

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

LIST D
S CI 2011 6606

BETWEEN

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997)
AS TRUSTEE FOR THE TIMBERCORP ORCHARD TRUST #2 AND ORS ACCORDING
TO THE SCHEDULE ATTACHED**

Defendants

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

Date of document: 18 September 2012

Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469)

Prepared by:

ARNOLD BLOCH LEIBLER

Lawyers and Advisers

Level 21

333 Collins Street

MELBOURNE 3000

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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, with Leanne Kylie Chesser, the liquidator of Timbercorp Securities Limited (in liquidation) (ACN 092 311 469) (**TSL**).
- 2 I am authorised by Ms Chesser to make this affidavit on her behalf. References in this affidavit to "we", "us", "our" or "ourselves" and "Liquidators" are references to Ms Chesser and me.



- 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 and the Timbercorp Group

- 5 On 23 April 2009, we were appointed as voluntary administrators of TSL. Also on 23 April 2009, one or more of us, and three other KordaMentha partners, namely Mark Francis Xavier Mentha, 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**).
- 6 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, we have been the liquidators of TSL.

2005 Timbercorp Citrus Project

- 7 TSL is the responsible entity (**RE**) of the 2005 Timbercorp Citrus Project (ARSN 114 091 299) (the **2005 Citrus Project**). The 2005 Citrus Project is a registered managed investment scheme under Part 5C of the Act.



- 8 The members of the 2005 Citrus Project are referred to in the governing documents as “**Growers**” and I adopt that terminology here. The purpose of the 2005 Citrus Project was the cultivation of citrus trees for commercial sale.

Background to and issues in dispute in this proceeding

- 9 I refer to the affidavit of Clinton Charles Hinchin sworn on 5 December 2011 in this proceeding (**First Hinchin Affidavit**), a copy of which was provided to me. The background to this proceeding (the **Solara Rights Proceeding**) is set out in paragraphs 4 - 24 of the First Hinchin Affidavit. Particularly, at paragraph 24, Mr Hinchin states that:

“This proceeding has been commenced to determine:

*(a) what rights ANZ, OIM#2 and the Growers (if any) have to the Net Sale Proceeds (the **Rights Issue**);*

*(b) what the value is of any such rights of ANZ, OIM#2 and the Growers respectively (the **Valuation Issue**); and*

(c) how much (if any) of the Net Sale Proceeds ANZ, OIM#2 and the Growers are entitled to receive.”

- 10 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 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 “**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;



- (c) 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; and
 - (d) the "**Fenceport Rights Proceeding**", being proceeding no S CI 2011 6777 in this Honourable Court, which relates to the 2001, 2002, 2003 and 2004 Timbercorp Olive Projects and 2000 Timbercorp Olive Private Offer Project,
- (together with the Solora Rights Proceeding, the "**Apportionment Proceedings**").

11 At paragraph 49 of the First Hinchin Affidavit, Mr Hinchin states that:

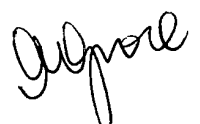
"Following the appointment by the Court of Grower representatives for the Project the subject of this proceeding, ANZ intends to put a without prejudice settlement proposal to those representatives with a view to ascertaining if a compromise of the proceeding can be reached which would be binding on all Growers, subject to the approval of the Court."

The Solora Deed of Compromise

- 12 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.
- 13 Following settlement offers and negotiations, which continued throughout the first half of this year, each of the parties to the Solora Rights Proceeding and TSL entered into a Deed of Compromise of the Solora Rights Proceeding on 25 July 2012 (**Solora Deed of Compromise**). Now produced and shown to me and marked "**MAK- 1**" is a true copy of the Solora Deed of Compromise.
- 14 Although not a party to the Solora Rights Proceeding, TSL is a party to the Solora Deed of Compromise.
- 15 Pursuant to clause 4 of the Solora Deed of Compromise, TSL will receive, hold and distribute the "Solora Settlement Amount" (as that term is defined in clause 1.1 of the Solora Deed of Compromise).



- 16 Further, pursuant to clause 9 of the Solora Deed of Compromise, at the request of the “**Representative Growers**” (being the fourth defendants to Solora 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 Solora 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 Solora 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 handwritten signature in black ink, appearing to read 'J. G. Moore', is located in the bottom right corner of the page.

- (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;
 - (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

17 Clause 6.1 of the Solara 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 Solara Rights Proceeding;




- (b) explain that the interests of the Growers are represented in the Solora Rights Proceeding by the Representative Growers;
- (c) refer to the Solora Deed of Compromise and its key features;
- (d) explain that the Representative Growers consider the compromise reached under the Solora 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 Solora Deed of Compromise.

18 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 and the plaintiff in the Solora Rights Proceeding settled the terms of:

- (a) a First Notice to Participant Growers in accordance with clause 6.1(c) of the Solora Deed of Compromise;
- (b) a set of frequently asked questions and answers in respect of the Solora Deed of Compromise, as referred to in clause 6.1(c)(xvi) of the Solora Deed of Compromise (**FAQs**);
- (c) a short letter to Growers notifying Growers of the Solora Deed of Compromise and the First Notice to Growers (referred to in more detail in paragraph 23 of this affidavit); and
- (d) an advertisement to be published in *The Australian* newspaper in respect of the Solora Deed of Compromise, in accordance with clause 6.2(b)(iii) of the Solora Deed of Compromise (referred to in more detail in paragraph 25 of this affidavit).

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

- (a) a 'Direction to Pay' form, by which a Grower whose payment under the Solora Deed of Compromise is subject to a competing claim can direct TSL to pay that Grower's payment under the Solora 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 Solora Deed of Compromise to an account nominated by the Grower.

20 I refer to the documents listed in paragraphs 18(a), 18(b), 18(c) and 19 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

21 I am informed by Ms 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 Solora 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.

22 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 Solora 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

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

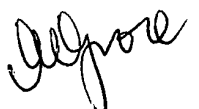
(**Short Letter to Growers**). Now produced and shown to me and marked "**MAK-3**" is a true copy of the Short Letter to Growers.

24 Pursuant to clause 6.2(b)(ii) of the Solora 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 know) postal address(es) of Growers that had been communicated to TSL.

