

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

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**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 SCHEDULE 3
AND ORS ACCORDING TO SCHEDULE 1**
Plaintiffs

CERTIFICATE IDENTIFYING EXHIBIT

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

Prepared by:

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This is the exhibit marked "CDC-26" now produced and shown to **CRAIG DAVID CROSBIE** at the time of swearing his affidavit on 13 December 2011.

MATTHEW GORDON JACKSON

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

Before me: 

Exhibit "CDC-26"
Investment Deed of the Willmott Forests -
Professional Investor - 2006 Project

Investment Deed of the Willmott Forests - Professional Investor - 2006 Project

Manager:	Willmott Forests Limited (ACN 063 263 650)
Date:	8th February 2006

Investment Deed of the Willmott Forests - Professional Investor - 2006 Project

Date: 8th February 2006

Operative provisions:

This deed poll is declared by Willmott Forests Limited to be the Investment Deed of the Willmott Forests - Professional Investor - 2006 Project.

1 Name of Project

- 1.1 The Project is called the Willmott Forests - Professional Investor - 2006 Project or by such other name as the Manager determines from time to time.
- 1.2 If a Manager retires or is removed, its successor as Manager must, unless otherwise approved by the former Manager, change the name of the Project to a name that does not imply an association with the former Manager or its business.

2 Assets held on trust

- 2.1 The Manager must hold the Assets on trust for Growers.

3 Application Price for Hectares

- 3.1 A Hectare must only be issued at an application price which is the amount payable as specified in the relevant Information Memorandum and set out in the Project Documents in respect of the issue of each Hectare.

4 Application procedure

Application form

- 4.1 An applicant for Hectares must complete a form approved by the Manager if the Manager so requires. The form may be transmitted electronically if approved by the Manager.

Payment

- 4.2 Payment in a form acceptable to the Manager, or a transfer of property of a kind acceptable to the Manager and able to be vested in the Manager (accompanied by a recent valuation of the property, if the Manager requires), must:
 - (a) accompany the application; or
 - (b) be received by or made available to the Manager within such period before or after the Manager receives the application form as the Manager determines from time to time.

If the Manager accepts a transfer of property other than cash, any costs associated with the valuation or transfer of the property are payable or reimbursable out of the Assets.

Manager may reject

- 4.3 The Manager may reject an application in whole or in part without giving any reason for the rejection.

Minimum amounts

- 4.4 The Manager may set a minimum application amount and a minimum holding for the Project and alter those amounts at any time.

Issue date

- 4.5 Hectares are taken to be issued when the Manager accepts the application.

Uncleared funds

- 4.6 Hectares issued against application money paid other than in cleared funds, or in consideration of a transfer of property, are void if the funds are not subsequently cleared or the property does not vest in the Manager within 30 days of receipt of the application.

Procedure following issue

- 4.7 Within 30 days of the issue of Hectares pursuant to clause 4.5 the Manager shall notify in writing the applicant of such acceptance.
- 4.8 As soon as practicable, following the issue of Hectares, the Manager will prepare and forward to the applicant at least 2 copies of each of:
- (a) the Lease Agreement, Sublease Agreement or a Pre-Lease Agreement (as applicable); and
 - (b) the Forestry Management Agreement;
- and the applicant will within 14 days of receipt (or such longer period as the Manager may in writing approve) lodge or cause to be lodged with the Manager each such copy signed by or on behalf of the applicant.

Forestry Right

- 4.9 The Manager must use its best endeavours to create a Forestry Right (including, as required, registering that Forestry Right, or a transfer of it, under applicable legislation) in respect of the Land on which the Hectares are located for the benefit of all Growers who have acquired Hectares on that Land, as soon as practicable after the issue of those Hectares. The Forestry Right may be granted to a third party as an agent or custodian for the relevant Growers.

Pre-Lease Agreement

- 4.10 For all Hectares issued, if the Manager fails to grant to the Grower a Lease Agreement or Sublease Agreement (as applicable) (and create a Forestry Right as contemplated by clause 4.9) in respect of the Grower's Hectares within 9 months of the issue of the Hectares, the Manager must, within 14 days after receiving a written request from the Grower, issue to the Grower a full refund of the amount of the application monies against which the Hectares were issued. In such circumstances, the relevant Hectares will be taken to be void and, on payment of the refund, the Manager will have no further liability to the Grower in respect of the issue of the Hectares or otherwise.

