvals

If the doing of any act, matter or thing under this Deed is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion.

## 2. Liquidators' Obligations

### 2.1 Obligations

The obligations of the Liquidators under this Deed are subject to and conditional upon the due and proper execution of the Sale Agreements.

### 2.2 Notice of execution of Sale Agreements

The Receivers must notify the Liquidators in writing forthwith after the Sale Agreements are executed.

### 2.3 Termination

If the Receivers have not provided a notice to the Liquidators under clause 2.2 on or before 5.00 pm on 31 January 2011 then the Liquidators or the Receivers may give written notice to the other terminating this Deed with immediate effect.

## 3. Receivers' Confirmations and Notice

### 3.1 Exercise of Power of Sale

The Receivers confirm to the Liquidators that, in exercising their power of sale in respect of:



- (a) the Land, they have complied with their obligations under section 420A of the Corporations Act; and
- (b) the Water Rights, they have complied with their obligations under section 420A of the Corporations Act.

### 3.2 Notice of Settlement

The Receivers must notify the Liquidators in writing forthwith after Settlement occurs.

## 4. Grower Rights

### 4.1 Court Application

Within 20 business days after receiving a notice under clause 2.2, the Liquidators will file an application with the Court seeking orders, declarations and/or directions that:

- (a) the Liquidators (in their capacity as Liquidators of TSL) are justified in procuring TSL, in its capacity as responsible entity of the 2004 Table Grape Project and the 2005 Table Grape Project, to extinguish all of the Grower Rights;
- (b) the Liquidators (in their capacity as Liquidators of TSL) are justified in making, doing and executing such documents or things to give effect to the extinguishment of all of the Grower Rights in order to enable TOT RE and the Receivers to perform the Sale Agreements according to their terms;
- (c) upon settlement of any sale under the Sale Agreements, the Net Proceeds of any sale of the Land and Water Rights be held by the Receivers in an interest bearing trust account with an Australian bank (as defined in section 9 of the Corporations Act) pending the hearing and determination of the Bella Vista Rights Proceeding and to be held on trust for the Claimants or until further order of the Court;
- (d) insofar as the Secured Creditor has any rights to the assets the subject of the Sale Agreements, whether under its securities over those assets or otherwise, nothing in the release of those securities upon settlement of the Sale Agreements will prejudice those rights for the purposes of their claim to all or any part of the Net Proceeds of sale of the Land and Water Rights; and
- (e) insofar as the Growers have any rights to the assets the subject of the Sale Agreements, nothing in the orders referred to in (a) to (d) above, or any action taken thereunder by the Liquidators, will prejudice those rights for the purposes of their claim to all or any part of the Net Proceeds of sale of the Land and Water Rights.

### 4.2 Surrender Deeds

As soon as possible after obtaining the orders, declarations and/or directions from the Court referred to in clause 4.1, the Liquidators, TSL and Timbercorp will execute the Surrender Deeds in order to surrender the Grower Licences and extinguish all of the Grower Rights in respect of the Land and Water Rights and the deeds to effect the surrender of the Head Leases, subject to and in accordance with the terms of the relevant deed.



## 4.3 Completion of Water Sale Agreement

The Receivers, TSL, Timbercorp and the Liquidators acknowledge that any Growers Rights in connection with the Water Rights will not be extinguished unless and until completion of the Water Sale Agreement.

## 5. Reasonable Endeavours

### 5.1 Liquidators

The Liquidators will:

- (a) use all reasonable endeavours to procure the hearing of the Court application made for the purposes of satisfying their obligations under clause 4.1 within 35 days after the date of filing of the application or as soon as possible thereafter (having regard to the Court's availability to hear the application);
- (b) provide to TOT RE and the Receivers a copy of the Court documents filed in connection with the application made for the purposes of satisfying their obligations under clause 4.1, promptly after that application is filed, and the Liquidators consent to the Receivers providing a copy of the Court documents to the other parties to the Sale Agreements; and
- (c) provide to TOT RE and the Receivers a copy of the Surrender Deeds executed for the purposes of satisfying their obligations under clause 4.2, promptly after those deeds are executed.

