

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

S CI 2011

IN THE MATTER OF WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 063 263 650)

WILLMOTT FORESTS LIMITED (RECEIVERS AND MANAGERS APPOINTED) (IN LIQUIDATION) (ACN 063 263 650) IN ITS CAPACITY AS RESPONSIBLE ENTITY OF THE MANAGED INVESTMENT SCHEMES LISTED IN SCHEDULE 2 AND IN ITS CAPACITY AS MANAGER OF THE UNREGISTERED SCHEMES LISTED IN SCHEDULES 3 AND 4 AND ORS ACCORDING TO SCHEDULE 1

Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

Date of document: 13 December 2011
Filed on behalf of: the Plaintiffs

Prepared by:

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

Solicitor's Code: 54
DX 38455 Melbourne
Tel: 9229 9999
Fax: 9229 9900
Ref: 011565031

(Kimberley MacKay: kmackay@abl.com.au)

This is the exhibit marked "CDC-10" now produced and shown to **CRAIG DAVID CROSSBIE** at the time of swearing his affidavit on 13 December 2011.

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: _____

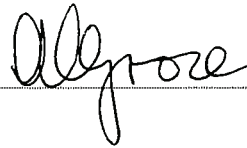


Exhibit "CDC-10"
Explanatory Memorandum to the
New WGG Proposal

EXPLANATORY MEMORANDUM

Growers' Meeting

Willmott Forests 1995-1999 Project

ARSN 089 598 612

This Explanatory Memorandum should be read in conjunction with the Notice of Meeting dated 25 November 2011 which gives notice of a Growers' meeting at **10am on Wednesday 21 December 2011** (or at an adjourned date) at Level 17 Rialto North Tower, 525 Collins Street, Melbourne 3000.

If you are voting by proxy, proxies should be received by Primary Securities Ltd no later than 7.00am WST on Sunday 18 December 2011 (or 72 hours or 3 days before the meeting or any adjournment of the meeting) so that proxies can be delivered to the current responsible entity. Proxies delivered less than 48 hours before the meeting (or adjourned meeting) will not be counted.

9 December 2011

IMPORTANT NOTICES

This Explanatory Memorandum relates to the resolutions (the **Resolutions**) proposed for the meeting of members (**Growers**) of the Willmott Forests 1995-1999 Project ARSN 089 598 612 (**Project**) at 10 am EST on Wednesday 21 December 2011 or any date to which it is adjourned (**Meeting**).

The Meeting was called by members under s252D of the Corporations Act 2001 (**Requisitioning Members**) with the assistance of Willmott Growers Group Inc (Reg No A0055077L) (**WGG**), to consider the revised proposal for the restructure and continuation of the Project (**New WGG Proposal**).

This Explanatory Memorandum was prepared by WGG, the “**Preparers**”.

The current responsible entity (**RE**) of the Project is Willmott Forests Limited (Receivers and Managers Appointed) (In Liquidation) (**WFL**). WFL is in liquidation with Ian Carson and Craig Crosbie of PPB Advisory appointed joint and several liquidators (**Liquidators**). Mark Korda, Bryan Webster and Mark Mentha of KordaMentha have been appointed receivers and managers of WFL (**Receivers**).

Accuracy of information

The Preparers have exercised due care and diligence in the preparation of the Explanatory Memorandum in seeking to ensure the accuracy of its contents as at the date of this document. However, there is a risk that the information is incomplete, inaccurate and/or out of date. The Preparers cannot guarantee that there are no misstatements or omissions that are relevant to the decision that Grower members make in voting on these resolutions.

As the Preparers are not in control of the Project, they have faced considerable difficulties in obtaining and verifying the accuracy of all information relevant to the Project.

The Liquidators have provided access to a number of documents relating to the Project, but do not warrant that they are up to date or include all documents that may affect the rights and liabilities of the responsible entity of the Project. The Liquidators were not involved in the preparation of this Explanatory Memorandum and are not responsible for its contents.

The Preparers have also obtained and reviewed some, but not all, publically available information about the Project.

Information about risks for Growers associated with the Project and/or the New WGG Proposal are set out in this Explanatory Memorandum. Growers should consider this information regarding risks carefully. Each Grower should seek their own professional financial, legal and taxation advice before making a decision in relation to the Resolutions and the New WGG Proposal.

If Primary Securities Ltd (**Primary**) becomes the responsible entity of the Project it will require the Liquidators to hand over all Project documentation.

Primary reserves its right to make further amendments which are not adverse to the rights of Growers in addition to those set out in this Explanatory Memorandum. Primary’s rights in this regard will be limited by its obligations as responsible entity to act in the best interests of Growers as a whole.

This Explanatory Memorandum will be posted on the WGG website at www.willmottgrowersgroup.com.au and also on the Primary Group website at www.primarysecurities.com.au under the heading ‘Willmott Forests’.

If any material information arises between the date of this document and the Meeting, it will also be posted on those websites. Growers are recommended to visit these websites regularly in the lead-up to the Meeting and closely consider any information posted there.

Procedural Matters

This Explanatory Memorandum is being sent to all persons listed as a Grower on the Project Register of Growers dated 9 September 2010 which was the copy of the Register which was provided to

solicitors for WGG. The Liquidators have recently confirmed that there have been no subsequent changes to the Growers listed on the Register. Included with the Explanatory Memorandum is an update form for Growers to complete and send to Primary should their details have changed.

Defined terms in this Explanatory Memorandum have the same meaning as those same terms defined in Part B – Proposed Amendments to Constitution (see pages 40 to 45 of this Explanatory Memorandum), unless otherwise defined.

OVERVIEW

Meeting

The Notice of Meeting contains the Resolutions detailed as follows:

Resolution 1	Approve the New WGG Proposal
Resolutions 2	Approve amendments to the Constitution
Resolutions 3	Remove WFL as responsible entity of the Project
Resolution 4	Appoint Primary Securities Ltd as responsible entity of the Project

Resolutions 1 & 2 require a special resolution.

In order to be passed at a Grower meeting, a **special resolution** requires that 75% of votes cast by Growers are **voted in favour** of the special resolution.

Resolutions 3 and 4 require an extraordinary resolution.

In order to be passed at a Grower meeting, an **extraordinary resolution** requires that **at least 50%** of voters that may be cast by **Growers** are **voted in favour** of the extraordinary resolution. Passage of an extraordinary resolution is very hard to obtain. This is because a ‘non-vote’ has the same effect as a ‘no vote’.

The Resolutions are interdependent. This means that unless all four resolutions are passed none of the resolutions will have effect.

Why Vote?

Because of the interdependency of the Resolutions, for the New WGG Proposal to be approved and implemented all four resolutions must be passed.

If all resolutions are passed the Project will continue as amended under the terms set out in this Explanatory Memorandum.

If any resolution is rejected, the New WGG Proposal will not be implemented and the Project will be wound up.

Therefore a Grower that wants the Project to continue should vote for all four resolutions.

If the Resolutions are not passed, the New WGG Proposal is not implemented and the Project is wound up:

- It is uncertain what return (if any) Growers will receive upon winding-up of the Project; and
- On termination of Growers’ investments in the Project, Growers with loans relating to their investment in the Project, may be called upon to immediately repay these loans.

In our view, the New WGG Proposal offers Growers the following:

- The New WGG Proposal is the only proposal for the continuation of the Project.
- If Growers do not approve the New WGG Proposal, the Project will not continue.

- If the New WGG Proposal is not approved and the Project is not continued the Liquidators will sell the Land and any Trees on the Land (Project Trees) as part of the 'Liquidators Sale Process' described further below, and the Project will be wound up.
- If the Project is wound up, the prospects of any value being returned to Growers is uncertain.
- Primary is an experienced RE, having previously taken over other distressed forestry schemes.
- If the New WGG Proposal is approved and the Project continued, Growers will retain a right to receive proceeds from the harvest of the Project Trees.

In relation to the Liquidators' Sale Process, Growers should note:

- The Liquidators and Receivers have entered into a conditional contract of sale of the Willmott Forests plantation assets, including the Land and Trees of the Project, with Global Timber Investors 9, an international forestry investment fund managed by the US-based timber investment management organization, Global Forest Partners LP. The sale is subject to a Court approval process.
- The Liquidators have indicated that on completion of the sale the proportion of the purchase price relating to the Trees will be returned to Growers. It is expected that the Liquidators will commence the process of seeking Court approval soon.
- If the New WGG Proposal is not approved, and the Liquidators obtain Court approval, then the Land and Project Trees will be sold. It is not yet known what return, if any, Growers would receive if the sale is completed.

Inherent uncertainty

Growers should note that the New WGG Proposal by its very nature contains a number of uncertainties. The main uncertainties are:

- While WGG and Primary have made initial enquiries regarding the plantations including commissioning independent preliminary assessment and analysis of them as part of limited due diligence, the Strategic Management Plan will not be completed until after Primary has been appointed as RE. As a consequence it is not possible prior to Primary's appointment as RE to be definitive about what amount the Management Fees is likely to be.
- There are expected to be dispute resolution costs associated with the reconstruction including the cost of meeting past and future challenges from the Receivers and/or the Liquidators. It is not possible to accurately estimate these costs.
- It is not possible to determine with any accuracy the final value of the harvest from the plantations.

Growers should also take into account the consequences of not continuing the Project. Should the Liquidators be successful in obtaining court approval for the sale of the Land and Trees together, then:

- Growers will be entitled to a portion of the proceeds of sale but it is not presently known what this amount will be.
- Growers will not have to make any ongoing payments in relation to the Project, but will lose their entitlement to any of the proceeds from the final harvest.
- On winding up the Project and termination of Growers' investments in it, Growers with loans relating to their investment in the Project may be called upon to immediately repay these loans.

WGG is in receipt of only limited information concerning the Liquidators Sale Process and as a consequence is unable to provide any further comment.

In any event, the New WGG Proposal includes an initial cost for Growers of \$700 per Hectare (being \$400 Reconstruction Fee plus \$300 Initial Management Fee) (including GST). The RE may issue supplementary invoices to these amounts in the event that there are insufficient funds raised initially.

Where Growers have made contributions to WGG, they will be provided with a credit against the Reconstruction Fee for the amount of any contributions made.

Under the New WGG Proposal, Growers may “Opt In” or “Opt Out”. Growers can Opt Out of the restructured Project by not paying the first invoice received from the RE within 30 days (unless extended). Growers can Opt In to the restructured Project by paying the first invoice received from the RE within 30 days (unless extended). Subject to legal and regulatory requirements, the Hectares of Growers who Opt Out will be placed for sale on the low volume market. If a Hectare has not sold on the low volume market within the Sale Period (3 months from commencement of market), the Grower will be paid the Agreed Hectare Price (refer to the definition of “Agreed Hectare Price in Part B of the Explanatory Memorandum). Such payments will be made in instalments and subject to the Project continuing.

Once a Grower Opts In, standard default provisions will apply to the non-payment of fees by Growers. If a Grower fails to pay any fee or contribution, the RE has the power to engage the default procedures outlined in Part B of this Explanatory Memorandum. Growers should consider this risk in determining whether or not to pay the fees invoiced by the RE.

WFL holds in its own right a number of interests in the Project. WFL, the Receivers or the Liquidators of WFL, may not support the New WGG Proposal and they may actively seek to challenge the substance of the New WGG Proposal, the calling of the meeting or any outcome of the meeting. The consequences of these possible challenges cannot be known for certain.

In summary, Growers cannot be assured of any outcome under the New WGG Proposal. The costs and benefits of the New WGG Proposal will be largely dependent upon the individual circumstances of the Grower. Accordingly, WGG considers it appropriate that Growers seek independent advice in relation to this matter.

Meeting

You can vote by attending the meeting or by completing and returning the Proxy Form to Primary by 7.00am WST on **Sunday 18 December 2011**.

Because of the insolvency of the Willmott Forests group of companies, steps may be taken by the Liquidators and/or Receivers that affect the capacity for the meeting to be held. Accordingly, if the meeting has to be adjourned and information changes:

- The business of the meeting is adjourned, accordingly any adjourned meeting is also considered to be “the meeting” for the purpose of this document.
- Updated information (including the date of any adjourned meeting) will be posted on the WGG and Primary websites but not otherwise sent to Growers.
- Proxies already lodged prior to any updated information will be valid, but Growers can also change their proxy before the meeting or adjourned meeting.
- The Requisitioning Growers (and certain of their associates) are presently subject to an order of the Supreme Court of Victoria preventing them from procuring, causing or acquiescing in a specific resolution (Prohibited Resolution), or any resolution to substantially the same effect as the Prohibited Resolution, being put to a meeting of members of the Project.
- The Requisitioning Growers anticipate that this order will be removed by the date of the meeting. If this order is not removed prior to the meeting then the resolutions will not be put to the meeting.

Explanatory Memorandum

The Explanatory Memorandum has two parts:

Part A – The New Willmott Growers Group Proposal

Part B – Proposed Amendments to Constitution

Supplementary or Replacement Explanatory Memoranda may be posted on the websites of the Preparers.

PART A – NEW WILLMOTT GROWERS GROUP PROPOSAL (New WGG Proposal)

SECTION 1: INTRODUCTORY LETTER

Dear Grower,

New Willmott Growers Group Proposal to Growers in the Willmott Forests 1995-1999 Project (Project)

Willmott Growers Group (**WGG**) is pleased to sponsor a new proposal (**New WGG Proposal**), which we believe will offer Growers the best solution to the circumstances which have arisen from the insolvency of the Willmott Forest Group of companies.

With the collapse of Willmott Forests Limited (Receivers and Managers Appointed)(In Liquidation) (**WFL**), the Project is no longer being adequately managed. In order to restore the Project as close as possible to its original status, it is necessary to appoint a new responsible entity and also to provide a mechanism whereby ongoing and future maintenance and management costs will be funded by Growers (Management Fee and Supplementary Management Fees). Converting the Project to a contributory scheme is the basis of the New WGG Proposal. In addition, there will be a Reconstruction Fee and an Initial Management Fee to pay for the costs of saving the Project as well as to cover any required forestry remediation costs and a Capital Account Contribution in the event that there is a requirement to the purchase of Hectares of Growers who Opt Out of the Project.

The New WGG Proposal will have the effect of pooling together the revenues across the whole Project to be shared with Growers (less costs and expenses) in proportion with the Hectare/s they hold in the Project to the total Project Hectares. Growers may still elect to harvest their own trees, but must advise the RE of their intention to do so by the Election Date.

If there are any disputes with the Liquidators of WFL as to the interests of Growers and the Project, including leases or scheme property, the Growers will be asked to fund the cost of resolving any such disputes from their Reconstruction Fee, Initial Management Fee and any Supplementary Initial Management Fees. Part of the Initial Management Fee has been allocated to dispute resolution.

Your vote is important

If each resolution that forms a part of the New WGG Proposal does not receive the required votes at the meeting, the New WGG Proposal will not be implemented and the Project will most likely be terminated by the Liquidators of WFL.

It is therefore vital that, if you would like to see the Project continue, you carefully consider this Explanatory Memorandum and vote in favour of the New WGG Proposal.

Submit your proxy

The Notice of Meeting dated 25 November 2011 which was sent separately to Growers included a Proxy Form. All valid proxies will be considered at the meeting. To be valid the proxy must be received by the current responsible entity no later than 48 hours before the meeting. To ensure that this occurs it should be delivered to **Primary Securities Ltd** no later than 7.00am WST on Sunday 18 December 2011.

If you lodged a Proxy Form for a previous meeting it is not valid for the meeting to consider the New WGG Proposal and the resolutions, and you will need to complete and submit a new Proxy Form for your vote to count. We apologise for this inconvenience.

Explanatory Memorandum

Willmott Forests 1995-1999 Project

We at WGG have worked hard to finalise a proposal that we believe will give the greatest prospect of maximizing the value of your investment. We now seek your support to get your trees through to a successful harvest.

A handwritten signature in black ink, appearing to read 'P. Challis', with a long horizontal flourish extending to the right.

Paul Challis

Willmott Growers Group

SECTION 2: RESOLUTION 1 – APPROVAL OF THE NEW WILLMOTT GROWERS GROUP PROPOSAL

1. Background

Willmott Forests Limited (Receivers and Managers appointed) (in Liquidation) (**WFL**) is the current responsible entity (**RE**) of the Willmott Forests 1995-1999 Project ARSN 089 598 612 (**Project**). WFL is also RE of a number of other registered managed investment schemes and manager of various unregistered managed investment schemes.

This Project was established on the basis that members of the Project (**Growers**) (except Growers applying pursuant to 1999 Prospectus) make an up-front contribution for the establishment and future maintenance of a plantation in respect of which individual Growers leased specific areas called “Hectares”. The title of this land was to be held by the Growers’ “Representative”. The land was to be planned and maintained on Growers’ behalf by the “Manager”.

Following conversion to a managed investment scheme, WFL became the RE and assumed the roles previously undertaken by the Representative and the Manager – WFL both held the land and managed the Project.

The Project comprises five prospectuses, one for each year from 1995 to 1999. There are in total 744 Growers farming 5,473 “Hectares”, which is the name of the units of interests that Growers took up when investing in this Project. One “Hectare” was approximately equal to one hectare (10,000 square metres) when the investment commenced.

The total amount raised pursuant to the five prospectuses was in excess of \$60,000,000.

Under the original arrangements, each Grower was to harvest their own trees, though it was contemplated that WFL would do this on their behalf for an additional fee.

The Willmott Forest Group of Companies (**Willmott**) went into external administration in September 2010. On or about this date, Mark Korda, Bryan Webster and Mark Mentha of KordaMentha have been appointed receivers and managers of WFL (**Receivers**). The initial administrator was soon after replaced by Craig Crosbie and Ian Carson of PPB Advisory (**Administrators**). At the second creditors meeting on 21 March 2011, the Chair (representing the Administrators) exercised his casting vote to place WFL into liquidation and appoint the Administrator the Liquidators of WFL (**Liquidators**).

As a result of its insolvency, WFL has not been in a position to continue to provide management services to the Project and maintain the plantations.

An RE has a duty to act in the best interests of members of the managed investment scheme. As RE of the Project, WFL has a duty to act in the best interests of Growers. As the Liquidators are in control of the RE they are obligated to see that it acts in accordance with its duties to Growers. However, the Liquidators, as liquidators of WFL, have separate duties in respect of their appointment to WFL in its personal capacity. As a result the Liquidators are in a position of conflict and Growers cannot rely on WFL to discharge the duty of a responsible entity and act in their best interests.

It is important to note that the Project itself is not in receivership, administration or liquidation. However, the Project is currently unfunded and the purpose of the New WGG Proposal is to rectify this position.

The Liquidators are running a process for the sale of the assets of WFL including the Land and the trees on the Land (**Project Trees**) (the **Liquidators’ Sale Process**). Pursuant to that process, the Liquidators and Receivers have entered into a conditional contract of sale of the Willmott Forests plantation assets, including the Land and Project Trees, with Global Timber Investors 9, an international forestry investment fund managed by the US-based timber investment management organization, Global Forest Partners LP. Completion of the sale is subject to Court approval. We

anticipate the Liquidators will make application to the Court shortly to have the sale approved and ratified.