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

- (a) a total of 177 emails in respect of the Short Letter to Growers in relation to the Solora Deed of Compromise were sent to Growers, comprised of:
 - (i) 127 emails to Growers' business email addresses; and
 - (ii) 50 emails to Growers' personal email addresses;
- (b) of the 177 emails sent, 18 "bounced back" (that is, did not send to the stipulated email address); and



- (c) a total of 312 hard copies of the Short Letter to Growers in relation to the Solora Deed of Compromise were sent to Growers, and 13 of those letters were returned to us.
- 26 On 10 August 2012 we instructed our staff to send a draft notice in relation to the Solora 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 “**2005 Timbercorp Citrus Project**” and:
- (a) specified the 2005 Timbercorp Citrus Project was the relevant Timbercorp project in respect of the Solora Rights Proceeding;
- (b) stated that the parties had reached a compromise of the dispute the subject of the Solora 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 Solora Deed of Compromise.

Inquiry Hotline and Grower Email Facility

- 27 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**).
- 28 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 Jorgenson, 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.



- 29 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 Solora Deed of Compromise.
- 30 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 Solora 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.

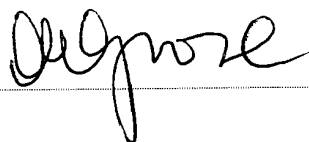
- 31 I am informed by Antony Munro that on 9 August 2012, he, Leanne Chesser, Ishbel Jorgenson, Jane Sheridan and Jing Chang of ABL and Celia Armstrong of Clarendon Lawyers met with the Timbercorp Grower Management Team and explained to them the general nature and background of the Solora Deed of Compromise, the Grower Information Documents, the Agreed Protocol and the Communications Report.
- 32 The Hotline and Grower Email Facility commenced receiving comments, questions and objections from Growers in relation to the compromise the subject of the Solora Deed of Compromise on 14 August 2012 and continues to receive such communications.

- 33 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**).
- 34 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

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)
Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) AS
TRUSTEE FOR TIMBERCORP ORCHARD TRUST #2**
First Defendant

and

**MICHAEL FUNG IN HIS CAPACITY AS RECEIVER AND MANAGER OF OIM#2 PTY LTD
(RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) IN ITS CAPACITY AS
TRUSTEE FOR TIMBERCORP ORCHARD TRUST #2**
Second Defendant

and

**PAUL WILLIAM KIRK IN HIS CAPACITY AS RECEIVER AND MANAGER OF OIM#2 PTY
LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) IN ITS CAPACITY
AS TRUSTEE FOR TIMBERCORP ORCHARD TRUST #2**
Third Defendant

and

**ROBERT BUGDEN AND ELIZABETH BUGDEN (AS THE REPRESENTATIVES OF THE
GROWERS IN THE 2005 TIMBERCORP CITRUS PROJECT (ARSN 114 091 299))**
Fourth Defendant

r43.06

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

LIST D
S CI 2011 6606

BETWEEN

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997)
AS TRUSTEE FOR THE TIMBERCORP ORCHARD TRUST #2 AND ORS ACCORDING
TO THE SCHEDULE ATTACHED**

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 18 September 2012
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469)

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

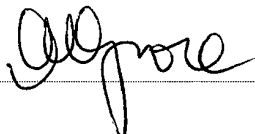
Fax: 9229 9900

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.

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"
Solara Deed of Compromise

"MAK - 1"

Allens > < Linklaters

Deed of Compromise for the Solara Rights Proceeding

Australia and New Zealand Banking Group Limited (ACN 005 357 522)

OIM#2 Pty Ltd (Receivers and Managers Appointed) (ACN 112 691 997) as
trustee for Timbercorp Orchard Trust #2

Michael Fung (in his capacity as receiver and manager of OIM#2 Pty Ltd
(Receivers and Managers Appointed) as trustee for Timbercorp Orchard
Trust #2)

Paul William Kirk (in his capacity as receiver and manager of OIM#2 Pty Ltd
(Receivers and Managers Appointed) as trustee for Timbercorp Orchard
Trust #2)

Robert Budgen and Elizabeth Bugden (in their capacity as representatives
of the Participant Growers in the
2005 Timbercorp Citrus Project (ARSN 114 091 299))

Timbercorp Securities Limited (In Liquidation) (ACN 092 311 469)

Allens
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101 Collins Street
Melbourne VIC 3000
Tel +61 3 9614 1011
Fax +61 3 9614 4661
www.allens.com.au

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Date	25 July 2012
Parties	
1.	Australia and New Zealand Banking Group Limited (ACN 005 357 522) c/- Allens, 101 Collins Street, Melbourne, Victoria, 3000 (ANZ)
2.	OIM#2 Pty Ltd (Receivers and Managers Appointed) (ACN 112 691 997) as trustee for Timbercorp Orchard Trust #2 c/- Maddocks, 140 William Street, Melbourne, Victoria, 3000 (OIM#2)
3.	Michael Fung (in his capacity as receiver and manager of OIM#2 Pty Ltd (Receivers and Managers Appointed) as trustee for Timbercorp Orchard Trust #2) c/- Norton Rose, Level 15, RACV Tower, 485 Bourke St, Melbourne VIC 3000 (Fung)
4.	Paul William Kirk (in his capacity as receiver and manager of OIM#2 Pty Ltd (Receivers and Managers Appointed) as trustee for Timbercorp Orchard Trust #2) c/- Norton Rose, Level 15, RACV Tower, 485 Bourke St, Melbourne VIC 3000 (Kirk)
5.	Robert Bugden and Elizabeth Bugden (in their capacity as representatives of the Participant Growers in the 2005 Timbercorp Citrus Project (ARSN 114 091 299)) c/- Clarendon Lawyers, Level 17, Rialto North Tower, 525 Collins Street, Melbourne, Victoria, 3000 (the Representative Growers)
6.	Timbercorp Securities Limited (In Liquidation) (ACN 092 311 469) c/- Arnold Bloch Leibler, Level 20, 333 Collins Street, Melbourne, Victoria, 3000 (TSL)
Recitals	
A	Timbercorp Limited (In Liquidation) (Timbercorp) and its subsidiary entities (together, the Timbercorp Group) conducted various agribusiness projects involving, among other things, the management, cultivation, harvesting, processing and sale of almonds, olives and citrus, including the Citrus Project.
B	Each entity in the Timbercorp Group is currently in liquidation.
C	OIM#2 is currently in receivership.
D	The Participant Growers are investors in the Citrus Project which was conducted (in part) on the Solara Property.
E	TSL is the responsible entity for the Citrus Project.
F	ANZ provided financial accommodation to OIM#2 and obtained the Solara Security over the assets of OIM#2 used in the Citrus Project, including the Solara Property (Citrus Assets).
G	In the course of the receivership of OIM#2, and with Court approval, the Citrus Assets were sold (Citrus Sale) and the Fund constituted.