### 5.2 Receivers

The Receivers will promptly provide to the Liquidators all such assistance, prepare and file all such documents, take all such actions and make all such appearances at any Committee of Inspection meetings or Court application, as the Liquidators reasonably require in connection with the Court application made for the purposes of satisfying the Liquidators' obligations under clause 4.1 or the execution of the Surrender Deeds or the deeds to effect the surrender of the Head Leases for the purposes of satisfying their obligations under clause 4.2.

## 6. Liquidators' Costs

- (a) Following settlement of the Sale Agreements, the Receivers will reimburse the Liquidators:
    - (i) as soon as practicable and in any event, within 10 Business Days following Settlement, \$170,000 (plus GST) in full satisfaction of the costs and expenses incurred by the Liquidators in respect of all of the Liquidators' Acts prior to 22 December 2010; and
    - (ii) as soon as practicable and in any event, within 10 Business Days after receipt of a request from the Liquidators, for the costs and expenses (plus GST) incurred by the Liquidators in respect of the Liquidators' Acts after 22 December 2010.
- (Liquidators' Costs).*



- (b) The Parties agree and acknowledge that the Liquidators' Costs are costs incurred with respect to the TOT RE receivership and are only required to be paid by the Receivers from the proceeds of the Sale Agreements.

## 7. GST

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### 7.1 Definitions

For the purposes of this clause 7, Taxable Supply and Consideration will have the meaning given to those terms in section 195-1 of the *A New Tax System (Goods and Services Tax) Act 1999*.

### 7.2 Exclusive of GST

If anything done, or required to be done, under this Deed, or anything done in settlement of the consequences of a breach of any warranty or other clause of this Deed, constitutes a Taxable Supply by one party to another party, unless otherwise provided in this Deed, the Consideration for that Taxable Supply will be exclusive of any GST.

### 7.3 Consideration to be increased

If the party making the Taxable Supply is liable for any GST on that Taxable Supply, subject to that party issuing a valid tax invoice (or adjustment note) to the party that receives the Taxable Supply, the Consideration received will be increased so that the party making the Taxable Supply receives, net of the GST liability, the Consideration otherwise calculated pursuant to this Deed.

## 8. Notices

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Any notice, demand, consent or other communication (a *Notice*) given or made under this Deed:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender;
- (b) must be addressed and delivered to the intended recipient at the address or fax number below or the address or fax number last notified by the intended recipient to the sender after the date of this Deed:

- (i) to TOT RE and the Receivers:
- Attention: Michael Fung  
Address: Freshwater Place, Level 23,  
2 Southbank Boulevard, Victoria, 3006  
Fax No: +61 3 8613 4852  
Email: michael.fung@au.pwc.com
- with a copy to:
- Attention: Steve Clifford  
Address: Level 29, 530 Collins Street,  
Melbourne, Victoria, 3000  
Fax No: +61 3 9614 4661  
Email: Steve.Clifford@aar.com.au



(ii) to the Liquidators, TSL and  
Timbercorp:

Attention: Mark Anthony Korda

Address: Level 24, 333 Collins Street,  
Melbourne, Victoria, 3000

Fax No: +61 3 8623 3399

Email: mkorda@kordamentha.com

with a copy to:

Attention: Jane Sheridan

Address: Level 21, 333 Collins Street,  
Melbourne, Victoria 3000

Fax No: +61 3 9229 9900

Email: jsheridan@abl.com.au

- (c) will be taken to be duly given or made when delivered, received or left at the above fax number or address. If delivery or receipt occurs on a day that is not a business day in the place to which the Notice is sent or is later than 4 pm (local time) at that place, it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

## 9. Entire Agreement

This Deed contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct and prior agreements and understandings between the parties in connection with its subject matter.

## 10. Amendment

This Deed may be amended only by another deed executed by all the parties.

## 11. Assignment

No party may assign, transfer or otherwise deal with this Deed or any right or obligation under this Deed, or attempt or purport to do so, without the prior written consent of each other party, which must not be unreasonably withheld.

## 12. 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.

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## 13. Further Assurances

Each party must do anything necessary or desirable (including executing agreements and documents) to give full effect to this Deed and the transactions contemplated by it.

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## 14. No Merger

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

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## 15. Stamp Duty

All stamp duty (including fines, penalties and interest) payable on or in connection with this Deed and any instrument executed under any transaction evidenced by this Deed must be borne by TOT RE.