If updated information is received in relation to the Liquidators' Sale Process and any related Court application, the information will be posted on the WGG website.

While the Liquidators have previously stated that Growers would be compensated for their loss of rights under the Liquidators Sale Process, through the distribution to Growers of a proportion of the sale proceeds referable to the Growers' Project Trees. However, there is no certainty that Growers will receive any return through the Liquidators Sale Process. For example, if the Growers' rights in respect of the Project Trees are considered to have zero or negative present value, then it is expected that the Growers' will receive nothing. At present we do not know what value, if any, the Liquidators have ascribed to the Growers rights and what return Growers would receive on termination of their rights and the Project.

If updated information is received from the Liquidators in this respect, it will be placed on the WGG website.

A group of Growers in the Project (**Requisitioning Growers**) have called the meeting of Growers on 21 December 2011 pursuant to section 252D of the *Corporations Act 2001* to consider the approval and implementation of the New WGG Proposal (**Meeting**).

The New WGG Proposal involves changing the RE from WFL to Primary and amendments to the constitution of the Project (**Constitution**) to restructure the Project.

These changes will allow for the amendment of the structure and the operations of the Project and the appointment of a responsible entity that is solvent and independent of the financial issues associated with the Willmott Group. This will also allow for the collection of Management Fees from Growers to ensure the availability of the required funds to manage and maintain the plantations that underlie the Project through to harvest. The intention of the New WGG Proposal is to carry the Project forward to harvest as disclosed in each original prospectus in the manner that maximises value for Growers and to pool harvest revenues across the Project.

This Meeting only relates to the Project. It is possible that meetings for the other projects that WFL operates may be called separately to this meeting.

2. Parties to the calling of the Meeting

The Grimsey Accounting and Wealth Management practice (Grimsey) has had dealings with WFL since 1993 and as a consequence a number of Grimsey clients have invested in projects established and/or operated by companies in the Willmott Group.

Upon notification of the appointment of the Receivers to WFL, Grimsey formed and incorporated the WGG to provide a vehicle for the protection and promotion of Growers' interests. This commenced with representation of Growers interests at the first creditors' meeting in September 2010.

WGG requested Paul Challis, an associate of Grimsey, to investigate the position of Growers and, if practical, develop commercial options for Growers to consider.

Paul Challis has experience in developing and operating managed investment schemes (MIS), and knowledge of the commercial issues involved in operating MIS. In addition, Paul has considerable prior experience in representing Growers' interests in the administration of other distressed MIS.

Paul Challis, along with the other principals of Grimsey (who collectively are the founding members of WGG), are Growers in the Project. Grimsey and Associates Financial Services Pty Ltd, one of the companies in the Grimsey group, is also a Grower in its own right.

Apart from this, neither Paul Challis nor Grimsey have an interest in the outcome of this meeting other than the reimbursement of funds advanced to, or paid on behalf of, WGG by them in order to meet costs related to the development and pursuit of proposals for the continuation of the Project. Such costs include a loan advance, legal costs, costs of investigating forestry consultants, Grower

meeting related expenses, WGG website maintenance costs, consultants' fees and preliminary RE expenses.

These costs are to be reimbursed to Grimsey and/or Paul Challis by the WGG. As at 7 December 2011, the total amount to be reimbursed to Grimsey by the WGG and/or Paul Challis is \$124,355. Further expenses of the WGG may be met by Grimsey and/or Paul Challis between the date of this document and the Meeting.

If the New WGG Proposal is approved and implemented Grimsey and Paul Challis will be entitled to claim reimbursement of these funds from Grower Contributions.

Neither Grimsey nor Paul Challis will be charging a fee for the substantial time they have expended and will continue to expend in developing and pursuing the continuation of the Project.

3. Background to the calling of the Meeting

A notice of meeting was previously issued calling a meeting of Growers on 3 February 2011. This meeting was not proceeded with, so as to allow further time for development of a proposal for the continuation of the Project.

Following further development of the proposal for the continuation of the Project a further notice of meeting was issued on 20 May 2011 calling a meeting of Growers on 14 June 2011 to consider resolutions for the restructure and continuation of the Project (**Initial WGG Proposal**).

The Receivers commenced proceedings in the Supreme Court of Victoria on 21 June 2011 seeking permanent injunctions preventing key resolutions relating to the Initial WGG Proposal from being put to a Growers' meeting (the **Receivers' Proceeding**). On 1 July 2011 The Supreme Court granted the injunctions sought by the Receivers on an interim basis pending the full hearing of the proceeding.

The matter was listed for trial and the parties ordered as part of pre-trial procedure to attend mediation. The trial has subsequently been adjourned a number of times and is presently listed for hearing on 13 March 2012.

Since the granting of the interim injunction, forestry consultants engaged by the WGG have had access to the plantations comprising the Project to make preliminary assessments of their condition and the range of silvicultural options which may be available to best manage the Project Trees for the benefit of the Growers in the continuation of the Project.

As a result of this assessment and various other factors, the WGG developed the New WGG Proposal.

Growers in the Project holding in excess of 5% of votes that may be cast at a meeting of the Project authorised Grimsey and Redisland Australia Limited (**Redisland**) to call the Meeting to consider the New WGG Proposal and the Resolutions.

4. Mediation and negotiations with the Receivers

By order of the Supreme Court, on 15 July 2011 the WGG and the other defendants in the Supreme Court proceedings attended mediation with the Receivers. Following this mediation, the WGG and the Receivers entered into extended negotiations. These negotiations have resulted in the following:

(a) Receivers' offer to Growers with Deferred Loans

A number of Growers in the Project financed their investment in the Project with loans from entities related to WFL and/or involved in the establishment and operation of the Project. Many of these Growers utilised an option to defer repayment of the principal of these loans (**Deferred Loans**).

The Deferred Loans are assets of Willmott Finance Pty Ltd (receivers and managers appointed) (in liquidation) (**WFIN**) which is under the control of the Receivers.

The Receivers and WFIN have offered Growers with Deferred Loans the opportunity to restructure the terms of their Deferred Loans by execution of a deed varying the terms of their Deferred Loans (**Deferred Loan Variation Deed**).

The Deferred Loan Variation Deed is between individual Growers and WFIN and the Receivers. They operate independent of the New WGG Proposal and the Project.

(b) Conditional settlement of the Receivers' Proceeding

The parties to the Receivers' Proceeding, the Receivers, WFL, WGG, Grimsey, Redisland and Paul Challis, have executed a conditional settlement deed (**Settlement Deed**) in respect of the Receivers' Proceeding.

Under the Settlement Deed, if a threshold level of Growers with Deferred Loans accept the Receivers offer and execute Deferred Loan Variation Deeds:

- WFL and the Receivers will cause the Receivers' Proceeding to be discontinued with the result that the injunction will be lifted and the Resolutions can be put to the Meeting;
- WFL will vote in favour of the New WGG Proposal at the Meeting.

(c) Agreement by WGG to purchase WFL's interests in the Project

WFL and WGG have executed a conditional purchase deed (**Purchase Deed**) whereby the WGG, or its nominee, will purchase WFL's interests in the Project if the New WGG Proposal is approved at the Meeting.

5. The New WGG Proposal

5.1 Principles of the New WGG Proposal

The principles of the New WGG Proposal are:

- (a) to replace the current RE to ensure that the RE overseeing the Project, protecting the interests of Growers and assessing its financial future is solvent and independent of the financial issues surrounding WFL;
- (b) to amend the constitution to introduce a right on the part of the RE to harvest the trees on behalf of Growers and to pool the proceeds of the Project for the benefit of Growers, and to permit other changes; and
- (c) otherwise to restore, as best as possible, Growers' rights in order to ensure the Project meets its objectives as intended prior to the collapse of WFL.

5.2 Growers' current position

The Growers' position can be summarised as follows:

- (a) With the failure of WFL, Growers have lost their forest manager and any prepaid management fees, including fees allocated for future maintenance.
- (b) The Trees have been successfully planted and are aged between 10 and 15 years depending upon the year that the Grower invested in the Project. However, some Trees may be subject to snow, hail or animal damage.
- (c) The Growers' lease agreement with WFL and the rental which was prepaid on applying for an interest in the Project (with the exception of Growers who invested pursuant to the 1999 prospectus), is still in place.

In the circumstances, it is the view of WGG that it is unlikely that anyone other than the Growers will contribute to the maintenance of their plantations through to harvest. To date, no other such party has emerged. i.e. this proposal is the only proposal to take the trees through to harvest that is available to

Growers. Accordingly, there is a need for the Project to be changed to become a contributory scheme enabling Growers to make annual contributions towards ongoing maintenance through to harvest.

5.3 Proposed structure

The New WGG Proposal maintains the project structure as a registered managed investment scheme – although as noted above, it involves changing the RE and the amendment of the constitution of the Project. The constitution will be amended to allow the RE to invoice individual Growers an Initial Management Fee and an annual Management Fee in order to cover statutory, administrative, forestry management, dispute resolution and other costs and contributions associated with the Project as well as to provide for the pooling of revenues for the Project that may arise from a future harvest.

Specifically, it is proposed:

A New Responsible Entity

To have Primary Securities Ltd (**Primary**) replace WFL as RE of the Project. As RE, Primary will be responsible for the operation of the Project in accordance with the Project Documents and ensuring that all statutory requirements are met.

The RE is entitled to be paid remuneration for being the responsible entity of the Project. In addition to its remuneration, the RE is able to seek reimbursement for certain costs and expenses associated with the Project. Further information on the RE's remuneration and reimbursement is detailed in Part B of this Explanatory Memorandum.

Additional details of Primary are set out in the notes on Resolution 4.

B Pooling and Revenue Sharing

From the Pooling Date, all revenues (Gross Proceeds of Sale) of the Project will be pooled and all Participating Growers will share in this revenue pool (after deduction of costs and expenses permitted by the constitution) according to their proportional share (Grower's Proportional Share).

WGG and Primary both consider this to be in the best interests of all Growers because:

- It simplifies the ongoing management structure of the plantations allowing for more commercial decisions to be made around plantation management which will result in cost savings for Growers and allow for a more commercial harvesting program.
- The equalisation of all Growers expectations to revenues (less costs and expenses) provides the RE with the ability to reallocate Growers Hectares (subject to legal and regulatory requirements) between plantations increasing the RE's ability to accommodate those Growers who Opt Out and/or sell their Hectares.
- This increased flexibility provided to the RE and the associated savings increases the viability of the Project as a whole.
- Growers will be entitled to their proportional share of the Net Proceeds of Sale arising from any thinning or harvesting of the Trees in the Project (along with any other proceeds in respect of the plantation).
- The RE may withhold revenue proceeds (distributions) in any one year and offset them against management fees simplifying the Growers cash flow commitment to the Project.
- The agricultural risks are spread across a larger area and this makes it less risky for individual Growers.
- The obligation on the part of all Growers to pay Management Fees for the full term of the Project, irrespective of year of planting, makes the Project more financially robust.
- The ability to apply Net Proceeds of Sale received at intermittent times throughout the life of the Project to offset the Management Fee obligations of all Growers further simplifies the cashflows of the Project to the benefit of Growers and the Project.

The proceeds from any insurance claim will not form part of Project revenues. These proceeds will be forwarded to affected Growers.

C Harvest

Growers who give notice to the RE on or before the Election Date (30 days after Primary renders optional invoices under clause 10A.1 or such extended time as the RE may permit for all Growers by notice on its website) that they wish to harvest their own trees will remain entitled to do so. Otherwise, the RE will harvest the trees on the Growers' behalf.

D Opt-In and Opt-Out

A Grower Opts In to the restructured Project by paying the first optional invoice from the RE by the Election Date. Accordingly, a Grower who does not pay the first optional invoice by the Election Date, Opts Out of the restructured Project.

If a Grower Opts Out then:

- The Grower ceases to become a Participating Grower;
- Subject to legal and regulatory requirements:
 - the RE will arrange a low volume market to allow the Grower to sell their Hectare.
 - should it be necessary or in the event that the RE cannot operate a low volume market, the RE will issue a Product Disclosure Statement for the benefit of Growers wishing to sell their Hectares.
 - in the event that, at the end of the Sale Period, the Growers Hectare remains unsold the RE will acquire and transfer that Grower's Hectares to the RE and remove that Grower from the Growers register (upon which the Grower shall cease to be a Grower). The Growers Hectare will now become a Common Hectare, held by the RE for the benefit of all Participating Growers.
 - terms of acquisition are set out in the section titled "Purchase of Hectares of Growers who Opt-Out".

From a practical perspective, it will be difficult for 1999 Growers to Opt Out as they have ongoing rental obligations under the Project Documents.

E Fees

Shortly after being appointed, the RE will invoice Growers an Initial Management Fee which will comprise two components:

- A **Reconstruction Fee** to reimburse the costs incurred in the process of developing this proposal, transferring the role of RE from WFL to Primary and restructuring the Project. The total amount of these costs will be largely dependent upon independent legal and consulting fees associated with the process, the complexity and duration of any dispute resolution and the costs of the current RE during the period of the administration.

This fee has been set at **\$400 per Hectare (inc GST)**. At the end of the reconstruction, a reconciliation will be prepared and any difference between actual costs and the reconstruction fee charges will be added to or deducted from future management fees. Growers who have already contributed funds to WGG for the purpose of facilitating the reconstruction of this Project will receive a credit for the amount contributed as having been paid to the RE and will receive a tax invoice.

- the **Initial Management Fee** which will be an estimate of RE administration and forestry costs for the period to 30 June 2013 and includes an additional amount for contingencies and for Growers who do not Opt-In as well as public liability insurance and fire insurance

over the trees and possible continuation of dispute resolution. This fee is expected to be **\$300 per Hectare (inc GST)**. However, this may be varied prior to the meeting and also as additional information is received and assessed. After 30 June 2013, a reconciliation will be completed and any variance will be added to or deducted from the subsequent year's management fees.

Under the proposed changes to the constitution, the RE will be able to issue an invoice or invoices for Supplementary Initial Management Fees where the Initial Management Fee is not adequate to cover the Reconstruction Costs and other initial and management costs which the RE incurs.

From 1 July 2013, it is intended that the RE invoice Growers on an annual basis (probably in May or June prior to the start of the financial year) a Management Fee. The Management Fee will cover such costs including the RE, administration and forestry management costs for the next year and may include an additional amount to provide for contingencies and non-Growers and cost of the Common Hectares. At the end of each year, a reconciliation will be completed and any variance from budget will be added or deducted from the subsequent year's Management Fee.

The RE is able to issue an invoice or invoices for Supplementary Management Fees if the contributions paid by Growers are not sufficient to fund the ongoing costs of the Project until 30 June of that financial year.

It is important to note that the power to issue invoices for a Supplementary Management Fees is not unfettered. It is subject to the duties of an RE to act in the best interests of Growers, put the interest of Growers ahead of its own in circumstances of conflict of interest and only to receive fees in relation to the proper performance of its duties.

F Purchase of Hectares of Growers who Opt-Out

The RE is able to issue an invoice on an annual basis for a Capital Account Contribution. This is expected to be invoiced on 1 July 2012 and thereafter at the same time as the Initial Management Fee and Management Fee.

This fee is expected to be an amount of \$50 (inc GST).

The amount of the Capital Account Contribution will be placed in the Capital Account and the funds in that account will be used by the RE on behalf of the Project to purchase by instalments the Hectares of Growers who Opt-Out of the Project and whose Hectares are not sold on the low volume market within the Sale Period (3 months from commencement of market). In addition, the funds will also be used to purchase Hectares owned by WFL.

If a Hectare is not sold on the low volume market, the RE will pay the Agreed Hectare Price.

Payment of the purchase price will be by instalments as moneys are paid into the Capital Account after reimbursement to WGG for the purchase price of the interests acquired from the Receiver under the Purchase Agreement. In the event that instalments for any reason such as the Project being terminated or the RE has insufficient funds, then the obligation to make any further payments will also cease or be suspended.

The Grower will cease to be a Grower at this time and their name will be removed from the register of Growers.

When the Project terminates, the value of any Hectares, Trees and/or monies in the Capital Account (if any) will be distributed amongst Participating Growers at that time.

Participating Growers are liable for fees on Common Hectares in accordance with the Grower's Proportional Share.

G Consequences of non-payment of subsequent fees

If a Grower Opts In and then does not pay the whole or part of any subsequent fee or contribution owing to the RE by the due date specified on the invoice, default provisions will apply.

The RE must send a default notice to the postal address or email address recorded for the Defaulting Grower in the Register of Growers. The default notice must contain the information required by the constitution.

If a Defaulting Grower has failed to remedy their default within the period allowed in default notice, the RE must send a further notice stating that the Defaulting Grower is required to sell their Hectare within 2 months of the date of the default notice to a person who agrees to be bound by the Project Documents.

If the Defaulting Grower fails to sell their Hectare within 2 months the Grower will cease to be Grower, the Hectare will be forfeited to the RE and the Defaulting Grower is not released from liability to the RE in respect of all amounts due and payable.

When a Defaulting Grower's Hectare has been forfeited, the RE must send the Defaulting Grower particular information in accordance with the constitution.

The RE reserves its rights to commence legal proceedings against any Defaulting Grower in respect of outstanding amounts due and payable.

H Underwriting / Borrowing

The RE has the power to borrow for the purposes of the Project as outlined in the constitution.

Where it is in the best interests of Growers, the RE may seek to fund unpaid fees on behalf of the Participating Growers with an underwriter, financier or Participating Growers or other persons on such terms and conditions agreed between the parties in writing including by offering security over scheme assets and by alienating a percentage of Net Proceeds of Sale.

I Insufficient Contributions

Should the RE not receive sufficient fees to properly fund the operations of the Project, then the RE will consider alternative options including the sale of the forestry interests and the winding up of the Project. The RE has no obligation to make any payment unless there are funds available for the purpose.

J Estimated management fees

While WGG has had the opportunity to complete initial investigations of the Plantation, the RE is not in a position to prepare a strategic management plan until such time as more detailed site inspections have been completed.

Accordingly, as the Management Fees will be based upon actual operating costs, it is not possible to detail the expected fees until after the full due diligence process is completed. However, as an indication, WGG and Primary have estimated that the fees per Hectare are likely to be as follows:

- Reconstruction Fee: \$400 once off (inc GST);
- Initial Management Fee \$300 once off (inc GST); and
- Management Fee \$150 to \$250 per financial year (inc GST).

The RE expects that the Capital Account Contribution will be invoiced on 1 July 2012 and thereafter at the same time as the Management Fee. It is estimated that this will be \$50 (inc GST) per financial year.

1999 Growers who Opt In will also have to make lease payments in accordance with their lease agreements.

Those Growers who have made contributions to WGG will receive a credit against the reconstruction fee for the amount of their contribution.

As previously detailed in this Explanatory Memorandum, any difference between actual and expected costs will be applied against the subsequent fee payable by Growers.

The RE can issue invoices for supplementary management fees.

K Potential implications for Growers with loans

As noted above, a number of Growers in the Project financed their investment in the Project with loans from entities related to WFL and/or involved in the establishment and operation of the Project. Some Growers may have granted the lender security over their interest in the Project (their “Hectares”) as security for their loan.