H	A dispute exists between, ANZ, OIM#2 and the Participant Growers regarding the allocation amongst them of the Fund.
I	The Receivers 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 Participant Growers are TFL Debtors.
K	TSL claims that a number of the Participant Growers are Timbercorp Debtors.
L	On 6 December 2011, ANZ commenced Supreme Court of Victoria Proceeding No. S CI 2011 6606, seeking, among other things, declarations as to its, and other relevant parties', rights, if any, to the Fund (Solara Rights Proceeding).
M	The interests of OIM#2 in the Solara Rights Proceeding are represented by the directors of that company.
N	By order made on 16 December 2011 in the Solara Rights Proceeding, pursuant to rule 16.01(2) of the Rules, the Representative Growers were appointed as representatives of the Participant Growers in the Citrus Project.
O	The Parties have agreed to compromise the Solara 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 represent that the Solara Rights Proceeding be compromised on the terms set out in this Deed.
Q	ANZ and OIM#2 each supports the Solara 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.

It is agreed as follows.

1. Definitions and interpretation

1.1 Definitions

In this Deed:

- (a) **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;
- (b) **Almond Land Rights Appeal Proceeding** means Supreme Court of Victoria Proceeding No. APCI 2011 0103;
- (c) **Approval Application** means the application or applications to the Court for the orders referred to in clause 3.1(a);
- (d) **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;

- (e) **BB Olives Rights Proceeding** means Supreme Court of Victoria Proceeding No. S CI 2010 1354;
- (f) **Business Day** means a day which is not a Saturday, Sunday or public holiday in Victoria;
- (g) **Citrus Project** means the 2005 Timbercorp Citrus Project (ARSN 114 091 299);
- (h) **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);
- (i) **Compromise** means the compromise set out in clause 2;
- (j) **Court** means the Supreme Court of Victoria;
- (k) **Costs** includes legal fees and disbursements;
- (l) **Deed** means this document, including any schedule or annexure to it;
- (m) **Draft Orders** means the draft orders set out in schedule 2 to this Deed;
- (n) **Fenceport 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 Fenceport Rights Proceeding;
- (o) **Fenceport Rights Proceeding** means Supreme Court of Victoria Proceeding No. S CI 2011 6777;
- (p) **First Notice to Participant Growers** has the meaning set out at clause 6.1(b);
- (q) **Fund** means the net sale proceeds of the Citrus Sale (including, for the avoidance of doubt, inclusive of all interest) held on trust by the Receivers, from time to time, in the Solara Account pursuant to orders of Justice Davies made on 26 February 2010 and taking into account any other amount which may be deducted pursuant to any subsequent order of the Court including, for the avoidance of doubt, the Receivers' Unpaid Costs;
- (r) **Gross Sale Proceeds** means \$13,000,000, being the agreed consideration for the Citrus Sale;
- (s) **Liparoo and Yungera 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 Liparoo and Yungera Rights Proceeding;
- (t) **Liparoo and Yungera Rights Proceeding** means Supreme Court of Victoria Proceeding No. S CI 2011 6604;
- (u) **Lot** means a Citruslot as that term is defined in the constituent documents of the Citrus Project;
- (v) **Participant Growers** means each "Participant Grower" as that term is defined in the constituent documents of the Citrus Project including, for the avoidance of doubt, where applicable, the Participant Grower's legal personal representatives;
- (w) **Party** means a party to this Deed;
- (x) **Receivers** means Fung and Kirk;
- (y) **Receivers' Account** means the following bank account:
 Account name: PricewaterhouseCoopers
 Bank: ANZ Banking Group Limited
 BSB: 014002
 Account number: 833468126
- (z) **Receivers' Unpaid Costs** means, to the extent approved by the Court for deduction from the Fund, up to and including the date on which the payments provided by clause 4 are

made, the amount of unpaid costs incurred by the Receivers in connection with and arising from:

- (i) their appointment as receivers and managers of OIM#2;
- (ii) their management, maintenance and, in accordance with this deed, disbursement of the Fund; and
- (iii) their costs of and incidental to the Approval Application and the Solora Rights Proceeding,

excluding any such costs to which paragraph 4 of the order of Justice Davies made on 26 February 2010 applies;

(aa) **Representative Growers' Costs Correspondence** means:

- (i) 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
- (ii) the letter from Arnold Bloch Leibler to Clarendon Lawyers dated 3 February 2012;

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

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

(dd) **Solora Account** means the interest bearing account styled as OIM NO 2 Pty Ltd ATF the Timbercorp Orchard Trust No 2 (Receivers and Managers Appointed) NAB Term Deposit (BSB 083 004; Account number 17751 5157);

(ee) **Solora Extinguishment Date** means 9 April 2010, being the date on which the liquidators of TSL extinguished all of the rights of the Participant Growers in respect of the Citrus Project conducted (in part) on the Solora Property;

(ff) **Solora Facility** means a \$9.398 million loan facility provided by ANZ to OIM#2 on or about 30 September 2005 which was later varied to \$11.4 million by deed of variation dated 18 April 2007;

(gg) **Solora Property** means the land the subject of the Solora Rights Proceeding which was owned by OIM#2 and being part of the land on which the Citrus Project was conducted;

(hh) **Solora Secured Debt** means the sum of:

- (i) the total amount owed to ANZ in respect of the Solora Facility secured by the Solora Security as at 31 October 2011, including ANZ's costs in preparation for the Solora Rights Proceeding to that date;
- (ii) interest accruing on the amount referred to in item (i) above from 1 April 2012 until the date the payment referred to in clause 4(d) is made to ANZ;
- (iii) ANZ's costs in preparation for, and of, the Solora Rights Proceeding including the Approval Application after 31 October 2011; and
- (iv) after deduction of the costs referred to in (iii) above, one-half of the interest accruing on the Solora Account after 31 October 2011;