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- 4.11 Within 2 months of receipt of the documents signed by the applicant pursuant to clause 4.8, the Manager will:
- (a) enter the name of the person described in the Forestry Management Agreement as the Grower and the date of issuing the Hectares in the Register; and
 - (b) forward to the Grower one copy of each of the Project Documents.

Third party interests

- 4.12 The Manager need not recognise any claim or interest in a Hectare by any person other than the holder, even if the Manager has notice of it.
- 4.13 Except as otherwise provided in this Investment Deed, the Manager shall recognise the Grower or the Grower's executors or administrators as the absolute owner of the Hectares as set out in the Register and the Manager shall not except:
- (a) as otherwise provided in this Investment Deed;
 - (b) as ordered by a Court of competent jurisdiction; or
 - (c) as required by statute,
- be bound to take notice of any trust or equity (whether express implied or constructive) affecting the ownership of any Hectare or any incidental rights and the receipt by such Grower or the Grower's executors or administrators for any moneys payable in respect of the Hectares is be a good discharge to the Manager.

Joint tenancy

- 4.14 Persons Registered jointly as the holder of a Hectare hold as joint tenants and not as tenants in common unless the Manager otherwise agrees.

5 Payments

- 5.1 Money payable by the Manager to a Grower may be paid in any manner the Manager decides.
- 5.2 Only whole cents are to be paid, and any remaining fraction of a cent becomes an Asset.

Joint Growers

- 5.3 A payment to any one of joint Growers will discharge the Manager in respect of the payment.

Sums owed to Manager

- 5.4 The Manager may deduct from any amount to be paid to a Grower any money due to it by the Grower.

Tax

- 5.5 The Manager may deduct from any amount to be paid to a Grower, or received from a Grower, any amount of Tax (or an estimate of it) which the Manager is required or authorised to deduct in respect of that payment or receipt by law or by this Investment Deed or which the Manager considers should be deducted.

6 Powers of the Manager

Powers

- 6.1 Subject to this Investment Deed and the Project Documents, the Manager has all the powers in respect of the Project as though it were the absolute owner of the Assets and acting in its personal capacity.

Power of delegation

- 6.2 The Manager may authorise any person to act as its agent or delegate (in the case of a joint appointment, jointly and severally) to hold title to any Asset, perform any act or exercise any discretion within the Manager's power, including the power to appoint in turn its own agent or delegate.
- 6.3 The Manager may include in the authorisation provisions to protect and assist those dealing with the agent or delegate as the Manager thinks fit.
- 6.4 The agent or delegate may be an associate of the Manager.

Exercise of discretion

- 6.5 The Manager may in its absolute discretion decide how and when to exercise its powers under this deed, except where directed by a Special Resolution of Growers.

Legal Proceedings

- 6.6 Subject to any contrary direction by a majority of the Growers, the Manager may commence, institute, carry on and prosecute all actions, suits and proceedings at law:
- (a) to procure compliance with the provisions of this Investment Deed;
 - (b) to obtain and recover any moneys payable to it;
 - (c) to enforce the payment of any money payable to it; or
 - (d) for damages against any person arising out of any loss suffered by any Grower,
- and to pursue the same to judgement, decree, order and execution or to discontinue, become non-suited in or abandon or otherwise to act as the Manager may determine and the Manager shall be indemnified out of that Grower's interest in the Project in respect of all costs, charges and expenses incurred by it in relation to any such act, suit or proceeding.

Land Held Beneficially

- 6.7 All Land acquired or leased by the Manager for the purposes of the Project is held beneficially by the Manager in the course of, and in accordance with, its duties as manager of the Project.

Duties in relation to Lease Agreements or Sublease Agreements (as applicable)

- 6.8 The Manager must ensure that:
- (a) a Lease Agreement or Sublease Agreement (as applicable) is not terminated other than in accordance with its terms or with the written consent of the relevant Grower; and
 - (b) a Grower's rights under a Lease Agreement or Sublease Agreement (as applicable) are not adversely affected other than as contemplated by the

terms of the relevant agreement, as required by law or with the written consent of the relevant Grower.