Growers should be aware that if the New WGG Proposal is approved and implemented, there may be adverse consequences for those Growers with loans who decide not to continue in the Project (in particular those Growers whose loans are secured by their interest/s in the Project).

For example, forfeiture of a Growers interest/s as a result of their failure to pay invoiced fees following restructure of the Project, may be considered by a financier to be adverse to their security and/or an event of default under the relevant loan agreement, and the financier may seek immediate repayment of the Growers’ loan principal.

Growers with loans should seek independent legal advice on the potential implications of implementation of the New WGG Proposal in respect of their loan.

As detailed at sub-paragraph 4(a) of section 2 above, Growers with Deferred Loans have received an offer from the Receivers to restructure their Deferred Loan. This offer, and any restructure of Deferred Loans which occurs on acceptance of it, is independent to the New WGG Proposal and the outcome of the Meeting.

Growers should also be aware that participation in the continuation of the Project does not necessarily protect Growers with loans that have not entered into a Deferred Loan Variation Deed. The Receivers have publicly stated that they may be able to collect outstanding loan amounts in these circumstances. WGG and Primary make no representations as to the Receivers’ ability to collect outstanding loan amounts, upon reduction of security or otherwise, where the Grower has not entered into a Deferred Loan Variation Deed.

L Project viability

MBAC Consulting Group Pty Ltd (MBAC), forestry and forest industry consultants, were engaged by the WGG in August 2011 to undertake preliminary assessments of previous assessments of the condition of the Project plantations and to identify the range of silvicultural options which may be available to best manage the Project Trees for the benefit of the Growers in the continuation of the Project.

MBAC inspected the Project plantations in August/September and in December 2011 and prepared a report to the WGG outlining the results of their assessment (MBAC Report). The WGG is currently obtaining MBAC’s consent to make the MBAC Report public and provide access to it to Growers. The WGG expects MBAC to provide consent and the report to be published on the website soon. Growers are recommended to monitor the WGG and Primary websites in this respect.

MBAC found that many of the plantations had experienced some snow, hail and/or animal damage that affected quality. Based on a variety of data sources (imagery, photography, direct observation and limited sample plot data), MBAC classified “stands” (parts of a property) into one of three form strata and one of four growth classes. Specifically, based on the August 2011 assessment, MBAC found in respect of the stands:

- there appeared to be some correlation between growth rate, damage and altitude;
- 11% has good growth and yield;
- 25% has average growth and yield;
- 62% has poor growth and yield; and
- 70% has some form of issues.

Based on observations in August 2011, MBAC concluded that all of the plantations combined across all Project years had a net present value of \$3.97m (with unknown precision) if so-called conventional (long-rotation) silviculture was applied with two thinnings and a final clearfell in year 26. If however, prices were reduced by 25%, then many of the stands appeared to be unviable in terms of negative net present value.

Following further observations in December 2011 to assess alternative silvicultural options (unthinned clearfell at age 17), refine silvicultural, roading and harvesting costs and refine prices and specifications for sawlogs - MBAC concluded that:

- if non-conventional (short rotation) silviculture was applied, all forests have positive NPV's and are deemed viable by MBAC, based on the assumptions contained in the report (in particular yield, product mixes, costs and prices) and in advance of proper inventory";
- again, if non-conventional (short rotation) silviculture was applied, the combined net present value of the forests could increase to \$5.37m (with unknown precision); and that
- these findings are based on positive market, cost and price signals although are contingent on a proper detailed inventory being undertaken to assess yield and product mixes and refine other assumptions.

M Strategic Management Plan

The RE will develop a Strategic Management Plan (SMP) for the Project within 60 days of being appointed which will outline the manner in which the Project plantations will be managed and the silviculture which will be applied to them

In preparing the SMP, the RE will consider all available information, including the results and recommendations of MBAC and any additional information that may become available, in order to develop the SMP that will best maximise Grower value.

N Land tenure, lease agreements and forestry rights

WGG considers that Growers rights in respect of the Land will be preserved after a change of RE either through the existing leases, forestry rights or both. However, there is a risk that the Liquidators will seek to terminate these rights. It is likely that the Liquidators intentions will be apparent from the documents they file in the forthcoming court proceedings.

As indicated in this Explanatory Memorandum, upon appointment the RE may seek directions from the Supreme Court of Victoria in respect of these matters.

O Reallocation of Hectares and Common Hectares

The RE has the power to reallocate, cancel or re-survey Hectares or Common Hectares.

WGG and the RE anticipate that this may occur in a number of circumstances including where required by legal and regulatory requirements or the sale and/or transfer of Hectares.

P Changes to the Growers' Agreements

The Project Documents comprise the Planting and Preparation Agreements, the Lease Agreements and the Maintenance Agreements.

The Planting and Preparation Agreement

The Planting and Preparation Agreements have already come to an end and do not need to be amended.

The Lease Agreement

It is not proposed to amend the Lease Agreements at this time.

However, upon Primary being appointed, Primary will attempt to resolve the question as to what rights of WFL as owner of the land (including rights as lessor under the Lease Agreements) are transferred to Primary. The RE or the Liquidators may need to seek directions of a Court on the issue.

The Maintenance Agreement

It is not proposed to amend the Maintenance Agreements. However, changes to the Constitution will result in the Project becoming a contributory scheme and this will require Growers to pay all initial, ongoing and future costs, fees and charges. To the extent that amendments to the constitution affect the Maintenance Agreement, Primary may make consequential amendments for consistency.

Q 1999 Lease and management fees for the Growers who invested in the 1999 prospectus

Growers who invested in the 1999 prospectus are already required to pay ongoing lease and management fees. The New WGG Proposal has the following impact on those arrangements:

- The rental payable under the lease agreement will remain payable in accordance with the lease conditions. We anticipate the most practical way of operating this is that rent payments will be made to Primary who will pass the funds to the land owner (except possibly for 1999 Growers who Opt Out). Alternatively, the land owner may invoice the Growers directly; and
- Otherwise, instead of the previously agreed maintenance fees payable under the Maintenance Agreement, you will pay the same reconstruction fee and management fees as other Growers.

1999 Growers who are in arrears under any lease agreement and/or management agreement will be required to make payment.

R Hectares currently held by Willmott Forests Limited

The register of Growers in the Project, kept by WFL, records WFL as holding in its personal capacity a number of Hectares in the Project, particularly in the 1996 year (**WFL Hectares**). Many of the WFL Hectares were acquired either from Growers who defaulted prior to WFL being placed in external administration, or from Growers whose trees on their Hectares had suffered significant damage.

As detailed at sub-paragraph 4(c) of section 2 above, in the course of the negotiations between WGG and the Receivers, the Purchase Deed has been executed, and if certain pre-conditions are met WGG or its nominee will purchase the WFL Hectares from WFL.

This conditional agreement by the WGG or its nominee to purchase the WFL Hectares as entered into by the WGG as part of the various conditional agreements resulting from the negotiations between the Receivers and the WGG (**Settlement Transaction**), and in order to facilitate the Settlement Transaction, and as such, was entered into for the benefit of all Growers.

If the preconditions under the Purchase Deed are satisfied and the WFL Hectares are sold to WGG or its nominee then the RE may, in turn, purchase the WFL Hectares from WGG or its nominee, at the Agreed Hectare Price multiplied by the total number of Hectares comprising the WFL Hectares.

If there is a shortfall between the amount payable to the WGG or its nominee by the RE for the WFL Hectares based on the Agreed Hectare Price, and the amount the WGG or its nominee paid WFL for the WFL Hectares, then this shortfall will be accepted as a cost of the reconstruction of the Project, and the WGG will be entitled to claim reimbursement of this shortfall from Grower contributions. The WGG does not expect that if there will be any shortfall, and if there is any shortfall, it will not be significant.

If the amount payable to the WGG or its nominee by the RE for the WFL Hectares based on the Agreed Hectare Price is greater than the amount the WGG or its nominee paid WFL for the WFL Hectares, the WGG or its nominee will forego this benefit and accept payment only up to the amount paid to WFL for the WFL Hectares. The WGG will not accept a financial benefit from Grower contributions in the transfer of the WFL Hectares to the RE.

The RE will be purchasing the WFL Hectares on behalf of Participating Growers.

S Taxation

If the New WGG Proposal becomes effective, there will be a change of RE of the Project and a change in the fees payable to the RE by Growers, and changes to the constitution.

Neither WGG nor Primary are currently eligible to apply to the Australian Taxation Office for a product ruling as to the tax deductibility of any payment under the New WGG Proposal or any other matter.

In addition, neither WGG nor Primary has obtained tax advice on the New WGG Proposal or had discussions with the Australian Taxation Office in relation to the New WGG Proposal.

After its appointment, Primary will apply to the Australian Taxation Office for an addendum to the current Product Ruling or such other appropriate instrument for the Project.

Growers are advised to seek their own professional financial and taxation advice in relation to the New WGG Proposal.

T Assignment

As detailed in sub-paragraph 4(a) of section 2 above, a number of Growers in the Project financed their investment in the Project with loans from entities related to WFL and/or involved in the establishment and operation of the Project. A number of these Growers deferred repayment of these loans.

In utilising the deferment option, many Growers agreed, subject to certain preconditions being met, to assign a percentage of the payments they would receive derived from their interest in the Project to the relevant financier (**Assigned Interests**). WFL has a claim in respect of a number of Growers' Assigned Interests.

Under the Receivers' and WFIN's offer to Growers to restructure the terms of the Deferred Loans, if a Grower with a Deferred Loan executes the Deferred Loan Variation Deed and certain pre-conditions are met such that the acceptance of the offer takes effect, WFL will relinquish any future claim it may have in relation to any Assigned Interests.

However, if a Grower with a Deferred Loan does not accept the Receivers' and WFIN's offer to restructure the terms of their Deferred Loan then WFL will maintain its claim to the Assigned Interest relevant to that Grower. Notwithstanding this claim (or the validity of the claim), WGG and Primary consider that WFL has no ownership entitlement to the Grower's interest and the Grower remains liable for all costs, fees and charges referable to any Assigned Interest and not the relevant third party.

U Most appropriate silvicultural practice

The initial reviews of the plantations by WGG and Primary have indicated that the condition of the plantations (expressed as a function of growth, future yield and form) varies greatly.

Accordingly, different plantations, or parts of plantations, may warrant the application of different silvicultural treatment. This may mean that some or all of the Project plantations are managed using 'non-traditional' silvicultural practices or in a manner which differs from that originally envisaged by WFL. The application of silviculture will be designed to maximize the commercial outcome for Growers. Application of non-traditional silviculture may have the effect of reducing the contributions required from Growers. However, it could also lead to total Net Proceeds of Sale available to Growers on final harvest being less than forecast by WFL. The total Net Proceeds of Sale available to Growers on final harvest is constrained by the current state of the Project plantations. The application of silviculture will be designed to strike the best balance between reduction of costs and maximization of harvest in order to maximize overall returns to Growers.

V Insurance claims receivable

We are aware that WFL has made insurance claims on some parts of the Plantation. We do not have the details of these claims but expect that any proceeds from these claims will be forwarded directly to affected Growers. Those Growers whose finance arrangements are secured by their Hectare, the likelihood is that those insurance proceeds will be forwarded to the financier in reduction of their loan principal.

W Growers' Insurance

The current arrangement is that Growers are responsible for the insurance of their interests. Under the New WGG Proposal, this will no longer be necessary and the RE will pay for fire and public liability insurance with respect to the Trees out of the initial and subsequent annual Management Fees payable by Growers.

Growers who wish to take out additional insurance or insure their Trees for a different value, for example for an amount equal to any finance amount, should make these arrangements themselves. We anticipate the RE being able to assist with these enquiries.

X Implementation

WGG anticipates the following steps for implementation of its proposal:

- 21 December 2011: Meeting of Growers to consider the resolutions.
- Within 2 business days after the Meeting: If all resolutions are passed, Primary will lodge a notice with ASIC to effect the change of RE.
- In early January 2012, Primary will amend the constitution.
- Within a week following the amendment of the constitution, the RE will:
 - issue invoices for the Reconstruction Fee and the Initial Management Fee; and
 - commence preparing a strategic management plan including the remediation and maintenance work required.
- Within 60 days after the Meeting: Completion of a strategic management plan for the plantation.
- Within 90 days after the Meeting: The appointment of a forestry manager consistent with the strategic management plan.

Primary may apply to the Supreme Court of Victoria for directions that Primary is justified in carrying into effect the resolutions, the amendment of the constitution and any other matters related to the implementation of the proposal.

Y Growers' Meeting

Where a meeting is called by Growers, the Chair must be elected by Growers present at the meeting.

The law requires the RE to determine the value of an interest in a scheme for the purpose of voting at scheme meetings. WGG has already advised the Liquidator of WFL's statutory discretion and will formally request it to exercise this discretion as soon as practicable. In the absence of notification from the Liquidators of WFL, each Hectare will be given equal value (\$1) for the purpose of voting.

A scrutineer will be appointed in relation to the proxies and on the conduct of the poll at the Meeting.

Growers are not required to attend the Meeting to cast their vote if they have completed and submitted a valid proxy.

The Notice of Meeting includes a Proxy Form for Growers. All valid proxies that are lodged will be considered at the meeting. To be effective the proxy must be received by Willmott Forests Ltd no later than 48 hours before the meeting. To ensure that this occurs it should be delivered to **Primary Securities Ltd** no later than 7.00am WST on Sunday 18 December 2011.

If sufficient proxies have not been submitted to pass all interdependent resolutions 1 to 4, the Meeting may be adjourned to allow more time for proxies to be submitted.

Z Why should Growers support the New WGG Proposal

In our view, the New WGG Proposal offers the following:

- The New WGG Proposal is the only proposal for the continuation of the Project.
- If Growers do not approve the New WGG Proposal the Project will not continue.
- If the New WGG Proposal is not approved and the Project is not continued the Liquidators will sell the Land and Project Trees as part of the Liquidators' Sale Process and the Project will be wound-up.
- If the Project is wound up, the prospects of any value being returned to Growers is uncertain.
- Primary is an experienced RE, having previously taken over other distressed forestry schemes.
- If the New WGG Proposal is approved and the Project continued, Growers will retain a right to receive proceeds from the harvest of the Project Trees.

Growers should seek their own professional advice on how the New WGG Proposal impacts their personal circumstances and the options available to them.

AA Risks

It is important that Growers read this information carefully as there are considerable risks associated with agricultural managed investment schemes given the restructure of this Project after the insolvency of WFL and the length of time until harvest. The New WGG Proposal is not expected to result in the recovery of your original investment, rather the New WGG Proposal is designed to facilitate the Project running until the final trees are clearfelled and all sales proceeds are received and distributed.

The major risk is that, if the New WGG Proposal and the Resolutions are approved at the Meeting and Primary replaces WFL as RE, the Liquidators may refuse to facilitate the continued tenure of Growers on the Land. If the Liquidators terminate Growers' leases, Primary will need to challenge the termination in Court and/or seek relief against forfeiture. If the Liquidator is successful in terminating Growers' leases the Project will not be able to continue and this may have adverse consequences for Growers' with loans.

The risks faced by Growers are of a similar nature as those normally associated with investments in a forestry MIS and include:

- Risk that the Project will fail to deliver expected volumes of wood produce.
- Risk that the volume of wood harvested will be detrimentally affected by damage caused by insects, termites and other pests.
- Risk that the price of the timber may decrease at harvest.
- Market and commercial risk such as reduced demand for wood, technological advances, increased costs associated with harvesting and delivery.
- Environmental risk such as drought, flood, cyclones, wind, hail, insects, pests, fire diseases.
- Risk of change to government legislation (including taxation legislation).
- Risk associated with the financial position of the RE.

There are other risks specific to the New WGG Proposal. These include:

- The risk that RE is unable to continue to fund the Project until harvest because of insufficient contributions from Growers and inability to obtain any alternative funding from a lender or underwriter, and the failure of the underwriter, if appointed.
- If the RE is required to borrow, the risk of granting security of scheme assets and of default.
- That as a result of further due diligence after the Meeting, additional information may become available which is detrimental to the interests of Growers.
- The risk that the information in this Explanatory Memorandum is incomplete or inaccurate because the Preparers' access to relevant information is limited (as described on page 2 under the heading "Important Information").
- The scope and quantum of the Liquidators' lien over proceeds is uncertain.
- Risks in respect of the effect of the terms and continuation of the Lease Agreements or the Forestry Rights.
- The risk that the New WGG Proposal may impact on any financing arrangements (including loan agreements and/or deeds of deferment) that the Grower has with WFL and any third party.
- The risk associated with the unknown costs of resolving disputes, including litigation, in relation to the implementation of the New WGG Proposal including being liable for an order for costs.
- The risk that the pre-conditions to the Settlement Deed are not met and the injunction in the Receivers' Proceeding is not lifted. If the injunction is not lifted the Resolutions will not be put to the Meeting and the New WGG Proposal will not be approved and implemented. As the only proposal for the continuation of the Project, if the injunction is not lifted then it is highly likely that the Project will not continue and will be wound-up.

BB Disadvantages

The key aspects of the New WGG Proposal that affect Growers adversely are:

- a requirement to make additional grower contributions.
- the Opt-Out provisions if the Grower does not pay the first optional invoice.

- the default provisions for non-payment of fees and contributions and possibly full surrender of entitlements to the benefits produced by the Project if a Grower does not pay the fees or make the contributions owing to the RE.
- the risk in respect of the entitlement to land tenure and the effects and the terms of the continuation of the lease agreements and/or the forestry rights.
- an increase in remuneration required to be paid by Growers to the RE.
- taxation and financial consequences for each Grower.

Details of each of these matters are described elsewhere in this Explanatory Memorandum.

The resolution that involves changes to the constitution is a special resolution because elements of the amendments are adverse to the existing rights of Growers under the Project. The law requires that such amendments are made by a special resolution of members of a scheme.

CC What to do next to support the New WGG Proposal

You should carefully consider the New WGG Proposal and seek independent financial and taxation advice.

If you would like the New WGG Proposal to proceed, you should vote in favour of all of the resolutions by:

- submitting your Proxy Form, in accordance with the instructions in the Notice of Meeting accompanying this Explanatory Memorandum and voting in favour of all of the resolutions; or
- attending the Meeting and voting in favour of all of the resolutions.

If you submitted a Proxy Form for a previous meeting it is not valid and you will need to complete and submit another Proxy Form.

SECTION 3: RESOLUTION 2 – AMENDMENTS TO THE CONSTITUTION

1. Details of the Amendments to the Constitution

The Project is governed by a legal document known as the constitution. Growers also entered into the Preparation and Planting Agreement, the Maintenance Agreement and Lease Agreement (**Project Documents**) with the RE.

So that the New WGG Proposal can be implemented, WGG are asking Growers participating in the Project to approve the key changes to the constitution. This section describes the proposed amendments and their effect in detail. The proposed amendments to the constitution are contained in Part B of the Explanatory Memorandum.

1.1 Name of Project

The name of the Project will remain the same. Clause 1.2 is being deleted because it requires the name of the Project to be changed.

1.2 References

The current constitution was executed on 16 September 1999 and will be updated to reflect the current legal regime. As the constitution was adopted prior to significant changes to the Corporations Act, the proposed changes are to references no longer used in the Corporations Act 2001 (**Corporations Act**). These references will refer to the current references used in the Corporations Act.