(ii) **Solora Security** means the security set out in schedule 1 to this Deed;

(jj) **Solora Settlement Amount** means \$650,000.00;

(kk) **Solora Settlement Entitlement** means, in respect of a Participant Grower, its entitlement, from time to time, to the Solora Settlement Amount (together with any applicable interest on that amount from the date on which the payment provided by clause 4(b) is made by the

Receivers to TSL) on the basis of a rateable distribution of that amount between the Participant Growers in the Citrus Project in accordance with the number of Lots they held in that project as at the Solara Extinguishment Date;

- (ll) **TFL** means Timbercorp Finance Pty Ltd (in Liquidation) (ACN 054 581 190);
- (mm) **TFL Debtor** means a Participant Grower who entered into a loan agreement with TFL:
 - (i) pursuant to which TFL agreed to lend a specified amount or amounts to that Participant Grower to be used by that Participant Grower to pay liability owed to TSL relating to that Participant Grower's investment in the Citrus Project; and
 - (ii) under which TFL claims that indebtedness to TFL remains outstanding;
- (nn) **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;
- (oo) **Timbercorp Debtor** means a Participant Grower who TSL claims is indebted to TSL; and
- (pp) **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 and, in the case of the Receivers, for any former appointee to that position.

2. Compromise

Subject to the condition precedent set out in clause 3 being satisfied, the Parties agree to compromise the Solara 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 Solara 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;
 - (ii) pursuant to rule 54.02 of the Rules, approves OIM#2 agreeing to the Compromise, in the form of, or substantially to the effect of, paragraph 2 of the Draft Orders; and
 - (iii) makes orders in the form of, or substantially to the effect of, paragraphs 3 and 4 of the Draft Orders;
- (b) 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;
- (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 Fenceport Rights Proceeding in accordance with clause 3.1(a) of the Fenceport 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 Receivers will pay from the Solara Account the Receivers' Unpaid Costs by direct deposit into the Receivers' Account.
- (b) On the same date as the payment under clause 4(a) is made to the Receivers Account, the Receivers will pay to TSL from the Solara Account the Solara 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 – Citrus (Solara)
- Bank: Macquarie Bank Limited
- BSB: 183334
- Account number: 301881678.
- (c) TSL will hold the Solara Settlement Amount on trust (as applicable) for the Participant Growers in the Citrus Project for distribution to, or on behalf of, those Participant Growers in accordance with their respective Solara Settlement Entitlements on the following basis.

- (i) In respect of each Participant Grower who is not a TFL Debtor immediately prior to the time of distribution to each such Participant Grower in accordance with this clause, TSL will pay its Solora Settlement Entitlement as soon as practicable to or at the direction of that Participant Grower (in each case, into a bank account nominated by each such Participant Grower).
- (ii) In respect of each Participant Grower who:
- (A) is a TFL Debtor immediately prior to the time of distribution to each such Participant 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 Solora Settlement Entitlement,
- TSL will, as soon as practicable, pay to TFL that Participant Grower's TFL Indebtedness (to the extent possible) out of the Participant Grower's Solora Settlement Entitlement and remit the balance of that Participant Grower's Solora Settlement Entitlement (if any) to the Participant Grower.
- (iii) In respect of each Participant Grower who:
- (A) is a TFL Debtor immediately prior to the time of distribution to each such Participant Grower in accordance with this clause; and
- (B) has a Solora 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 Solora Settlement Entitlement,
- TSL will, as soon as practicable, pay to TFL that part of that Participant Grower's TFL Indebtedness out of the Participant Grower's Solora Settlement Entitlement and retain the balance of that Participant Grower's Solora Settlement Entitlement on trust pending agreement in writing between TFL and the relevant Participant Grower, or court order, as to the manner in which it is to be disbursed.
- (iv) In respect of each Participant Grower who:
- (A) is a TFL Debtor immediately prior to the time of distribution to each such Participant 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 Participant Grower's Solora Settlement Entitlement on trust pending agreement in writing between TFL and the relevant Participant Grower, or court order, as to the manner in which it is to be disbursed.
- (d) On the same date as the payments under clauses 4(a) and 4(b) are made to the Receivers' Account and TSL respectively, the Receivers will pay to ANZ (to the extent possible), from the balance of the Solora Account after the payments referred to in clauses 4(a) and 4(b) have been made, the Solora Secured Debt into the following bank account:
- Account name: Lending Services Manager Account
Bank: ANZ Banking Group Limited
BSB: 013089
Account number: 832959222.
- (e) On the same date as the payments under clauses 4(a), 4(b) and 4(d) are made to the Receivers' Account, TSL and ANZ respectively, the Receivers will pay to Maddocks on behalf of OIM#2, any amounts remaining in the Solora Account after the payments referred to in clauses 4(a), 4(b) and 4(d) have been made, into the following bank account:

Account name: Maddocks Trust Account
 Bank: Commonwealth Bank
 BSB: 063010
 Account number: 10476466.

(f) For the purposes of clause 4(c)(i):

(i) if a Participant 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 Participant Grower under clause 4(c)(i),

TSL will:

- (C) deduct from the payment due to that Participant Grower under clause 4(c)(i) such amount of that Participant 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 Participant Grower's Timbercorp Indebtedness; and
- (D) pay the balance (if any) of the payment due to the Participant Grower under clause 4(c)(i) out of the Participant Grower's Solara Settlement Entitlement to the Participant Grower's nominated bank account; and
- (ii) for the avoidance of doubt, upon TSL making all applicable payments in respect of a Participant Grower in accordance with clause 4(f), TSL will have discharged its obligations to that Participant Grower under clause 4(c)(i) and thereupon will be entitled to the benefit of the release in clause 5.2 from that Participant Grower.

(g) For the purposes of clause 4(c)(ii):

(i) if a Participant 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 Participant Grower under clause 4(c)(ii),

TSL will:

- (C) deduct from the payment due to that Participant Grower under clause 4(c)(ii) such amount of that Participant 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 Participant Grower's Timbercorp Indebtedness; and
- (D) pay the balance (if any) of the payment due to the Participant Grower under clause 4(c)(ii) out of the Participant Grower's Solara Settlement Entitlement to the Participant Grower's nominated bank account; and
- (ii) for the avoidance of doubt, upon TSL making all applicable payments in respect of a Participant Grower in accordance with clause 4(g), TSL will have discharged its obligations to that Participant Grower under clause 4(c)(ii) and thereupon will be entitled to the benefit of the release in clause 5.2 from that Participant Grower.