7 Rights and liabilities of Manager

Holding Hectares

7.1 The Manager and its associates may hold Hectares in the Project in any capacity.

Other capacities

7.2 Nothing in this Investment Deed restricts the Manager (or its associates) from:

- (a) dealing with itself (as manager of the Project or in another capacity), an associate or with any Grower;
- (b) being interested in any contract or transaction with itself (as manager of the Project or in another capacity), an associate or with any Grower or retaining for its own benefit any profits or benefits derived from any such contract or transaction; or
- (c) acting in the same or a similar capacity in relation to any other managed investment scheme.

Manager may rely

7.3 The Manager may take and may act upon:

- (a) the opinion or advice of counsel or solicitors, whether or not instructed by the Manager, in relation to the interpretation of this Investment Deed or any other document (whether statutory or otherwise) or generally in connection with the Project;
- (b) advice, opinions, statements or information from any bankers, accountants, auditors, Consultant Foresters, valuers and other persons consulted by the Manager who are in each case believed by the Manager in good faith to be expert in relation to the matters upon which they are consulted;
- (c) a document which the Manager believes in good faith to be the original or a copy of an appointment by a Grower of a person to act as their agent for any purpose connected with the Project; and
- (d) any other document provided to the Manager in connection with the Project upon which it is reasonable for the Manager to rely,

and the Manager will not be liable for anything done, suffered or omitted by it in good faith in reliance upon such opinion, advice, statement, information or document, except to the extent that any loss is attributable to the Manager's own neglect or default.

7.4 The Manager undertakes to supply to Growers at its own expense any information in its possession or over which it has control which may be relevant to a determination of whether a particular loss is attributable to the Manager's own neglect or default.

8 Limitation of liability and indemnity in favour of Manager

Limitation on Manager's liability

- 8.1 If the Manager acts in good faith and without negligence, it is not liable in contract, tort or otherwise to Growers for any loss suffered in any way relating to the Project.
- 8.2 The liability of the Manager to any person other than a Grower in respect of the Project (including in respect of any contracts entered into as manager of the Project or in relation to any Assets) is limited to the Manager's ability to be indemnified from the Assets.
- 8.3 The Manager will not incur any liability to anyone in respect of performing or doing or any failure to perform or do any act or thing which by reason of any provision of:
- (a) any present or future law of the Commonwealth of Australia or any State or Territory of Australia;
 - (b) any ordinance, rule, regulation, or by-law made pursuant to such a law; or
 - (c) any decree, order or judgement of any competent Court
- the Manager is hindered, prevented or forbidden from doing or performing.

Indemnity in favour of Manager

- 8.4 The Manager is entitled to be indemnified out of the Assets for any liability incurred by it in properly performing or exercising any of its powers or duties in relation to the Project.
- 8.5 The indemnity under clause 8.4 includes any liability incurred as a result of any act or omission of a delegate or agent appointed by the Manager.
- 8.6 This indemnity is in addition to any indemnity allowed by law. It continues to apply after the Manager retires or is removed as manager of the Project.

9 Liability of Growers

Liability limited

- 9.1 Subject to this clause 9, the liability of a Grower is limited to the amount if any which remains unpaid in relation to the Grower's subscription for their Hectares.
- 9.2 A Grower need not indemnify the Manager if there is a deficiency in the Assets or meet the claim of any creditor of the Manager in respect of the Project unless it is obliged to do so under a separate agreement.
- 9.3 The Manager is entitled to be indemnified by a Grower to the extent that the Manager incurs any liability for Tax as a result of the Grower's action or inaction.
- 9.4 Joint Growers are jointly and severally liable in respect of all payments including payments of Tax to which clause 9.3 applies.

Recourse

- 9.5 In the absence of separate agreement with a Grower, the recourse of the Manager and any creditor is limited to the Assets.

Restrictions on Growers

- 9.6 A Grower must not interfere with any rights or powers of the Manager under this Investment Deed.