1.3 Definitions

New terms introduced in the constitutional amendments have been included in the definitions section of the constitution and other terms updated.

As the New WGG Proposal provides for a contributory scheme and the appointment of a new RE, the majority of the amendments to the definitions section relate to defined terms to be used in clauses to give effect to those amendments. However, you should refer to section B of the Explanatory Memorandum for full details.

1.4 Application Price for Hectares

Clause 3 has been deleted. Generally, clause 3 provided that a Hectare must only be issued at an application price which is specified in the relevant prospectus and set out in the Project Document for each Hectare.

Clause 3 has been deleted because if the Responsible Entity wishes to transfer or issue Hectares to raise money for the purposes of the Project it does not want to be limited by this provision.

1.5 Growers' appointment of Attorney & Agent

The RE will have an irrevocable power as the Growers' agent, representative and attorney to the maximum extent permitted by law.

This includes a number of powers including:

- (a) the power to amend the Project Documents subject to the amendments not adversely affecting the rights of the Growers;
- (b) to re-allocate Hectares and/or Leases amongst Growers where in the best interests of Participating Growers;
- (c) to allocate, reallocate, reduce, cancel or re-survey Hectares or Common Hectares where it is in the best interests of Participating Growers;
- (d) to establish or confirm classes of Growers;

- (e) to negotiate and enter into any agreement on behalf of any Grower with a lessor;
- (f) to enter into consolidated Maintenance Agreements and/or Lease Agreements;
- (g) register any Forestry Rights;
- (h) upon the termination of the Project or earlier after the passing of a resolution at a meeting of Growers to sell the interests of the Grower in the Project; and
- (i) to take any action (including Court action and the registration of an instrument on the relevant title) to enforce and protect the Growers rights.

All costs properly incurred in acting as the Growers' attorney may be deducted from the Fee Account and then the Revenue Account and each Grower undertakes to ratify all things done as the Grower's attorney.

In the constitution, Primary is also appointed as the agent of the Growers to effect the necessary amendments to the Project Documents.

1.6 Indemnity and Liability

Under the New WGG Proposal, the RE's right of indemnity will be expanded so that the RE will be entitled to be indemnified out of the Revenue Account and the Fee Account.

The amounts recoverable under this indemnity are to be deducted from the Revenue Account affecting the Net Proceeds of Sale or the Fee Account and so any entitlement to an indemnity exercised by the Responsible Entity will affect the final return to Growers.

The expanded indemnity would cover items such as costs incurred by the RE in dealing with any dispute resolution that relates to the Project, including Primary defending any legal action against it relating to any prior RE.

The RE indemnifies itself from the Fee Account and Revenue Accounts.

1.7 Opt-In and Opt-Out

A Grower Opts In to the restructured Project by paying the first optional invoice from the RE by the Election Date. Accordingly, a Grower who does not pay the first optional invoice by the Election Date Opts Out of the Project.

If a Grower Opts Out then:

- (a) The Grower ceases to become a Participating Grower;
- (b) Subject to legal and regulatory requirements:
 - (i) the RE will arrange a low volume market to allow the Grower to sell their Hectare;
 - (ii) should it be necessary or in the event that the RE cannot operate a low volume market, the RE will issue a Product Disclosure Statement for the benefit of Growers wishing to sell their Hectares;
 - (iii) in the event that, at the end of the Sale Period, the Growers Hectare remains unsold the RE will acquire and transfer the Grower's Hectare to itself and remove that Grower from the Growers register (upon which the Grower shall cease to be a Grower). The Growers Hectare will now become a Common Hectare, held by the RE for the benefit of all Participating Growers. Terms of acquisition are set out in the section titled "Purchase of Hectares of Growers who Opt-Out" below.
- (c) From a practical perspective, it will be difficult for 1999 Growers to Opt Out as they have ongoing rental obligations under the Project Documents.

1.8 Fees

(a) Initial Management Fees and Reconstruction Fees

The WGG Proposal requires:

- (i) management fees from all Growers to fund initial management costs until 30 June 2013 (**Initial Management Fees**); and
- (ii) reconstruction fees from Growers to fund the reconstruction of the Project (**Reconstruction Fee**).

The Initial Management Fees and the Reconstruction Fees will be payable within 30 days of the issue of an invoice by the new RE (unless other arrangements to pay are made with the RE).

The RE is able to issue an invoice or invoices for Supplementary Initial Management Fees where contributions collected are not sufficient to cover actual costs and/or its initial budget is not sufficient to cover costs including the Reconstruction Fee and forecast Total Costs and Dispute Resolution Costs plus reasonable RE expenses of the Project until 30 June 2013.

For each Hectare held by the Grower, the Initial Management Fee will be \$300 (inclusive of GST) and the Reconstruction Fee will be \$400 (inclusive of GST).

In the event that there is an excess amount in the Growers Contributions Account at the end of the first financial year, any excess may be offset against any future Management Fees invoiced to Growers.

The Initial Management Fee may also be used to fund the cost of court proceedings and any other proceedings which may be required in the interests of Growers.

There can be no certainty that the estimated cost of these court proceedings will be sufficient as it is difficult to budget for dispute resolution and if the amount is not sufficient, a Supplementary Initial Management Fee may be invoiced or an increased amount may need to be invoiced in the first Management Fee.

(b) Management Fees

The WGG Proposal requires management fees from Growers to fund management fees for each financial year (**Management Fees**). The RE can issue invoices for Supplementary Management Fees.

For each financial year on and from 1 July 2013 until termination, the Growers will be required to pay a Management Fee for each Hectare. The Management Fees will be payable in advance for each financial year in respect of the proper performance of the RE's duties.

The level of the Management Fees will be set for each year based on the budgeted Project expenses for the next twelve months.

The RE is able to issue an invoice or invoices for Supplementary Management Fees where the contributions received are not sufficient to fund the ongoing costs of the Project until 30 June in the relevant financial year. It is anticipated that the issuing of an invoice or invoices for Supplementary Management Fees may occur where there is lack of grower contributions or expenses exceed forecast expenses.

Primary will undertake an historical reconciliation of estimated and actual Total Costs in relation to the Project and Dispute Resolution Costs, as well as Grower default rates in order to determine the appropriate setting of the annual Management Fee.

1.9 Purchase of Hectares of Growers who Opt-Out

The RE is able to issue an invoice on an annual basis for a Capital Account Contribution. On 1 July 2012, and thereafter annually, the RE will invoice Growers for a Capital Account

Contribution. This fee is expected to be an amount of \$50 (inc GST). The amount of the Capital Account Contribution will be placed in the Capital Account and the funds in that account will be used by the RE to purchase on behalf of the Project the Hectares of Growers who Opt-Out of the Project and the Hectares are not sold on the low volume market within the Sale Period (3 months from commencement of market). If a Hectare is not sold on the low volume market, the RE will pay the Agreed Hectare Price.

The Agreed Hectare Price is based on a formula. The formula is Net Assets minus any applicable costs, fees, expenses and charges divided by the total number of Hectares in the Project.

The RE will pay the Grower the Agreed Hectare Price by annual instalments from the Capital Account subject to the Project continuing and the RE having sufficient funds in the Capital Account. The Grower's Hectare will be transferred to the RE and the Grower will cease to be a Grower at this time and their name will be removed from the register of Growers. When the Project terminates, the value of any Hectares, Trees and/or monies in the Capital Account (if any) will be distributed amongst Participating Growers at that time.

1.10 Grower's Hectare to be held on trust

The RE will hold the former Grower's Hectare as scheme property on trust for Participating Growers as a whole.

Participating Growers will be liable for the fees on Common Hectares in accordance with the Grower's Proportional Share.

1.11 Separate Accounts

Given the constitution now makes specific provision for the harvesting and sale of the Trees by the RE, provision for the collection and distribution of the revenue will also be included in the constitution.

In this regard, the constitution will provide for the creation of two accounts:

- (a) Fee Account;
- (b) Revenue Account; and
- (c) Capital Account.

The RE will pay into the Fee Account all moneys received from the issue of invoices for Initial Management Fees, Reconstruction Fees, Supplementary Initial Management Fees, annual Management Fees and Supplementary Management Fees.

The RE will pay into the Revenue Account all money received from the sale of the Forest Produce, Trees, Lease Agreements and any insurance proceeds received in relation to the Land. Money held in the Revenue Account will be distributed to Participating Growers according to the Grower's Proportional Share (after the Pooling Date).

The RE will pay into the Capital Account all money received from the issue of invoices for Capital Account Contributions.

Grower's Proportional Share means the proportion which the number of Hectares entitled to be used by the Grower bears to the total number of Hectares held by all Growers for the time being provided that if any of the Initial Management Fee and Reconstruction Fee or any subsequent Management Fee has not been fully paid by a Grower, then the Grower's Proportional Share will be reduced for each of (1) the Initial Management Fee and Reconstruction Fee, and (2) any subsequent Management Fee, which has not been paid.

The Fee Account is a fees account and only becomes Project property on the termination of the Project.

1.12 Remuneration, Expenses and Costs of RE**(a) Annual Fee**

Primary will be entitled to an annual fee of \$75,000 per annum plus \$10 per Grower (plus GST) with a minimum of 3 years. The entitlement of the RE to remuneration under the Proposal will include the Annual Fee. In addition, the RE will be entitled to reimbursement for certain costs and expenses. The Annual Fee is Indexed on an annual basis and is payable in 12 equal monthly installments.

As part of the annual fee paid to Primary, the following is a general outline of the services included:

- (i) complying with all obligations required under the AFSL;
- (ii) any and all costs, expenses and obligations in respect of its employees, contractors and other service providers;
- (iii) appointing (and paying for) the Compliance Officer, Compliance Assistant (if any) the Compliance Committee (if any) and holding Compliance Committee meetings (if applicable);
- (iv) appointing (and paying for) Primary's board of directors and holding board meetings;
- (v) appointing (but Primary not paying for) substitute or appropriate RE's Experts whether required for the AFSL or otherwise;
- (vi) holding of Project books and records including Project Documents, Head Leases, Registers, contracts and forestry maps;
- (vii) archiving, storage and retention of records as required under the Corporations Act and the AFSL;
- (viii) operating and updating a website for Primary;
- (ix) keeping compliance systems, the Procedures Manual and the Risk Management Systems Statement for each of the Project and keeping these up-to-date;
- (x) answering inquiries from Growers in respect of the Project;
- (xi) membership of an external complaints resolution scheme as may be required under the AFSL;
- (xii) arranging for and liaison with scheme auditors and compliance auditors;
- (xiii) negotiating with professional indemnity insurance brokers, arranging professional indemnity insurance in respect of the Project;
- (xiv) maintaining appropriate software and reprogramming as and when required;
- (xv) complying with all other statutory compliance obligations in relation to the Project; and
- (xvi) any other work which might reasonably be the proper duty of a RE but which is not of an unusual or unexpected nature (such as interim and other work specified in the constitution as subject to a fee)

(b) Reconstruction Fee

The RE will be entitled to a Reconstruction Fee following their appointment.

The RE can claim the Reconstruction Fee from the Fee Account.

The Reconstruction Fee will include all reasonable costs and expenses incurred in respect of the reconstruction of the Project, including costs and expenses of due diligence, variation of its AFSL, attending meetings, costs not covered by the Initial Management Fee and

reimbursement to Grower Groups for their costs and expenses and, if necessary, any Dispute Resolution Costs.

(c) Dispute Resolution Costs

Upon Primary becoming the RE, Primary may claim Dispute Resolution Costs from the Fee Account following its appointment.

Dispute Resolution Costs are defined in the new definitions section of the constitution.

(d) Reimbursement of costs

Primary will have its costs associated with managing the Project paid out of the Fee Account. Depending on the nature of the cost or expense, the RE is entitled to be reimbursed from the Fee Account or Revenue Account for the relevant costs.

Primary is entitled to be reimbursed from the Revenue Account for costs and expenses including the Costs of Sale, income tax or other taxes, regulatory fees and other costs, expenses or fees permitted by the constitution.

Primary is entitled to be reimbursed from the Fee Account for costs and expenses including costs associated with providing the services, Reconstruction Fee, acting in accordance with constitution and Project documents, Dispute Resolution Costs and other costs, expenses or fees permitted by the constitution.

1.13 Payments in respect of the Project

Except where entitled to be reimbursed, the RE is responsible for payment of all expenses in relation to the Project including but not limited to the following expenses:

- (a) complying with all obligations required under the AFSL;
- (b) any and all costs, expenses and obligations in respect of its employees, contractors and other service providers;
- (c) appointing (and paying for) Primary's board of directors;
- (d) keeping compliance systems, the Procedures Manual and the Risk Management Systems Statement for the Project and ensuring they are up to date;
- (e) all preparations for and holding of Compliance Committee meetings and board meetings;
- (f) membership of an external complaints resolution scheme required under the AFSL;
- (g) complying with all other statutory compliance obligations in respect of the Project.

1.14 Contributions to Willmott Growers Group

Under the WGG Proposal, the RE may reimburse recognised Grower Groups for reasonable expenses that each group is able to justify to the RE (with supporting evidence) in respect of the reconstruction of the Project.

Any balance received by the RE from any Grower Group will be transferred to the Fee Account.

A Grower who contributed to a recognized Grower Group will have the amount of their contribution to the Grower Group credited against any reconstruction fee payable by invoice.

1.15 Retirement of Responsible Entity

Clause 11 of the constitution has been deleted. The retirement of a responsible entity is provided for under the Corporations Act and the provisions set out in the previous clause 11 were superfluous.

1.16 Insurances

Clause 12 of the constitution has been amended in a number of ways.

The effect of these amendments include:

- (a) rather than being required to maintain insurance, the RE covenants that it may arrange the relevant insurances if the available funds permit;
- (b) the RE at its expense will maintain or cause to be maintained an insurance policy to cover the cost of planting new trees on the Land to replace any Trees as may be damaged or destroyed by fire (previously this obligation was for the initial period of ten years, but this now applies for the duration of the Project);
- (c) The requirement for the RE to pay insurance proceeds at the direction of Growers has been amended so that this only applies to Participating Growers;
- (d) If any amount is payable to a Grower under this clause, the RE is able to deduct the amount of any fees invoices in relation to the Hectare which has not been paid (and any other amounts owing by the Grower to the RE) plus interest of 10% per annum calculated from day to day. The amount shall be paid into the Fee Account; and
- (e) If the Grower is not a Participating Grower, then the Grower is not entitled to give the RE any direction or make any election and the RE shall pay an amount which would have been payable to the Grower if they had been a Participating Grower.

1.17 Harvest and sale of trees

Under the WGG Proposal, the harvesting and sale of the Grower's Trees may be carried out by the RE on behalf of the Grower, unless the Grower otherwise notifies the RE in writing on or before the Election Date that the Grower will be harvesting and selling their own Trees or Forest Produce.

If the Grower who has given a notice that they intend to harvest their own Trees or Forest Produce, fails to harvest their Trees the Grower must pay the RE the fees for the Harvest Services and additional reasonable costs incurred by the RE in relation to the Harvest Services carried out by the RE.

1.18 Collect Income & Distributions

Given that under the WGG Proposal the RE will harvest the Trees on behalf of the Growers provision for the collection and distribution of the revenue from the sale of Forest Produce had to be included in the constitution.

These amendments also provide for the distribution of amounts in the Revenue Account as determined by the RE according to the Grower's Proportional Share, for accounts to be prepared and deductions from income and profit.

The RE may withhold from any distribution such amount that may become payable under the constitution, lease agreements or maintenance agreements whether from the Revenue Account Fee Account or otherwise.

1.19 Termination

The constitution did not make provision for the early termination of the Project and therefore additional provisions enabling both the RE and the Growers to terminate the Project will be included.

The RE can terminate the Project:

- (a) if the RE is unable to secure security of tenure for the Lease Agreements or Forestry Rights in the Plantations, Trees and Hectares;

- (b) if the RE determines that the Initial Management Fees and Reconstruction Fees contributed by Growers, together with any monies received under any loans taken out by the RE are insufficient to fund the required actions of the RE; and
- (c) in any other circumstances provided for under the Corporations Act.

If the RE proposes to wind up the Project it must first provide written electronic notice to the Growers and to ASIC explaining:

- (a) the proposal to wind up the Project;
- (b) the rights of Growers to call a Growers' meeting;
- (c) if no Growers' meeting is called that the RE is permitted to wind up the Project; and
- (d) that the RE is permitted to wind up the Project if it is concerned about the solvency of the RE as a consequence of the liabilities of the Project provided the RE gives 28 days notice to Growers.

The Growers may terminate the Project at any time in accordance with the Corporations Act.

1.20 Electronic communications to Growers and time of receipt

Under the WGG Proposal, in order to reduce the time it takes for Growers to receive documents from the RE and the volume of documents the RE is required to post to Growers, the RE will be entitled to provide documents to Growers by email where the Grower has provided their email address.

The RE may also make documents that it is required to provide to Growers available on a website rather than posting them to Growers.

A notice given to Growers is treated as having been given and received:

- (a) If delivered to the Grower's address, on the day of delivery if a Business Day, otherwise the following Business Day;
- (b) If sent by pre-paid mail, on the third Business Day after posting;
- (c) If transmitted by fax and a correct transmission report is received, on the day of transmission if a Business Day and the transmission occurs during normal business hours, otherwise the next following Business Day if the transmission occurs outside of normal business hours; and
- (d) If transmitted by email and the transmission occurs during normal business hours, on the day of transmission if a Business Day, otherwise the next following Business Day if the transmission occurs outside normal business hours.

1.21 Appointment of Agents

Under the law, the RE may appoint agents to do anything that the RE is authorised to do in connection with a scheme. This amendment confirms that the RE retains responsibility for the acts of its agents. In addition, that fees payable to any person will be payable by the RE out of its own monies but may include monies received as remuneration by way of indemnity or reimbursement under the constitution.

If the RE appoints a forestry manager, under such circumstances, its remuneration is payable from the RE's own monies but may include monies received as remuneration by way of indemnity or reimbursement under the constitution.

1.22 RE's Functions Powers and Duties

Under the WGG Proposal, in addition to its obligations under the Maintenance Agreement, the RE will form a Growers Committee.

The RE will as soon as practicable after the Election Date prepare a strategic management plan for the Plantation which may include non-traditional management methods.

The RE (or any related company or person) may be a shareholder in any management company providing forestry services to the RE provided these services are no greater than cost plus 10% and the RE has formed the view that this is the most economical method.

1.23 Borrowings and granting of security

The RE will have the power to borrow to fund the Initial Management Fee, Supplementary Initial Management Fee, Management Fee or Supplementary Management Fee on behalf of Participating Growers in relation to unpaid contributions by Growers who have failed to pay contributions.

The RE has the power to grant security over Assets of the Project and the Revenue Account. The security is granted in each case on such terms as the RE reasonably determines.

1.24 Complaints Handling and Arbitration

Under the WGG Proposal, the RE will deal with complaints according to the procedure set out in the constitution.

If there is a Dispute, as defined by the constitution then arbitration proceedings must be instigated before court action is commenced.