(h) For the purposes of clauses 4(c)(iii) and (iv), if a Participant Grower is a Timbercorp Debtor and a TFL Debtor, the Participant Grower will not give any direction or authorisation to TSL

to pay any part of that Participant Grower's Timbercorp Indebtedness out of its Solara Settlement Entitlement pending agreement in writing between TFL and the relevant Participant Grower, or relevant Court Order, as to the manner in which that entitlement is to be disbursed.

- (i) The giving of any authorisation or direction by a Participant Grower to TSL under clause 4(c):
 - (i) does not constitute an admission of liability by the Participant Grower to TFL in respect of the Participant Grower's TFL Indebtedness; and
 - (ii) is without prejudice to the Participant Grower's rights (if any) against TFL in relation to the Participant Grower's TFL Indebtedness.
- (j) Nothing in the receipt by TFL of any payment from TSL in accordance with clause 4(c) constitutes a waiver of any rights which TFL may have against a Participant Grower in respect of that Participant Grower's remaining TFL Indebtedness. The benefit of this clause is held by TSL on trust for TFL.
- (k) 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 Solara 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 Participant Growers in accordance with clauses 4(b) and (c).

5. Releases

5.1 Representative Growers, ANZ, OIM#2 and the Receivers

Upon satisfaction of the condition precedent in clause 3.1, and the making of the payments in clauses 4(a), (b), (d) and (e), the Representative Growers on behalf of the Participant Growers, ANZ, OIM#2 and the Receivers 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 Participant Grower under clauses 4(c), 4(f) or 4(g) by which that Participant Grower's Solara Settlement Entitlement is disbursed in full,

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

- (a) that Participant Grower's entitlement to the Fund;

- (b) the allocation and disbursement of the Fund under the Compromise in respect of that Participant Grower; and
- (c) TSL's obligations to that Participant Grower under clauses 4(c), 4(f) or 4(g) (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 Participant Growers

6.1 First Notice to Participant 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 Participant 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 Participant Growers**).
- (c) The First Notice to Participant Growers will, among other things:
 - (i) provide information about the Solara Rights Proceeding;
 - (ii) explain that the interests of the Participant Growers are represented in the Solara 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 Participant Growers;
 - (v) alert the Participant Growers to consider any potential tax consequences of the Compromise;
 - (vi) explain that if the Court approves the Compromise the Participant 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 Participant Growers may expect to receive a payment under the Compromise from TSL;
 - (ix) explain the mechanism by which each Participant 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 Participant Growers are TFL Debtors and Timbercorp Debtors and how the Compromise will apply to the individual circumstances of the Participant 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 Participant 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 Citrus Project as at the Solara 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 Participant Growers under the Compromise:
 - (A) the right of each Participant Grower to make a direction and authorisation to TSL in accordance with clauses 4(c), 4(f) and 4(g); 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 Participant Growers what their options are in connection with the Approval Application;
- (xv) inform the Participant 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;
 - (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 Participant 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 Participant 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 Participant 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 Participant Growers and, as soon as practicable thereafter:

- (a) the Representative Growers will cause the First Notice to Participant 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 Participant 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 Almond Schemes" section of the KordaMentha website <<http://www.kordamentha.com/creditor-information/australia/51/03>>; 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 Participant 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 Participant Growers has been uploaded to the websites referred to in clauses 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 Participant 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 Participant Growers**).
- (c) The Second Notice to Participant 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 Participant 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 Participant 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 Participant Growers and, as soon as practicable thereafter:

- (a) the Representative Growers will cause the Second Notice to Participant Growers to be circulated in the same manner as is set out in respect of the First Notice to Participant 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 Participant Growers to be circulated in the same manner as is set out in respect of the First Notice to Participant 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 orders in paragraphs 1 and 2 of the Draft Orders (or orders substantially to the same effect), the Parties will consent to the Court making each of the other orders set out in paragraphs 3 and 4 of the Draft Orders (or orders substantially to the same effect).
- (c) Nothing in clause 7(b) will preclude:
 - (i) the Representative Growers from informing the Court of any matter which they, or either of them, consider appropriate to disclose to the Court in connection with the Approval Application in their role as representative parties; or
 - (ii) OIM#2 from informing the Court of any matter which it considers appropriate to disclose to the Court in connection with the Approval Application in its role as trustee.

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 Solara Rights Proceeding, the Liparoo and Yungera Rights Proceeding, the BB Olives Rights Proceeding, the Fenceport 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 Participant 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 Participant Growers in connection with the Compromise and the Approval Application; and
 - (ii) receive any objections to the Compromise made by the Participant Growers;
 - (c) in respect of the Participant Growers who have raised comments, questions or made objections, to record with appropriate detail:
 - (i) the identity of those Participant Growers;
 - (ii) the comments and questions raised by those Participant Growers and the responses provided to those Participant Growers; and
 - (iii) any objections made by those Participant 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 Participant Growers and the Representative Growers in relation to comments, questions and any objections raised by any Participant 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 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;
 - (f) to provide on a timely basis to relevant Participant 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 Participant Growers and the responses provided by TSL to those Participant Growers; and
- (iii) the nature of any objections made to TSL by Participant Growers and the responses provided by TSL to those Participant Growers;
- (h) to provide the Second Notice to Participant Growers in accordance with clause 6;
- (i) to make the payments referred to in clause 4(c);
- (j) to act in accordance with any direction or authorisation given by Participant Growers in accordance with clause 4(c);
- (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 declarations of trust provided in clause 4(c) 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

Solara Security

1. First ranking fixed and floating charge dated 30 September 2005 from OIM#2 over all rights, property and undertaking of OIM#2.
2. Real property mortgage dated 27 October 2005 from OIM#2 over the Solara Property.
3. Deed of Guarantee and Indemnity from OIM#2 (as trustee for TOT#3) providing a continuing guarantee in respect of all money which OIM#2 (as trustee for TOT#2) owes to ANZ for any reason under or in relation to the relevant transaction documents.