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## 16. Severability of Provisions

Any provision of this Deed that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Deed nor affect the validity or enforceability of that provision in any other jurisdiction.

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## 17. Governing Law and Jurisdiction

This Deed is governed by the laws of Victoria. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there with respect to any legal action or proceedings arising out of or in connection with or in any way related to this Deed or its subject matter.

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## 18. Counterparts

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

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## 19. Capacity and Liability of TOT RE

The parties acknowledge that TOT RE enters into this Deed only in its capacity as responsible entity of the Timbercorp Orchard Trust (*TOT*). A liability arising under or in connection with this Deed can be enforced against TOT RE only to the extent to which TOT RE is actually indemnified as responsible entity of TOT in respect of that liability out of the assets comprising the Land and Water Rights. No party will be entitled to:

- (a) claim from or commence proceedings against TOT RE in respect of any liability under this Deed in any capacity other than as responsible entity of TOT; or

- (b) enforce or seek to enforce any judgment in respect of a liability under this Deed against any property of TOT RE other than property held by TOT RE as responsible entity of TOT.



## **Executed and delivered as a Deed** in Melbourne.

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

**Signed sealed and delivered for**  
Align Funds Management Limited  
(ACN 105 684 231) in its capacity as responsible  
entity of the Timbercorp Orchard Trust  
(ARSN 106 557 297) (Receivers and Managers  
Appointed) in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Signature of Receiver

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name of Receiver

**Signed sealed and delivered by Paul William**  
**Kirk** in his capacity as receiver and manager of  
Align Funds Management Limited (ACN 105  
684 231) in its capacity as responsible entity of  
the Timbercorp Orchard Trust  
(ARSN 106 557 297) (Receivers and Managers  
Appointed) in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Signature of Paul William Kirk

\_\_\_\_\_  
Name of Witness

# Bella Vista Grower Rights Deed

Allens Arthur Robinson




**Signed sealed and delivered by Michael Fung**  
in his capacity as receiver and manager of Align  
Funds Management Limited (ACN 105 684 231)  
in its capacity as responsible entity of the  
Timbercorp Orchard Trust (ARSN 106 557 297)  
(Receivers and Managers Appointed) in the  
presence of:

\_\_\_\_\_  
Witness Signature

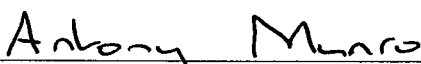
\_\_\_\_\_  
Signature of Michael Fung

\_\_\_\_\_  
Name of Witness

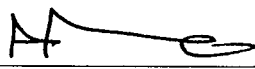
**Signed sealed and delivered by Mark Anthony  
Korda** in his capacity as Liquidator of  
Timbercorp Securities Limited (In Liquidation)  
and Timbercorp Limited (In Liquidation) in the  
presence of:


  
\_\_\_\_\_  
Witness Signature

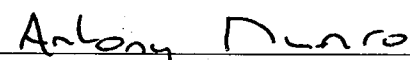
  
\_\_\_\_\_  
Signature of Mark Anthony Korda

  
\_\_\_\_\_  
Name of Witness

**Signed sealed and delivered by Leanne Kylie  
Chesser** in her capacity as Liquidator of  
Timbercorp Securities Limited (In Liquidation)  
and Timbercorp Limited (In Liquidation) in the  
presence of:

  
\_\_\_\_\_  
Witness Signature

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

  
\_\_\_\_\_  
Name of Witness



# Bella Vista Grower Rights Deed

Allens Arthur Robinson



Signed sealed and delivered by Timbercorp Securities Limited (In Liquidation) in its personal capacity and in its capacity as responsible entity of the 2004 Timbercorp Table Grape Project (ARSN 108 648 086) and in its capacity as responsible entity of the 2005 Timbercorp Table Grape Project (ARSN 113 512 226) in the presence of:

Witness Signature

Name of Witness

Signature of Liquidator

Name of Liquidator

Signed sealed and delivered by Timbercorp Limited (In Liquidation) in the presence of:

Witness Signature

Name of Witness

Signature of Liquidator

Name of Liquidator

# Bella Vista Grower Rights Deed

Allens Arthur Robinson

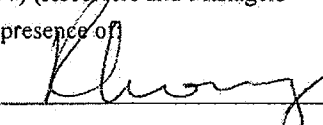


**Executed and delivered as a Deed** in Melbourne.

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

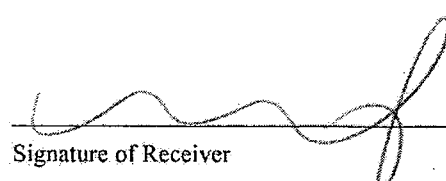
Signed sealed and delivered for  
Align Funds Management Limited  
(ACN 105 684 231) in its capacity as responsible  
entity of the Timbercorp Orchard Trust  
(ARSN 106 557 297) (Receivers and Managers  
Appointed) in the presence of:

Witness Signature

  
Rebecca Long

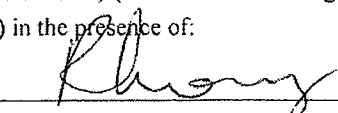
Name of Witness

Signature of Receiver

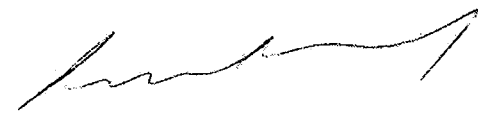
  
MICHAEL FUNG  
Name of Receiver

Signed sealed and delivered by Paul William  
Kirk in his capacity as receiver and manager of  
Align Funds Management Limited (ACN 105  
684 231) in its capacity as responsible entity of  
the Timbercorp Orchard Trust  
(ARSN 106 557 297) (Receivers and Managers  
Appointed) in the presence of:

Witness Signature

  
Rebecca Long

Name of Witness

  
Signature of Paul William Kirk

# Bella Vista Grower Rights Deed

Allens Arthur Robinson



Signed sealed and delivered by Michael Fung  
in his capacity as receiver and manager of Align  
Funds Management Limited (ACN 105 684 231)  
in its capacity as responsible entity of the  
Timbercorp Orchard Trust (ARSN 106 557 297)  
(Receivers and Managers Appointed) in the  
presence of:

Witness Signature

Signature of Michael Fung

Name of Witness

Signed sealed and delivered by Mark Anthony  
Korda in his capacity as Liquidator of  
Timbercorp Securities Limited (In Liquidation)  
and Timbercorp Limited (In Liquidation) in the  
presence of:

Witness Signature

Signature of Mark Anthony Korda

Name of Witness

Signed sealed and delivered by Leanne Kylie  
Chesser in her capacity as Liquidator of  
Timbercorp Securities Limited (In Liquidation)  
and Timbercorp Limited (In Liquidation) in the  
presence of:

Witness Signature

Signature of Leanne Kylie Chesser

Name of Witness

# Bella Vista Grower Rights Deed

Allens Arthur Robinson 

Signed sealed and delivered by Timbercorp  
Securities Limited (In Liquidation) in its  
personal capacity and in its capacity as  
responsible entity of the 2004 Timbercorp Table  
Grape Project (ARSN 108 648 086) and in its  
capacity as responsible entity of the 2005  
Timbercorp Table Grape Project  
(ARSN 113 512 226) in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Signature of Liquidator

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name of Liquidator

Signed sealed and delivered by  
Timbercorp Limited (In Liquidation) in the  
presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Signature of Liquidator

\_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Name of Liquidator

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

S CI 2010

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

**TIMBERCORP SECURITIES LIMITED (IN LIQUIDATION) (ACN 092 311 469)**  
**IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE 2004 TIMBERCORP TABLE**  
**GRAPE PROJECT (ARSN 108 648 086) AND THE 2005 TIMBERCORP TABLE GRAPE**  
**PROJECT (ARSN 113 512 236) AND ORS ACCORDING TO THE SCHEDULE**  
Plaintiffs

**CERTIFICATE IDENTIFYING EXHIBIT**

Date of document: 23 December 2010  
Filed on behalf of: the Plaintiffs

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: 01-1570028

(Leon Zwier - lzwier@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 23 December 2010.

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

**Exhibit "MAK-2"**  
**Affidavit of Mark Anthony Korda**  
**sworn 10 November 2009**