1.25 Inspection of Constitution

As the principle place of business of the RE is in Western Australia, the provisions relating to inspection of the constitution were unworkable. The RE now provide a copy of the constitution to any Grower upon their request.

1.26 No obligation to carry out services without funds

Under the WGG Proposal, the RE is not obliged to carry out any management services or pay any expenses on behalf of Growers if there are insufficient funds available to the RE to do so. In addition, if the RE is unable to procure the rights as lessor of the Lessor of the Lease Agreements or as grantor of the Forestry Rights, it may terminate the Project.

1.27 No right to withdraw and buyback

Under the WGG Proposal, no Grower has the right to withdraw and require the RE to realise the assets of the Project, except as provided in the constitution or Project Documents. Further, the RE is not obliged to buy back or re-purchase any Hectare or Lease Agreement from the Grower. This does not prevent the Grower from selling or transferring the Hectare to another party.

1.28 Other Schemes

Primary is a contract RE and manages other schemes. This clause confirms this situation.

1.29 Precedence

In the short term, no changes will be made to the Project Documents because all necessary changes will be included in constitution. If there are any conflicts between the other documents and the constitution the provisions in the constitution will prevail.

1.30 Insurance

The Initial Management Fee and the Management Fee will cover fire and public liability insurance.

SECTION 4: RESOLUTION 3 – REMOVAL OF WFL AS RESPONSIBLE ENTITY

1. Removal and appointment of responsible entity

Resolution 3 is a resolution to remove WFL as responsible entity.

WFL is in liquidation and has no capacity to continue the Project. It will commence the winding up of the Project.

If this resolution is passed and resolution 4 is not passed, the Project would automatically wind up.

For this reason, **all resolutions are interdependent.**

SECTION 5: RESOLUTION 4 – APPOINTMENT OF PRIMARY SECURITIES AS RESPONSIBLE ENTITY

1. Primary Securities Ltd (Primary)

1.1 The Primary Group

Primary holds AFS license No. 224107. Primary is part of the Primary Group which comprises four responsible entities operating 18 managed investment schemes, the main responsible entity being Primary. Primary has issued capital of \$100,000.

In 2010, Primary and another Primary responsible entity have already replaced Great Southern Managers Australia Ltd (**GSMAL**) as responsible entity of eight other schemes (three Great Southern vineyard schemes, the four Templegate pine schemes). Primary RE Ltd (with Black Tree as manager) replaced GSMAL as responsible entity of Great Southern Plantations 2007. Primary has also replaced the former responsible entity of the Treecorp Clearwood Project. While the takeover of Great Southern Plantations 2007 was not successful because Primary RE Ltd was not successful in court in reinstating the terminated leases, in each other case, had Primary not taken these other schemes over, the Growers would have lost their entire investment. The Growers who continued to pay fees are now in a position where there is a prospect of recovering something.

The Primary Group:

- has been operating managed investment schemes since 1999
- operates 18 managed investment schemes including 12 forestry schemes
- has received conditional approval from the Australian Securities and Investments Commission to operate the Project
- has consented in writing to take on the role of responsible entity if all resolutions are passed.

1.2 Directors of Primary

Details of the Board of Directors of Primary are set out below.

Robert Garton Smith, LLB, B Com, GDipFinPlanning (Sec Inst), F Fin (Managing Director)

Robert Garton Smith is the Managing Director and owner of the Primary Group and is its key person in relation to managed investments. He has degrees in law, commerce and financial planning and is a legal practitioner as well as being a Fellow of the Financial Services Institute of Australia. He is a member of the Law Society of Western Australia and the Australian Compliance Institute.

Robert is a former litigation lawyer but has worked in the area of managed investments since 1981. He has prepared and overseen dozens of managed investment schemes relating to real estate, mortgages, equity, forestry, viticulture, horticulture, manufacturing and film, and also prepared share, debenture stock and unsecured notes issues.

Robert has practiced law since 1970 and is admitted as a practitioner in Australia and in England and Wales.

Anthony Treadgold, B Com, CPA

Anthony Treadgold began his career in professional accounting after completing his degree at the University of Western Australia, firstly with Deloitte and later with Arthur Andersen. He specialised in business start ups and work outs and moved to London and later Hong Kong. Anthony returned to Australia after eight years overseas and joined the Bank of Boston to

start up a new Merchant Bank operation in Perth. He developed expertise in tax effective financing and innovative financial solutions for business.

In recent years Anthony has developed vineyards in the south west of Western Australia and followed his love of wine into production of super premium wines on a modest commercial scale. Anthony is an executive director of companies in the Primary Group.

Richard John Hurn FRICS

Dick Hurn has served in the property industry for over thirty years, his scope of work encompassing Australia, the UK, Continental Europe and USA, resulting in an extensive knowledge and wide experience of property investment, development, acquisition, disposal, leasing, administration and construction within the office, retail, industrial and residential sectors, and created and directed his own companies active in the professional consultancy, investment and development areas in Australia and UK for more than twenty years.

In the UK he was Chief Executive of the Property Division of BAT Holdings, a subsidiary of BAT Industries, Britain's fifth largest trans national corporation, held Directorships with several salient retail companies, and other past employers at a high level included Royal Sun Alliance (Vero) and Hillier Parker (CBRE).

Soon after emigrating from the UK to Western Australia, he was invited to become a Director of BankWest subsidiary companies, and to manage and develop the Bank's property and land portfolio, and to administer all facets of the Property Trust of WA.

He is a chartered surveyor, licensed real estate agent and was until recently Principal of Hurn Corporate Advisory, Property Consultants and Project Managers. He is presently a Director of Arts Radio, the Community Radio Station RTR FM, together with being engaged in other voluntary community projects.

1.3 Management Team

The Board of Directors is supported by an experienced and professional management team. Details of the main management team are detailed below.

Barbara Boyd (Company Secretary) has overall responsibility for all company secretarial, compliance and administration matters. Barbara is a Chartered Secretary and is the Group Company Secretary and Compliance Officer.

Anna Catelli (Legal Counsel/Complaints Officer) is legal counsel and also the Complaints Officer and property officer, ensuring compliance with agricultural scheme registration requirements.

David Wettenhall, Professor Bernard Dell and John Byrne are Primary's responsible officers for forestry.

1.4 Substitution of Primary

There are a number of responsible entities in the Primary Group of companies. The RE which is normally used for schemes involving Black Tree is Primary RE Ltd. For administrative reasons, Primary may at some point give notice to Growers that it wishes the RE to change to Primary RE Ltd without a meeting being held though Growers will be given an opportunity to require a meeting to approve the change.

2. Resolutions are interdependent

Each Resolution is interdependent on each of the other Resolutions being approved by Growers. Thus, the constitutional amendments will not be made unless all resolutions are approved by Growers including the approval of the New WGG Proposal and the removal and replacement of the responsible entity and vice versa.

PART B – RESOLUTIONS FOR THE PROPOSAL

The business of the Meeting includes consideration of the **WGG Proposal** in relation to the Willmott Forests 1995 - 1999 Project ARSN 089 598 612 (**Project**).

Growers are asked to consider and, if thought fit, pass the following resolutions for the Proposal.

Resolution 1 - Approval of the New WGG Proposal

To consider and, if thought fit, pass the following resolution as a special resolution:

“That, subject to Resolutions 2, 3 and 4 being passed, the Growers approve the New WGG Proposal as described in the explanatory memorandum, as amended, provided to Growers prior to the meeting (Explanatory Memorandum).”

Resolution 2 - Amendments to Project Constitution to implement the New WGG Proposal

To consider and, if thought fit, pass the following resolution as a special resolution:

“That, subject to Resolutions 1, 3 and 4 being passed, the Constitution of the Project be amended by PSL, immediately following its appointment as the responsible entity under section 601FJ of the Act, in accordance with the amendments set out in the Explanatory Memorandum, as amended, and any consequential amendments that may be required to give effect to the New WGG Proposal.”

Resolution 3 – Change of responsible entity: Removal of WFL as responsible entity of the Project

To consider and, if thought fit, pass the following resolution as an extraordinary resolution:

“That, subject to Resolutions 1, 2 and 4 being passed, WFL be removed as responsible entity of the Project in accordance with section 601FM of the Act.”

Resolution 4 – Change of responsible entity: Appointment of PSL as responsible entity of the Project

To consider and, if thought fit, pass the following resolution as an extraordinary resolution:

“That, subject to Resolutions 1, 2 and 3 being passed, PSL be appointed as the new responsible entity of the Project in accordance with section 601FM of the Act.”

Resolutions 1 - 4 are interdependent. If all resolutions are not passed the current responsible entity will remain the responsible entity of the Project.

SECTION 1: CHANGES TO THE CONSTITUTION

The full text of the changes to the constitution under Resolution 2 is set out in this Section 1.

In this Section, the definitions referred to in clause 3 below have been used. Other terms, which are capitalised, refer to terms, which already have a defined meaning in the constitution, Preparation and Planting Agreement, Maintenance Agreement or Lease Agreement.

1. NAME OF PROJECT

Amend the constitution by deleting clause 1.2.

2. REFERENCES

Throughout the constitution, replace all references to:

- (a) “Manager” with “Responsible Entity”;
- (b) “Dealers Licence” with “AFSL”; and
- (c) “Corporations Law” with “Corporations Act”.

3. DEFINITIONS AND INTERPRETATION

- (a) Delete the definition of “Land” in clause 25.1 of the constitution and replace it with the following definition:

“**Land:** any land acquired by the Former RE or by the Responsible Entity for the purposes of the Project.”

- (b) Amend the definition of “Project Document” in clause 25.1 of the constitution by adding at the end of the sentence the words:

“or such other document or documents deemed to be a Project Document by the Responsible Entity.”

- (c) Insert the following new definitions into clause 25.1 of the constitution in alphabetical order with existing definitions:

“**AFSL:** Australian Financial Services Licence.”

“**Agreed Hectare Price:** the price determined by the Responsible Entity from time to time according to the following formula:

$$\frac{AV - VPY - Costs}{H} - I$$

Where:

AV = Asset Value

VPY = the value of the assets of Prospectus Years other than the Prospectus Year of the relevant Hectare

Costs = costs, fees, expenses and charges

I = impairments of the Hectare”

“**Annual Fee:** the fee payable in accordance with clause 10.5.”

“**Appointment:** the entry by ASIC in its register of Primary as the responsible entity of the Project.”

“**Asset Value:** the value of the Assets of the Project, as calculated by the Responsible Entity.”

“**Auditor:** the auditor of the Project.”

“**Capital Account Contribution:** the Capital Account Contribution payable in accordance with clause 10D.”

“**Capital Account:** means the account established under clause 13A.4.”

“**Committee of Growers:** a committee of Growers formed by the Responsible Entity in such a manner and on such terms as the Responsible Entity requires so that the Responsible Entity may have representatives of the Growers to consult in relation to the Project.”

“**Common Hectares:** (a) any Hectares which are not sold on the low volume market under clause 10C and have become Common Hectares and (b) any Hectares purchased by the Responsible Entity on behalf of the Project. Common Hectares are Assets.”

“**Compliance Committee:** that committee required under Part 5C.5 of the Corporations Act.”

“**Compliance Officer:** that employee or other representative of the Responsible Entity who has been appointed to ensure that the Responsible Entity complies with the Compliance Plan, the constitution and the Corporations Act in relation to the Project and “**Compliance Assistant**” means any person assisting the Compliance Officer.”

“**Compliance Plan:** the compliance plan for the Project as required by Part 5C.4 of the Corporations Act.”

“**Consultant:** any consultant who is an expert with respect to the Trees or Forest Produce from the Project, water expert, surveyor, valuer, solicitor, barrister, accountant, tax consultant, auditor or other person appointed by the Responsible Entity to give advice in relation to the Project.”

“**Corporations Act:** the *Corporations Act 2001* (as amended from time to time).”

“**Costs of Reconstruction:** has the meaning set out in clause 10.7.”

“**Costs of Sale:** all the costs and expenses of sale:

(a) (from the Hectares to the point of sale) in relation to Forest Produce sold by the Responsible Entity for Growers where the Trees are harvested or have been harvested;

(b) the standing Trees where Trees are sold without being harvested;

(including but not limited to thinning, marking, felling, harvesting, transportation to the point of sale, sales agent commission, advertising, marketing, internet sales costs, costs of insurance transport delivery and shipping, costs of and related to the negotiation of sales contracts, fees paid in respect of the use of any facility or instrumentality and all taxes levies imposts and charges of any nature imposed by the Commonwealth of Australia or any State and any other cost or expenses associated with the sale.”

“**Custodian:** any custodian of Assets.”

“**Date of Indexation:** 1 July 2012 and each anniversary thereafter.”

“**Dispute:** has the meaning set out in sub-clause 22.2.”

“**Dispute Resolution Costs:** the aggregate of:

- (a) costs, expenses and disbursements associated with opposing any application to a court by the Receivers or Liquidators to challenge the validity of any meeting of Growers or for the approval of sale of the Trees and land for declaration or judicial opinion or otherwise relevant to the Project;
- (b) costs, expenses and disbursements associated with any application to a court or any decision to make an application to a court to challenge the validity of any disclaimer, any purported notice of termination or for relief against forfeiture from the termination of any Head Lease, Forestry Rights or Project Document or any associated negotiations with the Former RE or Land Owner or Lessors or their assignees regarding the security of Growers’ tenure of any Land, including costs of other parties to any application to a court;
- (c) costs, expenses and disbursements associated with any application to a court or any decision to make an application to a court regarding what is scheme property or what is novated from the Former RE to the Responsible Entity and the ownership thereof including but not limited to rights to the Land, any Head Lease or Forestry Rights or Project Documents and any other rights or entitlements;
- (d) costs, expenses and disbursements associated with any application to a court or any decision to make an application to a court regarding any claim for scheme property or the novation of any agreements from the Former RE to the Responsible Entity;
- (e) costs, expenses and disbursements associated with lodging or enforcing caveats to protect the interests of the Growers as a result of the termination of any Head Lease, Forestry Right or Project Documents;
- (f) costs associated with remedying outstanding defaults under the Head Lease, Forestry Rights or Project Documents in order to restore any terminated Head Lease, Forestry Right or Project Document;
- (g) damages payable for breach of the Head Lease, Forestry Right and Project Documents including Land Owners’ or Lessors’ damages claims in respect of any Head Lease, Forestry Right or Project Document, termination costs, the tenant’s failure to establish plantations, the tenant’s failure to remove seedlings and/or stumps from Land and loss by the Land Owner of future earnings from leases; and
- (h) consequential or associated costs, expenses and disbursements payable to any consultant, adviser, specialist, accountant, lawyer or other professional adviser engaged in connection therewith.”

“**Distribution Date:** within 120 days of the end of that financial year.”

“**Election Date:** that date which is 30 days after the Responsible Entity renders optional invoices under clause 10A.1 or such extended time as the Responsible Entity may permit for all Growers by notice on its website.”

“**Explanatory Memorandum:** the Explanatory Memorandum (as amended) given to Growers in relation to the Notice of Meeting dated 25 November 2011.”

“**Fee Account:** the account so called established pursuant to clause 13A of this constitution.”

“**Forest Produce:** the Trees or produce derived from Trees (including tree thinning, logs, woodchips and timber) grown pursuant to the Project Documents and includes Trees Residue.”

“**Forestry Right:** any forestry right in relation to the Land or any part of the Land whether held in trust for the Growers or otherwise.”

“**Former RE:** Willmott Forests Ltd ACN 063 263 650 (receivers and managers appointed) (in liquidation).”

“**Gross Proceeds of Sale:** the gross amount received by the Responsible Entity from:

- (a) sale of the standing Trees or Forest Produce;
- (b) payments in consideration for termination, surrender, assignment, consent to assignment or any other dealing with respect to the Land or any other Assets;
- (c) any other revenues relating to the disposal of Project Assets;
- (d) any redistribution of value from the Deferred Management Fees received by the Responsible Entity; and
- (e) any other revenues relating to the Project.

Gross Proceeds of Sale does not include any borrowed monies (if any) in accordance with clause 6.8 of this constitution.”

“**Grower Group:** any grower group recognised by the Responsible Entity, including Willmott Growers Group Inc (Reg No A0055077L).”

“**Grower's Proportional Share:** the proportion which the number of Hectares in the Project held by the Grower bears to the total number of Hectares in the Project (including Common Hectares).”

“**Harvest Services:** includes:

- (a) preparing a harvesting plan for the Trees and managing the harvesting in accordance with that plan;
- (b) obtaining all necessary approvals for the harvesting;
- (c) arranging the harvesting and providing supervision and administration;

paying or arranging for payment, on behalf of the Grower the costs of harvesting, transporting, processing and delivering Forest Produce and any costs including auditing costs.”

“**Head Lease:** any pre-existing or future lease agreement made between the Responsible Entity and the Land Owner in which the Responsible Entity is or becomes the lessee of the Land on behalf of the Growers and thereby becomes the Sub-Lessor in relation to the Lease Agreements and includes any Forestry Rights.”

“**Independent Expert:** any person or company (other than the Responsible Entity's Expert) who is independent of the Responsible Entity and who is an expert in relation to silvicultural matters.”

“**Indexed:** adjusted on the Date of Indexation, by the aggregate percentage change in the Consumer Price Index (All Cities) for the previous FOUR (4) quarters most recently published by the Australian Bureau of Statistics prior to the Date of Indexation (or if in the opinion of the Responsible Entity that method of calculation is no longer appropriate, such other index number as is recommended by the Auditors as fairly and reasonably taking into account inflation or deflation, and is approved by the Trustee).”

“**Initial Management Fee:** the Initial Management Fee payable by Growers in accordance with clause 10A for Total Management Costs to 30 June 2013.”

“**Land Owner:** the registered proprietor of the Land.”

“**Land Titles Office:** the official register of land ownership for the relevant state in which any Land is located.”

“**Liquidators:** Ian M Carson and Craig D Crosbie of PPB Advisory, Level 21, 181 William Street, Melbourne, Victoria or any other liquidators appointed to the Former RE from time to time.”

“**Management Agreement:** the management agreement entered into between the Manager (if any) and the Responsible Entity.”

“**Management Fee:** the Management Fee payable by Growers on an annual basis in accordance with clause 10B.”

“**Manager:** the manager for the time being appointed by the Responsible Entity.”

“**Net Proceeds of Sale:** the Gross Proceeds of Sale less the Costs of Sale less any reimbursement costs to the Responsible Entity under clause 10.9 and clause 10.10.”

“**Opt In:** [Growers] pay the optional invoice for the Initial Management Fee and the Reconstruction Fee referred to in clause 10A.1 by the Election Date.”

“**Opt Out:** [Growers] do not pay the optional invoice for the Initial Management Fee and the Reconstruction Fee referred to in Clause 10A.1 by the Election Date.”

“**Participating Growers:** those Growers who Opt In and any Grower who buys the Hectare of a Grower who Opts Out.”

“**Pooling Date:** the day following the end of the Sale Period.”

“**Power of Attorney:** any power of attorney granted by the Applicant or Grower in favour of the Responsible Entity, including:

- (a) any existing power of attorney granted by each Applicant and Grower to the Responsible Entity or a former responsible entity;
- (b) any power of attorney granted by each assignee or successor of an Applicant or Grower; and
- (c) the power of attorney contained or to be contained in 6C.1 of the constitution.”