Schedule 2

Draft Orders

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

LIST D
SCI 2011 6606

B E T W E E N

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

and

OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) AS TRUSTEE FOR
TIMBERCORP ORCHARD TRUST #2 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 by the Fourth 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 by the Fourth Defendants.
2. Pursuant to Order 54.02 of the Rules, the Court approves the First Defendant agreeing to the Compromise.

THE COURT ORDERS FURTHER BY CONSENT THAT:

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

DATE: 2012

Deed of Compromise

Allens > < Linklaters

Allens
Solicitors for the plaintiff

Maddocks
Solicitors for the first defendant

Norton Rose
Solicitors for the second and third
defendants

Clarendon Lawyers
Solicitors for the fourth defendants

SCHEDULE

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

LIST D

SCI 2011 6606

B E T W E E N

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) AS TRUSTEE FOR
TIMBERCORP ORCHARD TRUST #2**

First Defendant

and

**MICHAEL FUNG IN HIS CAPACITY AS RECEIVER AND MANAGER OF OIM#2 PTY LTD (RECEIVERS
AND MANAGERS APPOINTED) (ACN 112 691 997) IN ITS CAPACITY AS TRUSTEE FOR TIMBERCORP
ORCHARD TRUST #2**

Second Defendant

and

**PAUL WILLIAM KIRK IN HIS CAPACITY AS RECEIVER AND MANAGER OF OIM#2 PTY LTD
(RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997) IN ITS CAPACITY AS TRUSTEE FOR
TIMBERCORP ORCHARD TRUST #2**

Third Defendant

and

**ROBERT BUGDEN AND ELIZABETH BUGDEN IN THEIR CAPACITY AS REPRESENTATIVES OF THE
GROWERS IN THE 2005 TIMBERCORP CITRUS PROJECT (ARSN 114 091 299)**

Fourth Defendants

Deed of Compromise

Allens > < Linklaters

Executed and delivered as a Deed on 25 July 2012.

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 Australia and New Zealand Banking Group Limited (ACN 005 357 522), by its attorney in the presence of:

Witness Signature

Attorney Signature

Print Name

Print Name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **OIM#2 (Receivers and Managers Appointed)** (ACN 112 691 997) as trustee for Timbercorp Orchard Trust #2:

Director Signature

Print Name

~~Director~~ Secretary Signature

Print Name

Deed of Compromise

Allens > < Linklaters

Executed and delivered as a Deed on 25 July 2012.

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 Australia and New Zealand Banking Group Limited (ACN 005 357 522), by its attorney in the presence of:



Witness Signature

JONATHAN GUY JOSEPH

Print Name



Attorney Signature

Tony Ephraim

Print Name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by OIM#2 (Receivers and Managers Appointed) (ACN 112 691 997) as trustee for Timbercorp Orchard Trust #2:

Director Signature

Print Name


Director/Secretary Signature

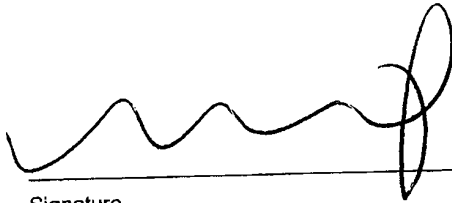
Print Name

Deed of Compromise

Allens & Linklaters

Signed by Michael Fung in his capacity as joint and several receiver and manager of OIM#2 Pty Ltd (Receivers and Managers Appointed) (ACN 112 691 997) in its capacity as trustee for Timbercorp Orchard Trust #2, in the presence of:


Witness Signature
IAN ENGLAND
Print Name


Signature

42 WENTWORTH ST DOVER HEIGHTS
Address of witness

Signed by Paul William Kirk in his capacity as joint and several receiver and manager of OIM#2 Pty Ltd (Receivers and Managers Appointed) (ACN 112 691 997) in its capacity as trustee for Timbercorp Orchard Trust #2, in the presence of:

Witness Signature

Signature

Print Name

Address of witness

Deed of Compromise

Allens & Linklaters

Signed by Michael Fung in his capacity as joint and several receiver and manager of OIM#2 Pty Ltd (Receivers and Managers Appointed) (ACN 112 691 997) in its capacity as trustee for Timbercorp Orchard Trust #2, in the presence of:


Witness Signature

Signature

Print Name

Address of witness

Signed by Paul William Kirk in his capacity as joint and several receiver and manager of OIM#2 Pty Ltd (Receivers and Managers Appointed) (ACN 112 691 997) in its capacity as trustee for Timbercorp Orchard Trust #2, in the presence of:



Witness Signature



Signature

Otono Sugama

Print Name

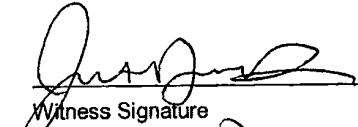
PWC
2 Southbank Blvd, Southbank, VIC

Address of witness

Deed of Compromise

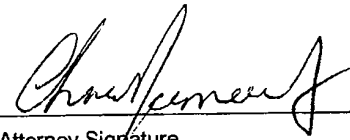
Allens < Linklaters

Signed Sealed and Delivered for Robert Bugden and Elizabeth Bugden in their capacity as representative of the Growers in the 2005 Timbercorp Citrus Project (ARSN 114 091 299) by their attorney **Christopher Garnaut** under power of attorney dated 21 May 2012 in the presence of:



Witness Signature
JULIET DEMAILLY

Print Name



Attorney Signature
CHRISTOPHER GARNAUT

Print Name

Executed by Timbercorp Securities Limited (in liquidation) (ACN 092 3111 469) by being signed sealed and delivered in its name by **Leanne Kylie Chessier** in her capacity as liquidator in the presence of:

Witness Signature

Print Name

Signature

Print Name

Deed of Compromise

Allens & Linklaters

Signed Sealed and Delivered for Robert Bugden and Elizabeth Bugden in their capacity as representative of the Growers in the 2005 Timbercorp Citrus Project (ARSN 114 091 299) by their attorney Christopher Garnaut under power of attorney dated 21 May 2012 in the presence of:


Witness Signature

Print Name

Attorney Signature

Print Name

Executed by Timbercorp Securities Limited (in liquidation) (ACN 092 3111 469) by being signed sealed and delivered in its name by Leanne Kylie Chessier in her capacity as liquidator in the presence of:



Witness Signature



Print Name



Signature

LEANNE CHESSER

Print Name

r43.06

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

LIST D
S CI 2011 6606

BETWEEN

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997)
AS TRUSTEE FOR THE TIMBERCORP ORCHARD TRUST #2 AND ORS ACCORDING
TO THE SCHEDULE ATTACHED**

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 18 September 2012
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469)

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 Solora 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 SOLORA RIGHTS PROCEEDING – FIRST NOTICE TO GROWERS

This notice is for growers in the 2005 Timbercorp Citrus Project ARSN 114 091 299 (**the Citrus Project**).