“**Primary:** Primary Securities Ltd ACN 089 812 635, a company incorporated in Australia, holder of AFSL No: 224107, and having its registered office at 13 Nairn Street, Fremantle Western Australia.”

“**Procedures Manual:** the manual prepared by or for Responsible Entity applicable to the Project (as amended from time to time) that sets out how the obligations of the Responsible Entity under the Compliance Plan of the Project, the constitution of the Project, the Corporations Act 2001 and the AFSL are to be met.”

“**Receivers:** Mark Korda, Bryan Webster and Mark Mentha of KordaMentha or any other receivers appointed to the Former RE from time to time.”

“**Reconstruction Fee:** the reconstruction fee determined in accordance with clause 10.7 to pay the Cost of Reconstruction.”

“**Revenue Account:** the account established pursuant to clause 13A of this constitution.

“**Risk Management Systems Statement:** each statement so called prepared by the Responsible Entity for the Project which sets out the material risks of the Project and the systems to be put in place for dealing with those risks.”

“**Sale Period:** three months after the commencement of operation of the low volume market or from the issue of a Product Disclosure Statement pursuant to clauses 10C.1 and 10C.2, whichever first occurs.”

“**Supplementary Initial Management Fee:** the Supplementary Initial Management Fee for which the Responsible Entity may invoice Growers in accordance with clause 10A.

“**Supplementary Management Fee:** the Supplementary Management Fee for which the Responsible Entity may invoice Growers in accordance with 10B.”

“**Total Management Costs:** the aggregate of:

- (a) costs of thinning, marking or other services provided if these are not recouped from the sale of Forest Produce;
- (b) fire insurance with respect to the Trees and public liability insurance;
- (c) operational costs and expenses associated with the Project and Plantations generally and, in particular, of performing the duties, obligations and functions of the Responsible Entity under any Project Documents, including costs associated with the maintenance, weeding, fertilizing, road maintenance, pest control and fire control of the Plantations, including activities for the remediation of the Plantations;
- (d) costs and expenses of the Responsible Entity associated with the proper performance of its duties and its powers in connection with the Project, including overheads, administrative costs, all costs, expenses, commissions, fees, rates, taxes (including income tax), supervision and management charges, and other charges or outgoings payable in accordance with this constitution;
- (e) land costs, which are the aggregate of all rates, taxes and outgoings paid or payable in respect of the Project and all payments in the nature of rent (inclusive of GST) paid or payable by the Responsible Entity under any Head Lease, Forestry Right or Project Document including for the avoidance of doubt, rent amounts payable to any Head Lessor or Land Owner in order to restore any terminated Head Lease, or Forestry Right or Project Document, [and any rent payable by 1999 Growers under their 1999 Lease Agreements;]
- (f) lien expenses being amounts claimed by either the Receivers or the Liquidators in recognition of costs properly incurred by either the Receivers or the Liquidators for the preservation and maintenance of the Project.”

“**Trees Residue:** branches, stumps, bark, leaves or other residues from the Trees remaining on the Land after completion of harvest of the Trees.”

“**1999 Grower:** any Grower who applied pursuant to the prospectus issued in 1999 or their successor in title.”

“**1999 Lease Agreement:** the Lease Agreement entered into by 1999 Growers.”

“**1999 Maintenance Agreement:** the Maintenance Agreement entered into by a 1999 Grower.”

4. DELETE CLAUSE

Amend the constitution by deleting clause 3.

5. GROWER'S APPOINTMENT OF ATTORNEY

Immediately after clause 6.1B, insert a new clause 6.1C in the constitution:

“Responsible entity as agent, representative and attorney

6.1C The Responsible Entity has:

- (a) to the maximum extent permitted by law, an irrevocable power as the agent, representative and attorney of the Grower and, whether in the name of the Grower or the Responsible Entity, to:
 - (i) amend any Project Document in a manner required to effect the proposal described in the Explanatory Memorandum or in any other circumstances provided that no variation or replacement contract may be entered into which the Responsible Entity reasonable considers adversely affects Growers' rights except pursuant to a special resolution (as defined in the Corporations Act) of Growers;
 - (ii) to re-allocate Hectares and/or leases amongst Growers where this is in the best interests of Participating Growers;
 - (iii) to allocate, reallocate, reduce, enlarge, eliminate, cancel or re-survey Hectares or Common Hectares where this is in the best interests of Participating Growers;
 - (iv) to establish or confirm classes of Growers;
 - (v) to negotiate and enter into any agreement on behalf of any Grower with a lessor;
 - (vi) to enter into a consolidated Maintenance Agreement being one document in which each Grower contracts severally with the Responsible Entity with the descriptions of the Grower or Hectare being described to reflect the Register or as per the original Maintenance Agreement or Lease Agreement in relation to that Grower (or the Grower's predecessor in title);
 - (vii) to enter into a consolidated Lease Agreement being one document in which each Grower contracts severally with the Responsible Entity with the descriptions of the Grower, Hectares and Lease Agreement being described to reflect the Register;
 - (viii) to enter into any contracts with any person which have the effect of varying, or replacing any Project Document in order to better achieve the purposes of the Project provided that no variation or replacement contract may be entered into which the Responsible Entity reasonably considers adversely affects Growers' rights except pursuant to a special resolution (as defined in the Corporations Act) of Growers;
 - (ix) in its name or in the name of any Custodian or agent for the Responsible Entity, and as trustee for the Grower, to claim any beneficial or other rights on behalf of Grower under or in relation to any Forestry Right and to enter into a Head Lease or Forestry Right, to register the Head Lease or Forestry Right at the Land Titles Office and to exercise the powers set out in relation to the Head Lease and Forestry Right;
 - (x) in its name or in the name of any Custodian or agent for the Responsible Entity, and as trustee for the Grower or otherwise, to become the Land Owner and to exercise the powers of the Lessor including granting rights

- of access to the Growers or the Responsible Entity in trust for the Growers;
- (xi) if considered in the best interests of the Growers for the better protection of the Growers, to register upon the certificate of title of the Land at the Land Titles Office any Head Lease, Forestry Right or Project Document on behalf of the Growers which is not registered or an abbreviated or collateral form of the Head Lease, Forestry Right or other Project Document which protects the interest in the Land under the Head Lease, Forestry Right or other Project Document of all the Growers;
 - (xii) upon the termination of the Project in its entirety, or earlier after the passing of a resolution at a meeting of Growers in terms which support the proposed sale or assignment, to sell or assign all right, title and interest of the Grower in relation to the entire Project, whether for money, shares or some other consideration;
 - (xiii) in its capacity as a trustee to receive the Gross Proceeds of Sale and to hold the Gross Proceeds of Sale in the Revenue Account and to deal with the Gross Proceeds of Sale and other money in the Revenue Account as provided in this constitution (and in so doing, to make payment of any amount due to the Responsible Entity as the Responsible Entity may be entitled);
 - (xiv) apply to a court for directions or orders as to what is scheme property or what has novated from the Former RE to the Responsible Entity and as to any other question about the ownership thereof including but not limited to rights to the Land, any Head Lease or Forestry Rights or Project Documents and any other rights or entitlements;
 - (xv) take any action (including commencing proceedings) that the Responsible Entity considers necessary or desirable to claim, protect or preserve the Growers' rights in relation to the Land or to their Trees, including but not limited to lodging and withdrawing a caveat against the certificates of title in relation to the Land;
 - (xvi) take any action (including commencing proceedings) that the Responsible Entity considers necessary or desirable to claim, protect or preserve the Growers' rights or the Responsible Entity's rights (on behalf of the Growers) to scheme property, or the novation of any rights under any agreements or documents from the Former RE to the Responsible Entity;
 - (xvii) commence any other legal or arbitration proceedings to protect the interest of the Grower;
 - (xviii) apply to the Australian Taxation Office for a new Product Ruling or for a private binding ruling in relation to the Project;
 - (xix) execute any deed, agreement, certificate or other document and do all other things necessary or desirable in furtherance of the powers granted to the Responsible Entity in this constitution; and
 - (xx) receive, collect, pay, settle and compromise any payments, debts, obligations, judgments or settlements in relation to the Project.
- (b) Each Grower, subject to paragraph (c), to the maximum extent permitted by law irrevocably appoints the Responsible Entity from time to time, and each Director and Company Secretary of the Responsible Entity to be the agent and attorney of

the Grower, in the Grower's name, on the Grower's behalf and as the Grower's act and deed, to exercise the powers and do anything and take any action set out in Annexure 1 to this constitution on the terms set out below and in that Annexure.

- (c) The Responsible Entity from time to time, may recover all costs properly incurred in exercising its powers under paragraphs 6.1C(a) or 6.1C(b) (including, without limitation, all legal and litigation costs and costs associated with the preparation of any reports for the purposes of taking the action) first from the Fee Account and then from the Revenue Account. The Responsible Entity's right of indemnity under this clause applies only in relation to the proper performance of its duties.
- (d) The Grower undertakes to ratify all that the attorney lawfully does or causes to be done under paragraphs 6.1C(a) or 6.1C(b).
- (e) The powers granted by paragraphs 6.1C(a) and 6.1C(b) are without prejudice to any power of attorney given to Willmott Forests Limited (formerly known as Timber Capital Limited) (Liquidators Appointed) by a Grower upon submitting an application for interests in the Project or upon becoming a Grower as an assignee or member by succession (Original Power) and the acts and things which the Responsible Entity may do and take under the powers granted in paragraphs 6.1C(a) and 6.1C(b) are in addition to the acts and things which the Responsible Entity from time to time is empowered to do or take pursuant to the Original Power.
- (f) The Grower acknowledges and agrees that the Original Power is a right of the Responsible Entity in relation to the Project for the purposes of section 601FS(1) of the Corporations Act and novates to a new responsible entity appointed under Division 2 of Part 5C.2 of the Corporations Act.
- (g) Each Grower acknowledges that where an Original Power continues in effect, the Responsible Entity may act under either or both the Original Power and the powers granted by paragraphs 6.1C(a) or 6.1C(b), in a manner required to effect the proposal described in the Explanatory Memorandum including in amending or entering into an Agreement in the manner provided in the Explanatory Memorandum.
- (h) In relation to any Head Lease, Forestry Right or other Project Document the Responsible Entity may in its name or in the name of any custodian or agent for the Responsible Entity assume any interest which a Grower may have had.
- (i) The Responsible Entity shall have all the powers over and in respect of the Head Lease (if any) or the Forestry Right which it could exercise if it were the absolute and beneficial holder of the Head Lease or Forestry Right including the power to vary, cancel, enter into and negotiate further leases or forestry rights, options to renew, rent reviews, renewals, options, and accept surrenders of leases or forestry rights, attend to termination of leases or forestry rights, and attend to the yielding up provisions on the expiration of either the Head Lease and the Forestry Right."

Insert the following as new Annexure 1 to the constitution:

Power of Attorney

1. The Responsible Entity from time to time and each Director and Company Secretary of the Responsible Entity (herein referred to as the "Attorney") is appointed by each Grower jointly and severally to be attorney for the Grower, in the Grower's name, on

the Grower's behalf and as the Grower's act and deed on the terms specified below and in clause 6.1C and to do the following things and take the following actions:

- (a) to vary a Project Document in the manner provided in the Explanatory Memorandum and make, execute and deliver and submit for registration all deeds, agreements and other instruments as to the Attorney seem necessary or desirable to give effect to the variations;
- (b) to vary the provisions of a Project Document from time to time, provided that the variation:
 - (i) will not in the reasonable opinion of the Attorney adversely affect the Grower's rights in the Project Document;
 - (ii) will in the opinion of the Attorney enable the Project Document to be better administered and managed in the interests of the Project;
 - (iii) is in the opinion of the Attorney required as a matter of continuing compliance with relevant statutory requirements;
 - (iv) is in the opinion of the Responsible Entity required to correct a factual error in the Project Documents; or
 - (v) is agreed between the Grower and the Responsible Entity;
- (c) to take any action (including Court action) necessary or desirable to protect or preserve the Grower's right to use, occupy or access the Land to grow their Trees under the Project, should that right be threatened, challenged or compromised, or otherwise if thought fit by the Responsible Entity;
- (d) to enter into and execute on the Grower's behalf, as trustee, a Head Lease, Forestry Right or Project Document and to enter into and execute on the Grower's behalf, an agreement to sell the Land or the Trees or the Forest Produce and any other scheme property on such terms as the Responsible Entity considers appropriate;
- (e) to make, do and sign all such acts, deed and things as may be necessary to procure the stamping of the agreement to sell with power to instruct the attorney's solicitors to assist them in this regard;
- (f) to re-allocate Hectares and/or leases amongst Growers where this is in the best interests of Participating Growers;
- (g) to allocate, reallocate, reduce, enlarge, eliminate, cancel or re-survey Hectares or Common Hectares where this is in the best interests of Participating Growers;
- (h) to establish or confirm classes of Growers;
- (i) to negotiate and enter into any agreement on behalf of any Grower with a lessor;
- (j) to vary the provision of the agreement to sell the Land or the Trees or the Forest Produce provided that the variation:
 - (i) will, in the opinion of the attorney, enable the agreement to sell to be better administered and managed in the interests of the Project;
 - (ii) is, in the opinion of the Responsible Entity, required as a matter of continuing compliance with relevant statutory requirements;
 - (iii) is, in the opinion of the Responsible Entity, required to correct a factual error in the document; or

- (iv) is agreed between the Grower and the Responsible Entity.
2. In the case of any variation to be effected to a Project Document which, in the opinion of the Responsible Entity, may adversely affect the Grower's interests, such variation may only be effected if it has been approved by a special resolution (as defined in the Corporations Act).
 3. This Power of Attorney will be governed by and construed in accordance with the laws of Western Australia.

6. INDEMNITY AND LIABILITY

Amend clause 8.2 in the constitution by inserting after the word "Assets" where it last appears the following words at the end of the sentence:

" , Revenue Account and Fee Account."

Amend clause 8.4 in the constitution by inserting after the word "Assets" the following words:

" , Revenue Account and Fee Account."

Delete clause 8.6.

7. LIABILITY OF GROWERS

Amend clause 9.1 in the constitution by inserting after the following words at the end:

"and any fees, costs, reimbursements and indemnities under this constitution.

Clarification of Extent of Liability for Fees

9.7 A Participating Grower remains liable for the payment of fees, costs, expenses, reimbursements and indemnities under this constitution until termination of the Project, notwithstanding that the term of the Grower's Lease Agreement has expired or the fact that the Grower's Trees have been harvested.

Common Hectares

9.8 A Participating Grower is liable for the payment of the Grower's Proportional Share of fees, costs, expenses, reimbursements and indemnities under this constitution in relation to all Common Hectares."

8. FEES

Amend clause 10.1 in the constitution by:

- (a) Deleting the heading "Management Fee" and replacing it with "Remuneration";
- (b) Deleting "and" from sub-clause (a);
- (c) Deleting "." from sub-clause (b) and replacing it with "; and"
- (d) Inserting a new sub-clause (c) that reads:
"(c) any amounts payable under this constitution."

Amend the constitution by inserting the following clauses after clause 10.1A:

"10A. Initial Management Fee and Reconstruction Fee

10A.1 The Responsible Entity will issue to each Grower one optional invoice which includes both the following fees:

- (a) an Initial Management Fee of \$300 (inclusive GST); and

(b) a Reconstruction Fee of \$400 (inclusive GST),
per Hectare held by the Grower in the Project.

10A.1 Upon receipt of the optional invoice, each Grower may elect to pay the optional invoice (or authorize the Responsible Entity to deduct the payment or part thereof from any money otherwise due to the Grower) by the Election Date, whereupon the Grower will become a Participating Grower, and the optional invoice will be deemed to be an unconditional tax invoice in full force and effect. If the Grower does not pay (or make arrangements with the RE to pay) the invoice by the Election Date, the Grower will be deemed to have Opted Out of the Project.

10A.2 The Responsible Entity may issue to each Grower an invoice or invoices for Supplementary Initial Management Fees if the actual contributions paid by Growers pursuant to invoices issued under clause 10A.1 are not sufficient to fund the Cost of Reconstruction and forecast Total Management Costs plus Dispute Resolution Costs of the Project for Participating Growers including Common Hectares until 30 June 2013 (**Supplementary Initial Management Fee**).

10A.3 The Initial Management Fee and Reconstruction Fee or the Supplementary Initial Management Fee (if any) are payable by each Participating Grower to the Responsible Entity under the terms of the relevant invoice or invoices issued by the Responsible Entity pursuant to clauses 10A.1 or 10A.2, unless otherwise agreed in writing with the Responsible Entity.

10A.4 The Responsible Entity shall place the Initial Management Fee and Reconstruction Fee or Supplementary Initial Management Fee into the Fee Account. If there is an excess amount in the Fee Account as at 30 June 2013, any excess may be applied in set-off against any future Management Fee invoiced to Growers.

10A.6 If the Responsible Entity permits payment of the Initial Management Fee and Reconstruction Fee or the Supplementary Initial Management Fee (if any) by instalments, the Responsible Entity may increase the amount of the Initial Management Fee and Reconstruction Fee or the Supplementary Initial Management Fee (if any) to such higher amount as, in the reasonable opinion of the Responsible Entity, will result in equality between Participating Growers having regard to the time value of money.

10B. Management Fee

10B.1 For each financial year commencing on and from 1 July 2013 until termination of the Project, the Responsible Entity will issue to each Participating Grower for each Hectare they hold in the Project an invoice for a Management Fee to be paid in advance or as otherwise determined by the Responsible Entity.

10B.2 The Management Fee per Hectare for a financial year will be determined by the Responsible Entity in order to cover the Responsible Entity's forecast Total Management Costs plus Dispute Resolution Costs for that financial year including Common Hectares.

10B.3 The Responsible Entity may issue to each Participating Grower for each Hectare they hold in the Project an invoice or invoices for Supplementary Management Fees if the actual contributions paid by Participating Growers pursuant to invoices issued under clause 10B.1 are not sufficient to fund the ongoing costs of the Project until 30 June in the applicable financial year (**Supplementary Management Fee**) including Common Hectares.

10B.4 The Management Fee is payable by each Participating Grower for each Hectare they hold in the Project to the Responsible Entity under the terms of the relevant invoice or

invoices issued by the Responsible Entity pursuant to clauses 10B.1 and 10B.3, unless otherwise agreed in writing with the Responsible Entity.

- 10B.5 The Responsible Entity shall place the Management Fee and any Supplementary Management Fee into the Fee Account. If there is an excess amount in the Fee Account at the end of each financial year, any excess may be applied in set-off against any future Management Fee invoiced to Growers.
- 10B.7 If the Responsible Entity permits payment of the Ongoing Management Fee and any Supplementary Ongoing Management Fees by instalments, the Responsible Entity may increase the amount of the Ongoing Management Fee to such higher amount as, in the reasonable opinion of the Responsible Entity, will result in equality between Participating Growers having regard to the time value of money.
- 10B.8 1999 Growers remain liable to pay rent under the Lease Agreement whether they are Participating Growers or not. For each financial year commencing on and from 1 July 2012 until termination of the Project, the Responsible Entity will invoice any rent payable under the 1999 Lease Agreement, will deposit that rent in the Fee Account so that it is pooled with all other moneys in that account and if rent has to be paid to any other person, will pay any rent payable on behalf of the Grower to that other person from the Fee Account.
- 10B.9 Otherwise, for each financial year commencing on and from 1 July 2013 until termination of the Project, the only fees payable by 1999 Growers for services are provided for in this constitution and no additional amounts are payable under the 1999 Maintenance Agreement.
- 10B.10 If the Responsible Entity is of the view that the amount of the Total Management Costs could be reduced under an agreement with any person (or a number of persons contracting jointly), or any cash flow deficit of the Project could be underwritten by an agreement with any person or for some other reason the Growers would be advantaged by an agreement with any person, the Responsible Entity may on behalf of each several Grower enter into any agreement with any person under which a percentage of the Grower's Net Proceeds of Sale is granted to that person.

10C. Low Volume Market

- 10C.1 If a Grower has Opted Out, subject to all legal and regulatory requirements, the Responsible Entity may transfer the Grower's Hectare to the Responsible Entity and remove the Grower from the Register under this clause. Before transferring the Grower's Hectare and removing the Grower from the Register, and provided the Responsible Entity has been authorized by ASIC to do so, the Responsible Entity will arrange for the Grower who has Opted Out to sell their Hectares to new purchasers through a low volume market in accordance with the *Corporations (Low Volume Financial Markets) Exemption Notice 2003* operated by means of:
- (a) the maintenance of an electronic register of persons wishing to buy or sell Hectares;
 - (b) provision of the sellers register to potential buyers of Hectares;
 - (c) matching potential buyers and sellers based on buyers purchase interest forms and sellers interest forms;
 - (d) provision of transfer forms of deeds of assignment approved by the Responsible Entity; and
 - (e) the Responsible Entity handling settlement moneys as payment is to be made to the Responsible Entity which will forward such monies to the seller.

(“the transaction”)

- 10C.2 Should the Responsible Entity for any reason not be able to operate a low volume market, the Responsible Entity will issue a Product Disclosure Statement for the benefit of Growers wishing to sell their Hectares.
- 10C.3 If the Hectare of a Grower who has Opted Out is not sold prior to the Pooling Date, the Responsible Entity may acquire and transfer the Hectares formerly held by that Grower to itself and for this purpose may execute any deed, agreement, certificate or other document and do all things necessary or desirable in furtherance of the powers granted to the Responsible Entity and remove that Grower from the Register, whereupon the Grower shall cease to be a Grower.
- 10C.4 The Responsible Entity shall pay the Grower the Agreed Hectare Price for any Hectare acquired under clause 10C.3 and hold the Hectare formerly held by the Grower as Common Hectares.
- 10C.5 The Responsible Entity may at any time thereafter transfer the Hectares formerly held by the Grower to any other person (including pursuant to a product disclosure statement) at the Agreed Hectare Price if that person has agreed to be bound by the provisions of this constitution and relevant Project Documents (including the obligation to pay all outstanding fees as and when invoiced).

10D. Capital Account Contribution

- 10D.1 For each financial year commencing on and from 1 July 2012 until termination of the Project, the Responsible Entity will issue to each Grower for each Hectare they hold in the Project an invoice for capital contributions to the Capital Account to be paid in advance or as otherwise determined by the Responsible Entity.
- 10D.2 The Capital Account Contribution per Hectare for a financial year will be determined by the Responsible Entity in order to cover the Responsible Entity’s forecast costs and expenses of acquiring the Hectares at the Agreed Hectare Price of Grower’s who have Opted-Out and whose Hectare did not sell on the low volume market within the Sale Period and for any other Hectares purchased by the Responsible Entity.
- 10D.3 The Responsible Entity will deposit the Capital Account Contributions in the Capital Account (or may for convenience first deposit them in the Fee Account), and will hold these moneys in trust for the Growers, each Grower having the Grower’s Proportional Share of the beneficial interest in the money.
- 10D.4 The Responsible Entity shall use the money in Capital Account for the costs of acquiring the Hectares at the Agreed Hectare Price of Grower’s who have Opted-Out and whose Hectare did not sell on the low volume market within the Sale Period and any other Hectares purchased by the Responsible Entity.
- 10D.3 Hectares purchased with funds from the Capital Account will become Common Hectares.

10E. Consequences of Default by Growers

- 10E.1 If any Participating Grower (**Defaulting Grower**) fails to pay the whole or any part of any Reconstruction Fee, Management Fee or Capital Account Contribution owing to the Responsible Entity by the due date specified in the invoice rendered to that Grower, the Responsible Entity must send a default notice to the postal address or email address recorded for that Defaulting Grower in the Register which states:
- (a) that the Defaulting Grower is in default and describes the default;
 - (b) the last date on which the default must be remedied by the Defaulting Grower, which must be at least 14 days after the date of the default notice;

- (c) if the default is not remedied within the period allowed in the default notice, the Defaulting Grower must use their best endeavours to sell their Hectare within 2 months from the date of the notice by which the Responsible Entity requires the Defaulting Grower to sell their Hectare;
 - (d) if the Defaulting Grower fails to sell their Hectare within 2 months from the date of the notice by which they are required by the Responsible Entity to sell their Hectares, their Hectare will be forfeited to the Responsible Entity which will then be entitled to sell and assign the same.
- 10E.2 If any Defaulting Grower has failed to remedy their default within the period allowed in the default notice, the Responsible Entity must send a further notice to the current postal address or email address recorded for that Defaulting Grower in the Register which states that:
- (a) the Defaulting Grower must within 2 months from the date of that notice use their best endeavours to sell their Hectare to any person who agrees to be bound by the Project Documents on the same terms as the Defaulting Grower; and
 - (b) if the Defaulting Grower fails to sell their Hectare within 2 months from the date of that notice:
 - (i) the Defaulting Grower's membership of the Project will be at an end but that Defaulting Grower is neither released nor discharged in respect of their liability to the Responsible Entity to pay all amounts due and payable to the Responsible Entity; and
 - (ii) the Hectare of the Defaulting Grower will be forfeited to the Responsible Entity for the purpose of sale and assignment by the Responsible Entity.
- 10E.3 If the Hectare of any Defaulting Grower is forfeited to the Responsible Entity pursuant to clause 10E.2(b), the following provisions will apply:
- (a) the Responsible Entity must send a notice to the Defaulting Grower at the current postal address or email address recorded for that Defaulting Grower in the Register, advising the Defaulting Grower that their membership of the Project is at an end and that their Hectare has been forfeited to the Responsible Entity for sale or assignment;
 - (b) the Responsible Entity will hold the Hectare of that Defaulting Grower on trust for non-defaulting Growers, pending sale or assignment of the same by the Responsible Entity;
 - (c) the Responsible Entity may enter, farm and manage the Hectare of the Defaulting Grower as it sees fit;
 - (d) following forfeiture by the Responsible Entity of the Hectare of any Defaulting Grower, the Responsible Entity will have power to act in all material respects as if it were the owner, free from all encumbrances, of those forfeited Hectares;
 - (e) the Responsible Entity may sell the forfeited Hectare of any Defaulting Grower at the Agreed Hectare Price; and
 - (f) Upon the sale of the Hectares of any Defaulting Grower, the proceeds of sale will be applied by the Responsible Entity as follows, to the extent that such sale proceeds are available:

- (i) first, in payment of the Responsible Entity's reasonable costs of effecting a sale and assignment of the Hectares of the Defaulting Grower;
- (ii) next, in payment of the reasonable administrative costs to the Responsible Entity arising from such sale and assignment;
- (iii) next, in payment of any outstanding amounts due and owing to the Responsible Entity;
- (iv) next, in payment of any amounts due from any other person in respect of the Defaulting Grower's participation in the Project;
- (v) next, in payment of any amount payable by the Defaulting Grower or the Responsible Entity to a financier in relation to a liability of the Defaulting Grower to that financier for amounts with respect to financial accommodation provided by that financier in connection with the Defaulting Grower's membership of the Project; and
- (vi) next, by paying any remaining balance to the Defaulting Grower.

10E.4 The Responsible Entity's entitlement under clause 10E.3 to sell the forfeited Hectare of any Defaulting Grower is without prejudice to its rights to take any other steps to recover amounts owing to the Responsible Entity, including the commencement of legal proceedings against any Defaulting Grower."

9. SEPARATE ACCOUNTS

Immediately after clause 13 in the constitution, insert a new clause 13A in the constitution as follows:

"13A. Creation of Accounts

13A.1 The Responsible Entity may create any accounts in relation to the Project.

13A.2 The Responsible Entity shall create at least 3 separate accounts in relation to the Project in accordance with this clause, being the:

- (a) Fee Account;
- (b) Revenue Account; and
- (c) Capital Account.

13A.3 The Responsible Entity shall lodge or cause to be lodged in a Bank account designated as the Fee Account the balance of any moneys received by the Grower Group and paid to the Responsible Entity, and the Initial Management Fee, Reconstruction Fee, Supplementary Initial Management Fee, Management Fees, Supplementary Management Fees and Rental pursuant to any Lease Agreement paid by Growers.

13A.4 The Responsible Entity shall lodge or cause to be lodged in a Bank account designated as the Revenue Account or the Capital Account all moneys received by the Responsible Entity which are required to be placed in the Revenue Account or the Capital Account pursuant to this constitution which moneys are to be held and applied by the Responsible Entity upon the trusts hereby constituted.

13A.5 A Participating Grower shall have an interest in the Revenue Account equal to the Grower's Proportional Share but shall not have any interest in any particular part of the Revenue Account.

13A.6 In the event that upon the termination of the Project any sum remains in any account established pursuant to this clause, each Participating Grower shall be paid the

Grower's Proportional Share. For the avoidance of doubt any accretion to the Fee Account remains in the Fee Account and can be used by the Responsible Entity to pay its fees and disbursements in accordance with clause 10."

10. REMUNERATION, EXPENSES AND COSTS OF RESPONSIBLE ENTITY

Immediately after clause 10.1 and before clause 10A, insert a new clause 10.1A in the constitution:

"10.1A The Responsible Entity acknowledges that by virtue of Section 601GA(2)(b) of the Corporations Act the money in the Fee Account is only available to be used for the proper performance of its duties as responsible entity in accordance with the provisions of this constitution."

Immediately after clause 10.4, insert the following new clauses:

"Annual Fee

"10.5 On and from the date of the Appointment, the Responsible Entity is entitled to receive out of the Fee Account an Annual Fee of no greater than \$75,000 Indexed per annum plus \$10 Indexed per Grower (plus GST) for a minimum of 3 years payable in 12 equal monthly instalments the first instalment payable on the date of the Appointment.

Cost of Reconstruction

10.6 Upon Primary becoming the Responsible Entity, the Responsible Entity may claim the Cost of Reconstruction from the Fee Account following the date of the Appointment.

10.7 The Cost of Reconstruction will be reasonably determined by the Responsible Entity and will include all reasonable costs and expenses incurred by the Grower Group or the Responsible Entity or the Manager prior to and following any meeting of Growers including due diligence by the Grower Group, the Responsible Entity or the Manager, procuring a variation to the Responsible Entity's AFSL to include the Project, preparing any notice of meeting including amendments to this constitution, recording proxies, dealings with the Receivers and Liquidators, attending the meeting or meetings of Growers, Dispute Resolution Costs in relation to court proceedings commenced by the Receivers or the Liquidators any fees not accounted for under clause 10A and other transitional work incurred by the Grower Group or on the part of Primary required to become the Responsible Entity.

Dispute Resolution Costs

10.8 Upon Primary becoming the Responsible Entity, the Responsible Entity may claim the Dispute Resolution Costs from the Fee Account following the date of the Appointment.

Reimbursement – Revenue Account

10.9 The Responsible Entity shall as part of its remuneration and in addition to the remuneration referred to in clause 10.5 be reimbursed for the following costs and expenses out of the Revenue Account:

- (a) the Costs of Sale;
- (b) any income tax or other tax or duty payable under the Income Tax Assessment Act 1936 or the Income Tax Assessment Act 1997 or any other fiscal legislation (including, without limitation, any GST that has not previously been reimbursed) in respect of the Project or the investments;
- (c) fees payable to any regulatory authority; and

- (d) any other cost, expense or fee permitted to be paid or reimbursed from any source by this constitution.

Reimbursement – Fee Account

10.10 The Responsible Entity shall as part of its remuneration and in addition to the remuneration referred to in clause 10.5 be reimbursed from the Fee Account for the following:

- (a) applying for a variation of the AFSL to enable the Responsible Entity to operate the Project;
- (b) making arrangements for applying to the Court for Appointment (if required);
- (c) applying to the Court for Appointment (if required);
- (d) alternatively, holding any necessary meetings of Growers to terminate the Former RE as the responsible entity of the Project or to confirm the Responsible Entity's appointment;
- (e) undertaking due diligence in relation to the Project to identify potential problems and solutions to those problems on taking over from Former RE or becoming the responsible entity of the Project or in relation to such matters as the Responsible Entity considers necessary to properly protect the interests of the Responsible Entity, its directors and officers;
- (f) negotiating with ASIC, the Australian Taxation Office or any other regulatory authority in relation to the Project;
- (g) answering inquiries from Growers in relation to the Project related to the change of responsible entity;
- (h) communications with Growers relating to the change of responsible entity;
- (i) complying with the requirement to register the interest of Growers on relevant titles in relation to the Project (if not done);
- (j) holding any necessary meetings of Growers to confirm the Responsible Entity's appointment or to replace the Former RE as the responsible entity of the Project and taking part in those meetings;
- (k) holding any necessary meetings of Growers to resolve any particular problems arising in relation to the Project and the termination of the Former RE as the responsible entity of the Project;
- (l) redrafting constitutions, Compliance Plans or any other Project agreements for consistency with the other schemes of the Responsible Entity or to bring these documents into conformity with current practice in the managed investment industry;
- (m) transfer of all Head Leases and Forestry Rights into the name of the Responsible Entity and registering all transfers with the relevant Land Titles Offices;
- (n) preparation of any umbrella lease or other instrument to secure the Forestry Rights or Lease Agreements if the Lease Agreements are not otherwise secure on the relevant titles with the relevant Land Titles Offices;
- (o) applying for any variation to any Product Ruling or for any private binding ruling;

- (p) dealing with requests for information, inquiries, surveillances, audits, investigations, prosecutions or other proceedings relevant to the Project by ASIC, the Australian Taxation Office or any other regulatory authority;
- (q) dealing with Growers' representatives or committee representatives of Growers in relation to the Project;
- (r) travel to and accommodation in any place other than Perth for meetings with the Manager or with Grower representatives;
- (s) dealing with claims or demands by any other person in relation to the Project;
- (t) arbitration or litigation or other dispute resolution and negotiations in relation thereto relevant to the Project;
- (u) termination of any current manager or sub-manager;
- (v) preparation of the Management Agreement;
- (w) procuring, transporting and sorting the books and records of the Former RE;
- (x) any preliminary services of an expert appointed by the Responsible Entity relating to handover and the setting up of the Project's procedures;
- (y) any other preliminary work reasonably considered necessary by the Responsible Entity to be carried out in relation to appointment of the Responsible Entity, the handover of the Project, accounts, registers, documentation and assets, the initial review of the state of the Plantations, and the establishment of long term procedures in relation to the Project;
- (z) custodial type services (setting up the bank accounts, receiving fees, transferring funds and accounting therefor);
- (aa) setting up electronic transfer and BPay facilities if required;
- (bb) following up or proceeding against defaulting Growers;
- (cc) if required, preparing and submitting activity statements to the Australian Taxation Office in relation to the Project and pay any GST in respect thereof;
- (dd) if required, paying income tax on behalf of the Project;
- (ee) if required by the Australian Taxation Office, preparing and submitting quarterly tax file number reports;
- (ff) if required by the Australian Taxation Office, preparing and submitting annual investment income reports;
- (gg) preparing the annual report and (if required) half yearly report for the Project;
- (hh) if a Custodian with net tangible assets of \$5 million is required then the costs of such Custodian;
- (ii) keeping the Register for the Project (including mail-outs, expenses incurred in calculating distributions to Growers, payment of distributions and all other services normally provided by registry services);
- (jj) preparing statements for the purposes of s1017D and s1017F of the Corporations Act;
- (kk) registering assignments and transmissions of interests (subject to the right to charge a fee to Growers);
- (ll) conducting an upfront and once-off review of the Compliance Plan for the Project and its suitability as a result of changes relating to the Appointment;

- (mm) preparation of any replacements or amendments to the constitution and Compliance Plan of the Project;
- (nn) preparation of any replacements or amendments to the Maintenance Agreement of the Project, Head Leases and Lease Agreements under the Project;
- (oo) travel to and accommodation for the purpose of inspection of the Plantations by an expert appointed by the Responsible Entity or other officers of the Responsible Entity relevant to the activity and the Project;
- (pp) preparing any statements of advice or financial services guides;
- (qq) preparing any non-regulatory report or communication to Growers;
- (rr) payment of bank fees including credit card transaction costs and merchant facilities;
- (ss) dealing with any professional indemnity insurance claims;
- (tt) dealing with any breaches or possible breaches of this constitution;
- (uu) dealing with requests for information, inquiries, surveillances, audits, investigations, prosecutions or other proceedings relevant to the Project by ASIC, the Australian Taxation Office or any other authority provided that the matter investigated does not relate to the neglect or default of the Responsible Entity (except where that negligent act or default results from the default of the Manager);
- (vv) dealing with claims or demands by any person other than a Grower in relation to the Project unless such claim or demand was occasioned by the neglect or default of the Responsible Entity;
- (ww) arbitration or litigation or other dispute resolution and negotiations in relation thereto relevant to the Project unless such arbitration or litigation or other dispute resolution arose through the neglect or default of the Responsible Entity;
- (xx) any work resulting from the appointment of administrators or any deed of company arrangement or other scheme of arrangement in relation to the Responsible Entity;
- (yy) dealing with Growers, Growers' representatives or committee representatives of Growers in relation to the Project (except relating to issues resulting from the change of the responsible entity);
- (zz) dealing with complaints from Growers;
- (aaa) handing over on retirement of the Responsible Entity as responsible entity or winding up the Project in accordance with the constitution or the Corporations Act;
- (bbb) listing of the Project on any stock exchange;
- (ccc) all costs, expenses, commissions, fees, rates, taxes (including income tax), supervision and management charges, and other charges or outgoings payable in accordance with this constitution in respect of the Investments comprised in the Revenue Account;
- (ddd) the reasonable fees and expenses of the Auditor in connection with the audit, any inspections or inquiries provided for by clause 35 and the auditing of accounts and the preparation and lodgement of taxation returns in relation to the Project;

- (eee) any costs or expenses reasonably and properly incurred or paid by the Responsible Entity in connection with any rearrangement of the capital structure of the Project including any Product Disclosure Statement for the transfer or issue of Hectares;
- (fff) all costs incurred by the Responsible Entity in keeping or causing to be kept the books of accounts (in accordance with clause 35), including, without limitation, expenses in connection with the establishment and maintenance of accounting records and systems for the purposes of the Project;
- (ggg) costs of convening and holding any meeting of Growers;
- (hhh) any costs and disbursements reasonably and properly incurred which are payable to any Consultant properly engaged by the Responsible Entity;
- (iii) costs of postage in respect of all cheques, accounts, distribution statements, notices, reports and other documents posted by the Responsible Entity to all or any Growers in accordance with the provisions of this constitution;
- (jjj) costs of preparing and printing accounts, distribution statements, cheques and other documents required to be prepared by the Responsible Entity for dispatch to Growers;
- (kkk) costs, charges and expenses in connection with the obtaining, preparation, printing and postage of all financial and other reports which the Responsible Entity wishes to forward to all or any of the Growers and which are not covered by another paragraph of this clause;
- (lll) disbursements in connection with the acquisition, registration, custody, disposal of or other dealing with or attempted or proposed acquisition, registration, custody, disposal of or other dealing with any investment including but without limitation, stamp duty, valuation fees, agent's commission, survey fees, registration fees, insurance premiums and legal costs and disbursements;
- (mmm) costs of preparation and lodgement of returns by the Responsible Entity pursuant to the Corporations Act;
- (nnn) all reasonable costs and expenses associated with any Auditor and any Auditor required to be appointed in connection with compliance;
- (ooo) all reasonable costs and expenses associated with changing the responsible entity from Primary to a related company including any liabilities and obligations novated from the Former RE;
- (ppp) costs and liabilities, including but not limited to legal fees, whether incurred by the Responsible Entity or third parties, associated with the development of the proposal set out in the Explanatory Memorandum, Dispute Resolution Costs, Total Management Costs and Reconstruction Fee, and costs associated with accounting, audit, ASIC fees and professional indemnity insurance; and
- (qqq) costs and liabilities associated with the provision of the services by the Responsible Entity to the Project including Total Management Costs, the cost of Harvest Services, the Costs of Sale and any reasonable future operational costs;
- (rrr) notwithstanding clause 10.11, any costs or liabilities incurred by the Responsible Entity in performing its duties and acting in accordance with this constitution and the Project Documents in connection with any liabilities incurred by a prior responsible entity which are assumed by the Responsible

Entity or for which it becomes responsible, all legal and litigation costs incurred in dealing with any legal action that relates to the Project including relating to the actions of any prior responsible entity;

- (sss) cost and liabilities associated with the issue of any product disclosure statement in order to effect a reconstruction of the Project or to facilitate the sale of Hectares by Growers who have Opted Out;
- (ttt) operating any low volume market;
- (uuu) any out of pocket expenses incurred by members of the Committee of Growers;
- (vvv) preparing a strategic management plan; and
- (www) any other costs, expense or fee permitted by this constitution.