Introduction

As you may be aware, there is a proceeding (the Solora 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 Citrus Project was 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.

Representative growers have been appointed by the Supreme Court in respect of the Citrus Project to represent the interests of the growers in the proceeding. The representative growers are 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, the representative growers, on the advice of their legal advisers, consider 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 Solora Rights Proceeding

On 6 December 2011, Australia and New Zealand Banking Corporation Limited (**ANZ**) commenced the Solora Rights Proceeding. ANZ was a secured lender with respect to the Citrus Project.

The Solora Rights Proceeding is the proceeding which specifically relates to the Citrus Project. In the Solora Rights Proceeding, ANZ seeks, among other things, declarations from the Supreme Court as to:

- its rights;
- the rights of the Growers in the Citrus Project; and
- the rights of other relevant parties,

if any, to the net sale proceeds from the sale of the land on which the Citrus Project was conducted together with the other assets used in the Citrus Project (**Solora Assets**). The gross sale proceeds from the sale of the Solora Assets were (approx) \$13,000,000. 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 Solora Rights Proceeding pursuant to Rule 16 that the Growers in the Citrus Project have their interests represented in that proceeding by Robert Bugden and Elizabeth Bugden (collectively, the **Representative Growers**).



The other parties to the Solora Rights Proceeding are OIM#2 Pty Ltd (Receivers and Managers Appointed) as trustee for Timbercorp Orchard Trust #2 (**OIM#2**) and the receivers and managers of OIM#2, namely Michael Fung (**Fung**) and Paul William Kirk (**Kirk**). OIM#2 was the entity within the Timbercorp Group that owned the land on which the Citrus Project was conducted. Fung and Kirk hold the Fund on trust pending resolution of this dispute.

While the Solora 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.

ANZ, OIM#2 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 Solora Rights Proceeding. The compromise is subject to Court approval. The Representative Growers 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 Citrus Project 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 Solora Rights Proceeding entered into a deed of compromise for the Solora 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) to Fung and Kirk, their unpaid costs as the receivers and managers of OIM#2 to the extent approved by the Court for deduction from the Fund;
 - (ii) \$650,000 (approximately 5% of the gross sale proceeds of the Solora 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 discussed further below (**Solora Settlement Amount**);
 - (iii) ANZ will be repaid (to the extent possible) the amount owed to it from the Fund; and
 - (iv) the balance of the Fund (if any) will be paid to OIM#2.
- (b) The amount set aside for Growers will be divided between Growers on a pro-rated basis according to the number of citruslots held by each such Grower on 9 April 2010 (being the date on which Growers' rights in the Citrus Project were extinguished by the Court). The amount payable per citruslot will be \$316.80. 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 Solora 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 Solora Rights Proceeding; and
- the Solora 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 Solora 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 Solora 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 Solara Rights Proceeding and also approves each of the Other Compromises, the Compromise will be binding on all Growers in the Citrus Project, even though only the Representative Growers (but not all Growers) are parties to the Solara 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 Solara 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 Solara Rights Proceeding would be finally heard and determined by the Supreme Court, the Representative Growers consider the Compromise is for the benefit of the Growers in the Citrus Project.

6 Application to the Court for approval of the Compromise

ANZ, OIM#2 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 Citrus Project (as outlined in section 5 of this notice), 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 Solora 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 Solora 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 citruslots in the Citrus Project held by that Grower on 9 April 2010 (for each Grower, its **Solora 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 Citrus Project (**TFL Indebtedness**); or
- (b) TSL as owing amounts to TSL (**Timbercorp Indebtedness**),

will be able (should they choose) to direct that their Solora 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 Solara 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 citruslots you held in the Citrus Project on 9 April 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 Solara 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 Solara 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 Solara 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 Solara Settlement Entitlement, TSL will, as soon as practicable, use the Grower's Solara



Settlement Entitlement to pay, to the extent possible, the TFL Indebtedness as soon as practicable and remit the balance of the Grower's Solara 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 Solara 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 Solara 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 Solara Settlement Entitlement to TFL, TSL will hold that Grower's Solara 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' Solara 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 Solara Settlement Entitlement to pay its TFL Indebtedness, that Grower's Solara 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 Solara 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 Solara 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 the Grower's remaining TFL Indebtedness.

10 Tax consequences of the Compromise

The Compromise and payment of the Solara 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 Solara Settlement



Entitlement and any choice you may make to give directions to pay your Solora 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 Grower's Solora 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 Solora Rights Proceeding. These costs will not be deducted from the Fund, the Solora Settlement Amount or individual Grower's Solora Settlement Entitlement.

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

Solara Rights Proceeding

Frequently Asked Questions

for Growers in the 2005 Timbercorp Citrus Project

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 \$316.80 per lot held by them on 9 April 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 Citrus Project, 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 Citrus Project, 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 a Citrus 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 a Citrus Direction to Pay Form for loans you have owing to Timbercorp Finance in relation to the Citrus Project, 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 Citrus Project, but you have amounts owing to TSL, and you do not execute a Citrus 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 Citrus Project) 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 Citrus Project and you have not executed a Citrus 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 a Citrus Direction to Pay Form and your entitlement exceeds the amount you owe to Timbercorp Finance in relation to the Citrus Project, 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 you 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 Citrus Project, you may direct that your entitlement is used to reduce the amounts owing by you. You can obtain a Citrus 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 Citrus 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 Citrus 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 Citrus Project do not have to complete a Citrus 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 a Citrus 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

Citrus Project. 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 Citrus Project but have amounts owing to TSL, and you do not complete a Citrus 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 Citrus Project and you do not execute a Citrus 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 a Citrus 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 a Citrus Direction to Pay Form, can I still dispute that Timbercorp Finance / TSL were entitled to be paid?