Where the Responsible Entity is entitled to recover any amount pursuant to this clause and the total amount relates to more than one scheme for which the Responsible Entity is the responsible entity, the Responsible Entity may apportion the amount between the Project and other schemes in a manner as the Responsible Entity considers in its absolute discretion to be fair and appropriate in the circumstances.

Payments in respect of the Project

10.11 The Responsible Entity shall be responsible for payment of the following expenses:

- (a) complying with all obligations required under the AFSL;
- (b) any and all costs, expenses and obligations in respect of its employees, contractors and other service providers;
- (c) appointing (and paying for) the Compliance Officer, Compliance Assistant and the Compliance Committee;
- (d) all preparations for and holding of Compliance Committee meetings;
- (e) appointing (and paying for) Primary's board of directors;
- (f) all preparations for and holding of board meetings;
- (g) appointing (but not paying for) substitute or appropriate Independent Experts whether required for the AFSL or otherwise;
- (h) holding of scheme books and records including (but not limited to) Project Documents, head leases, registers, contracts and forestry maps;
- (i) archiving, storage and retention of records as required under the Corporations Act and the AFSL;
- (j) operating and updating a website for the Responsible Entity;
- (k) keeping compliance systems, the Procedures Manual and the Risk Management Systems Statement for the Project and ensuring they are up-to-date;
- (l) answering inquiries from Growers in respect of the Project;
- (m) membership of an external complaints resolution scheme required under the AFSL;
- (n) arranging for and liaison with scheme auditors and compliance auditors;
- (o) negotiating with professional indemnity insurance brokers, arranging professional indemnity insurance in respect of the Project;

- (p) maintaining appropriate software and reprogramming as and when required;
- (q) complying with all other statutory compliance obligations in respect of the Project;
- (r) any other work or which might reasonably be the proper duty of a responsible entity but which is not of an interim, unusual or unexpected nature (such as the work described in clause 10.10)."

CONTRIBUTIONS TO WILLMOTT GROWERS GROUP

Amend the constitution by inserting a new clause 10.12:

“Grower Contributions to Grower Group

- 10.12 A Grower who contributed to Grower Group will have the amount of their contribution to Grower Group credited against any Reconstruction Fee payable by invoice issued under clause 10A.”

11. RETIREMENT OF RESPONSIBLE ENTITY

Delete clause 11 of the constitution.

12. INSURANCES

Amend the constitution as follows:

- (a) replace the word “will” at the end of the first line of clause 12.1 and insert in lieu thereof the word “may if available funds in the Fee Account permit”.
- (b) delete in paragraph (a) of clause 12.1 the words “at its expense” and “for an initial period of 10 years”.
- (c) add at the end of the first line of clause 12.3 before the word “either” the words “provided the Grower is a Participating Grower”.
- (d) add a new clause 12.6:

“From any amount payable to any Grower under this clause 12, the Responsible Entity shall deduct the amount of any fees invoiced in relation to the Hectare which were not paid (and any other amounts owing by the Grower to the Responsible Entity) plus interest thereon from the date of invoice (or when the amount became due) at the rate of 10% per annum calculated from day to day and that sum shall be paid into the Fee Account.”

- (a) add a new clause 12.7:

“If the Grower is not a Participating Grower, then the Grower is not entitled to give the Responsible Entity any direction or make any election under this clause 12 and the Responsible Entity shall pay any amount which would have been payable to the Grower if that Grower had been a Participating Grower into the Fee Account.”

13. HARVESTING AND SALE OF TREES

Delete clause 13 of the constitution and insert in lieu thereof the following sub-clauses 13.1:

“13.1 The Harvest Services are to be carried out by the Responsible Entity on the Grower’s behalf unless the Grower notifies the Responsible Entity in writing on or before the Election Date that the Grower will be harvesting and selling their own Trees or Forest Produce.

13.2 If a Grower who has given notice under clause 13.1 fails to harvest their Trees the Grower must pay to the Responsible Entity the fees for the Harvest Services as set out in this constitution and additional reasonable costs incurred by the Responsible Entity in relation to the Harvest Services carried out by the Responsible Entity.”

14. COLLECT INCOME & DISTRIBUTIONS

Amend the constitution by inserting a new sub-clause 13B after 13A as follows:

“13.B COLLECTION OF INCOME AND DISTRIBUTION

Responsible Entity to Collect Income

13B.1 The Responsible Entity shall collect, receive and get in, to the extent it is entitled, all Gross Proceeds of the Sale of the Trees, the Forest Produce and the Land and any other scheme property to which it is entitled on behalf of all Participating Growers, and income from the Investments from time to time relating to the Project, and pay all such income into the relevant Revenue Account.

Distribution of Revenue Account

13B.2 Subject to clauses 13B.3, 13B.4 and 13B.5 of this constitution, the Responsible Entity shall, on or before each Distribution Date, determine and distribute from the Revenue Account the amount to be distributed among the Participating Growers who were such Growers on the last day of the previous Accounting Period.

Revenue received prior to the Pooling Date

13B.3A Any income from thinning or otherwise (after payment of costs) received by or due to Former RE or the Responsible Entity (on behalf of any Grower) prior to the Pooling Date shall be distributed to those Growers from whose trees the amounts are derived after deducting any fees due by the Grower or which become due on or after the last day of the Sale Period.

Proportional Share

13B.3 As from the Pooling Date, any amounts (whether income, profits or otherwise) to be distributed from the Revenue Account shall be distributed among the Participating Growers according to the Grower’s Proportional Share.

Accounts to be prepared

13B.4 For the purpose of ascertaining the amount (if any) to be distributed to Participating Growers pursuant to this clause, the Responsible Entity shall, before any such distribution, prepare accounts of the income and expenditure and financial position of the Revenue Account, in accordance with generally accepted accounting practice, standards, methods and principles unless the Responsible Entity determines otherwise.

Deduction from Income or Profit

13B.5(a) The Responsible Entity may at its discretion in reimbursement of its costs under the previous clause or in relation to amounts owed by a particular Grower, deduct from any amounts payable to a Grower;

any amount due to the Responsible Entity under an Agreement;

the amount of any income tax, withholding tax or any other tax or duty required by law to be deducted; or

any other amount due to the Responsible Entity or an associated entity of the Responsible Entity, which is paid or payable to or by the Responsible Entity or out of the Revenue Account on account of or in respect of the Grower or is otherwise distributable to that Grower.

13B.5(b) A deduction referred to in paragraph (a) may be made at any time and notwithstanding that it could have been made, but was not made, from moneys previously paid to that Grower.

13B.5(c) The Responsible Entity may at its discretion withhold from distribution such amount as the Responsible Entity reasonably considers may then or at any time in the future be or become payable for any fees, costs, reimbursements, outgoings or expenses as are payable under any provision of this constitution or the Lease Agreement or the Maintenance Agreement whether from the Revenue Account or the Fee Account or otherwise.”

15. TERMINATION AND PROCEDURE ON TERMINATION

Amend the constitution by inserting new clauses 16.3, 16.4 and 16.5:

“Early Termination by Responsible Entity

16.3 Subject to the notice requirements set out in clause 16.4

- (a) if the Responsible Entity is unable to secure security of tenure for the Lease Agreements or Forestry Rights with respect to the Plantations, Trees and Hectares; or
- (b) if the Responsible Entity determines that the Initial Management Fees and Reconstruction Fees contributed by Growers, together with any monies received under any loans taken out by the Responsible Entity are insufficient to fund the required actions by the Responsible Entity; and
- (c) in any other circumstances provided for under the Corporations Act, the Responsible Entity may wind up the Project.”

“Notice to Growers of Winding Up

16.4 If the Responsible Entity proposes to wind up the Project in accordance with clause 16.3 above, the Responsible Entity must first provide written electronic notice to the Growers of the Project and to ASIC, explaining:

- (a) the proposal to wind up the Project;
- (b) the rights of Growers to take action under Division 1 of Part 2G.4 of the Corporations Act for the calling of a Growers meeting to consider the proposal put forward by the Responsible Entity about the winding up of the Project and to vote on any extraordinary resolution members propose about the winding up of the Project;
- (c) that the Responsible Entity is permitted to wind up the Project unless a meeting is called to consider the proposed winding up of the Project within 28 days of the Responsible Entity giving notice to Growers;
- (d) that the Responsible Entity is permitted to wind up the Project if it is concerned about the solvency of the Responsible Entity as a consequence of the liabilities of the Project provided the Responsible Entity gives 28 days notice to Growers; and
- (e) that if no meeting is called within that 28 day period to consider the proposed winding up, the Responsible Entity may wind up the Project.”

“Early Termination by Growers

16.5 The Growers may terminate the Project at any time in accordance with the Corporations Act.”

Delete clause 17.5 of the constitution and insert instead of clause 17.5:

“The Responsible Entity must on completion of any realisation of Assets, distribute to each Participating Grower the Grower’s Proportional Share (for the time being) of the

net proceeds of realisation and all other property forming part of the Project that is to be distributed in kind.”

16. ELECTRONIC COMMUNICATIONS TO GROWERS

Immediately after clause 18.1, add a new clause 18.1A in the constitution:

“Electronic Communications to Growers

18.1A Notwithstanding sub-clause 18.1 the Responsible Entity may send or deliver any document required to be sent or delivered to a Grower (or to Growers as a whole) under this constitution, other than a document where the process or method for sending that document is regulated by the Corporations Act (such as notices of meeting and Project annual reports), by making that document available on the website of the Responsible Entity for the period commencing on the date the document is, apart from this clause, required to be sent or delivered to a Grower and ending no earlier than 6 months later.”

Delete clause 18.4 and insert in lieu thereof the following 18.4:

“Time of Receipt

18.4 A notice given to a Grower in accordance with this clause is treated as having been given and received:

- (a) if delivered to a Grower’s address, on the day of delivery if a Business Day, otherwise on the next following Business Day;
- (b) if sent by pre-paid mail, on the third Business Day after posting; and
- (c) if transmitted by facsimile to a Grower’s address and a correct and complete transmission report is received, on the day of transmission if a Business Day and the transmission occurs during normal business hours by the receiving Grower, otherwise on the next following Business Day if the transmission occurs outside normal business hours; and
- (d) if transmitted by e-mail to a Grower’s address and the transmission occurs during normal business hours by the receiving Grower, on the day of transmission if a Business Day, otherwise on the next following Business Day if the transmission occurs outside normal business hours.”

17. APPOINTMENT OF AGENTS

Immediately after clause 6.4 of the constitution, insert a new clause 6.4A and 6.4B in the constitution:

“6.4A The Responsible Entity will be taken to have done (or failed to do) anything that any person appointed by the Responsible Entity has done (or failed to do) because of that appointment.

6.4B Fees payable to any person appointed under clause 6.4A will be payable by the Responsible Entity out of its own monies but may include monies received as remuneration of by way of indemnity or reimbursement under the constitution.”

18. RE’S FUNCTIONS, POWERS AND DUTIES

Amend the constitution by inserting a new clause 6.7:

“Functions

6.7 In addition to its obligations under the Maintenance Agreement the Responsible Entity shall form a Committee of Growers.

- 6.8 In addition to its obligations under the Maintenance Agreement the Responsible Entity shall as soon as practicable after the Election Date prepare a strategic management plan for the Plantation which may include non-traditional management methods such as the premature clear-felling of some Trees and the reduction in area of the Plantation.
- 6.9 The Responsible Entity (or any related company or person) may be a shareholder in any management company providing forestry services to the Responsible Entity relevant to the Project provided the charges for those services are no greater than cost plus 10% and the Responsible Entity has formed the reasonable view that this is the most economical method of carrying out those services.”

19. BORROWINGS

Amend the constitution by inserting a new clause 6.10:

“Borrowing

- 6.10 The Responsible Entity may, for the purposes of the Project:
- (a) borrow to fund any costs otherwise payable under this constitution and repay such borrowing and pay interest and costs in relation to such borrowing from the Fee Account or the Revenue Account; and
 - (b) grant security over Assets of the Project, including over the Revenue Account and any other property held on trust for Growers or the Responsible Entity in each case on such terms as the Responsible Entity reasonably determines.”

20. COMPLAINTS HANDLING

Amend the constitution by deleting clause 22 and inserting a new clause 22:

“22. Complaints and Arbitration

Complaints Handling Methods

- 22.1 The Responsible Entity will deal with all complaints according to the following methods, the details of which are to be set out in the Responsible Entity’s compliance plan or procedures:
- (a) all complaints are to be acknowledged promptly;
 - (b) complaints that do not require investigation are to be resolved immediately or expeditiously;
 - (c) otherwise, within 21 days of the complaint being made, the Complaint is to be investigated, the complainant is to be given an opportunity to provide information, the complaint is to be properly considered, and a report is to be prepared;
 - (d) a decision is to be made and the decision communicated to the complainant with the reasons for the decision within 28 days of the complaint being made;
 - (e) if the complainant remains unsatisfied, the complainant is to be provided with information as to appropriate avenues by which the complainant can pursue the complaint including notifying the ASIC of the complaint or having the complaint resolved by an industry complaints tribunal; and
 - (f) a copy of the complaints handling procedures are to be made available to a Grower on request free of charge.

Arbitration

- 22.2 If any dispute or difference or disputed question (other than one subject to the determination or discretion of the Responsible Entity or some other person) touching or concerning:
- (a) this constitution; or
 - (b) the construction, meaning, operation or effect of any of the covenants or provisions of this constitution; or
 - (c) as to the rights duties or liabilities of the Responsible Entity or any Grower under this constitution,

shall arise (**Dispute**) then and in every such case the Responsible Entity may give to the other and/or to any other person as abovementioned notice in writing of such Dispute and at the expiration of seven (7) days, unless it shall have been otherwise settled between them, the matter in question shall be submitted to:

- (a) the President for the time being of the Law Society of Western Australia; or
- (b) if he or she be unwilling to act to such Senior Counsel being willing to act as the said President may select,

to be considered in accordance with and subject to the *Commercial Arbitration Act 1985*.

- 22.3 Upon every such reference, the award of the Arbitrator shall be final and binding on the parties. The costs of and incidental to the reference and award respectively shall be in the discretion of the Arbitrator who may determine the amount thereof, or may direct the same to be taxed as between solicitor and client or as between party and party, and who shall direct by whom and to whom and in what manner the same shall be borne and paid.
- 22.4 Any discussions which take place as contemplated by this clause will be without prejudice to the respective rights and obligations of the parties in relation to the subject matter of the Dispute.
- 22.5 Nothing in this clause prevents a party seeking urgent or interlocutory relief in an appropriate court where the urgency or circumstances reasonably require.”

21. INSPECTION OF CONSTITUTION

Amend the constitution by deleting clause 23 and inserting in lieu thereof the following:

“23 A copy of this constitution will be made available to Growers upon request by any Grower.”

22. NO OBLIGATION TO CARRY OUT SERVICES WITHOUT FUNDS

Amend the constitution by inserting a new clause 24A:

“Responsible Entity Not Obligated to Carry Out Services Without Funds

24A Notwithstanding any other provision in this constitution or in the Project Documents, the Responsible Entity is not obliged to carry out any management services or pay for any expenses on behalf of Growers if there are insufficient funds available to the Responsible Entity to enable it to do so. Further, if the Responsible Entity is unable to procure the rights as lessor of the Lease Agreements or as grantor of the Forestry Rights, it may terminate the Project.”

23. NO RIGHT TO WITHDRAW AND NO BUY-BACK

Amend the constitution by inserting a new clause 24B:

“No right of Growers to withdraw and no buy-back

24B(a) No Grower shall have the right to withdraw and require the Responsible Entity to realise the assets of the Project except to the extent otherwise provided in this constitution or Project Documents.

24B(b) The Responsible Entity is not obliged to buy back or re-purchase any Hectare or Lease Agreement from the Grower.”

24. OTHER SCHEMES

Amend the constitution by inserting a new clause 7.5:

“7.5 The Responsible Entity shall be at liberty to establish and act as responsible entity for other managed investment schemes, whether of a similar or different nature, and to manage other investments.”

25. PRECEDENCE

Amend the constitution by inserting new clauses 24C and 24D:

“24C The following documents shall be read in the following order of precedence:

- (a) the Constitution;
- (b) the Forestry Right;
- (c) the Lease Agreement; and
- (d) the Maintenance Agreement.

24D Where any conflict occurs between the provisions contained in those agreements, the document lower in the order of precedence shall where possible be read down to resolve such conflict. If the conflict remains incapable of resolution by reading down, the conflicting provisions shall be severed from the document lower in the order of precedence without otherwise diminishing the enforceability of the remaining provisions of that document.”

SECTION 2: CHANGES TO THE PROJECT DOCUMENTS

There will be no changes to the Project Documents.