Yes, signing the Citrus 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 Solara Rights Proceeding and how does it relate to me?

The Solara 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 2005 Timbercorp Citrus Project. The parties who are claiming an entitlement to the proceeds are:

- Australia and New Zealand Banking Corporation Limited, which advanced money to the land owner and had (among other security) a mortgage over the land and a charge over the other assets;
- the Growers in the 2005 Timbercorp Citrus Project; and
- the landowner, OIM#2 Pty Ltd (Receivers and Managers appointed) as trustee for Timbercorp Orchard Trust #2 and its receivers and managers, Michael Fung and Paul Kirk.

If the Compromise is approved by the Supreme Court and the compromises in relation to other Timbercorp Projects are also approved, the Solara 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 Solara Rights Proceeding. If the Compromise is not approved and the Solara 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 and the TGG Citrus Committee Inc were asked to nominate Growers willing to act as Representative Growers. The TGG Citrus Committee Inc did not nominate any Growers willing to act as Representative Growers. Accordingly, the Supreme Court of Victoria appointed the nominees of the Timbercorp Growers Group 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 Solara 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 Citrus Project.

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 Solara 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 will be entitled, in total, to \$650,000, which is approximately 5% of the gross sale proceeds. This equates to \$316.80 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 \$650,000 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 and the Timbercorp Olive Projects. 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 6777 (**Fenceport Rights Proceeding**) which relates to the 2000 Timbercorp Olive Project (Private Offer) and the 2001, 2002, 2003 and 2004 Timbercorp Olive Projects
- 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 Solara 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 Solara 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 Citrus Project, such as the constitution, licences and management agreement are available 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.



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

Our ref: CJA:MJF:1100563

Dear Grower

2005 Timbercorp Citrus Project ARSN 114 091 299 (the Citrus Project)

You are receiving this letter in your capacity as a grower investor in the Citrus Project (**Grower**).

The Citrus Project is the subject of a dispute between Growers and other parties to Proceeding No. SCI 2011 6606 in the Supreme Court of Victoria (**Solara Rights Proceeding**) in relation to their respective entitlements to the net sale proceeds of the assets used in the Citrus Project. 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 Solara Rights Proceeding have now reached a compromise resolving the dispute between them (**Compromise**). The Representative Growers, acting on our and our barristers' advice, consider 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 Timbercorp Olive Projects and the Timbercorp Almond Projects 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 Solara 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

Clarendon Lawyers

CITRUS DIRECTION TO PAY

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

I/We, _____, am/are investor/s in the
2005 Timbercorp Citrus Project ARSN 114 091 299 (Citrus Project).

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 Solara Rights Proceeding (Supreme Court Proceeding No. SCI 2011 6606) (**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.

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 Citrus Project;

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 Citrus Project;

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

ABL/2297334v1

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

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

LIST D
S CI 2011 6606

BETWEEN

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997)
AS TRUSTEE FOR THE TIMBERCORP ORCHARD TRUST #2 AND ORS ACCORDING
TO THE SCHEDULE ATTACHED**

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 18 September 2012
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469)

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:

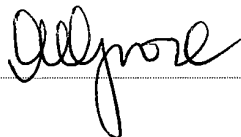


Exhibit "MAK-3"
**Short Letter to Growers in respect of the Solora
Deed of Compromise**

"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

13 August 2012

Our ref: CJA:MJF:1100563

Dear Grower

2005 Timbercorp Citrus Project ARSN 114 091 299 (the Citrus Project)

You are receiving this letter in your capacity as a grower investor in the Citrus Project (**Grower**).

The Citrus Project is the subject of a dispute between Growers and other parties to Proceeding No. SCI 2011 6606 in the Supreme Court of Victoria (**Solara Rights Proceeding**) in relation to their respective entitlements to the net sale proceeds of the assets used in the Citrus Project. 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 Solara Rights Proceeding have now reached a compromise resolving the dispute between them (**Compromise**). The Representative Growers, acting on our and our barristers' advice, consider 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 Timbercorp Olive Projects and the Timbercorp Almond Projects 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 Solara 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

Clarendon Lawyers

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

LIST D
S CI 2011 6606

BETWEEN

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997)
AS TRUSTEE FOR THE TIMBERCORP ORCHARD TRUST #2 AND ORS ACCORDING
TO THE SCHEDULE ATTACHED**

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 18 September 2012
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469)

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: _____

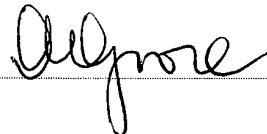


Exhibit "MAK-4"
**Notice entitled "2005 Timbercorp Citrus
Project" that was published in *The Australian*
newspaper on 14 August 2012**

Public Notices

2005 Timbercorp Citrus Project

NOTICE is given to grower investors in the:

2005 Timbercorp Citrus Project ARSN 114 091 299

of a **COMPROMISE** of the dispute between grower investors and other parties to Proceeding No SCI 2011 6606 in the Supreme Court of Victoria in relation to their respective entitlements to the net sale proceeds of the assets used in the Citrus Project.

If the compromise is approved by the Supreme Court of Victoria and the compromises in respect of the Timbercorp Olive Projects and the Timbercorp Almond Projects are also approved, all grower investors in the Citrus Project 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 6606

BETWEEN

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)
Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997)
AS TRUSTEE FOR THE TIMBERCORP ORCHARD TRUST #2 AND ORS ACCORDING
TO THE SCHEDULE ATTACHED**
Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 18 September 2012
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469)

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:

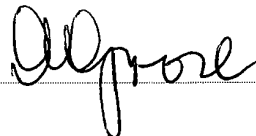


Exhibit "MAK-5"
Agreed Protocol and Communications Report

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 6606

BETWEEN

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (ACN 005 357 522)

Plaintiff

and

**OIM#2 PTY LTD (RECEIVERS AND MANAGERS APPOINTED) (ACN 112 691 997)
AS TRUSTEE FOR THE TIMBERCORP ORCHARD TRUST #2 AND ORS ACCORDING
TO THE SCHEDULE ATTACHED**

Defendants

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 18 September 2012
Filed on behalf of: Timbercorp Securities Ltd (in liquidation) (ACN 092 311 469)

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