10 Remuneration and expenses of the Manager

Management fee

- 10.1 The Manager is entitled to be remunerated from the Project for its services by:
- (a) the amounts payable under the Project Documents;
 - (b) a harvesting fee equal to 1% of the Gross Timber Proceeds arising from the harvesting and marketing of Trees under clause 14.1; and
 - (c) any other amounts agreed in writing with Growers.

Waiver of fees

- 10.2 The Manager may accept lower fees than it is entitled to receive under this Investment Deed, or may defer payment for any period. Where payment is deferred, the fee accrues daily until paid.
- 10.3 The Manager is not required to effect any transaction or deal with any transfer or other instrument or with any part of the Assets or investments of the Growers for any Grower unless the Grower first pays in cash or otherwise provides to the Manager's satisfaction for all duties, taxes, governmental charges, brokerage, transfer fees, registration fees and other charges of any nature ("duties and charges") which may have become or may be payable in relation to the transaction or dealing.
- 10.4 The Manager may if it so thinks fit pay and discharge all or any of the duties and charges referred to in clause 10.3 and to retain the amount out of any moneys or property to which the Grower or representative may be or become entitled under this Investment Deed.

11 Retirement of Manager

Voluntary retirement

- 11.1 The Manager may retire as the manager of the Project.

Compulsory retirement

- 11.2 The Manager must retire as the Manager of the Project if required by law.

New Manager

- 11.3 Any proposed replacement manager must execute a deed by which it covenants to be bound by this Investment Deed as if it had originally been a party to it.

Release

- 11.4 When it retires or is removed, the Manager is released from all obligations in relation to the Project arising after the time it retires or is removed.

12 Stocking Guarantee

- 12.1 The Manager may, in its absolute discretion, maintain or cause to be maintained, insurance in relation to a Grower's Trees in accordance with Clause 13.1(a).

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- 12.2 If during the Stocking Guarantee Period a Grower's Trees are Materially Damaged the Manager will, at its own expense, remove the damaged or destroyed Trees, prepare the ground and acquire and plant new *pinus radiata* seedlings of a quality comparable to the original seedlings planted in accordance with the relevant Forestry Management Agreement, unless insurance has been maintained in relation to the Grower's Trees in accordance with 13.1(a).

13 Insurances

- 13.1 The Manager covenants that it will:
- (a) where the Manager has elected to maintain or cause to maintain insurance under clause 12.1 - at its expense maintain or cause to be maintained for an initial period of 10 years 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; and
 - (b) during the lifetime of the Project maintain or cause to be maintained at its expense an insurance policy of public liability to the value of at least \$10,000,000 against any claim which may be made by the owner or occupier of any adjoining or neighbouring land or any other person.
- 13.2 The proceeds of any claim in respect of the damage or destruction of all or any of a Grower's Trees ("the proceeds of any claim") pursuant to the policy referred to in clause 13.1(a) will be held by the Manager in a bank account established and kept solely for that purpose, pending application of the proceeds of the claim in accordance with clause 13.3.
- 13.3 Where the Manager maintains or causes to be maintained, insurance in relation to a Grower's Trees in accordance with Clause 13.1(a), the Manager will be entitled to be paid or reimbursed for all costs, charges and expenses which may be incurred in or about the removal of the damaged or destroyed Trees, preparing the ground and acquiring and planting new Trees.
- 13.4 Upon completion of the works set out in clause 13.3, the residue (if any) will be paid to the Manager.
- 13.5 The Manager must in good faith:
- (a) negotiate a variation of any subsisting Forestry Management Agreement relating to Trees that are damaged or destroyed to take account of any additional works and services which may be required as a result of the damage to, or destruction of, the Grower's Trees; and
 - (b) negotiate an extension of the relevant Lease Agreement or Sublease Agreement (as applicable) to take account of the damage to, or destruction of the Grower's Trees.

14 Harvesting and sale of trees

Responsibility for harvesting

- 14.1 In respect of all Hectares issued, the harvesting and sale of a Grower's Trees is to be carried out, or arranged to be carried out, by the Manager unless the Manager is

otherwise notified by the Grower in accordance with the procedure set out in an Information Memorandum.

Distribution of harvesting proceeds for Growers who engage the Manager to arrange for harvesting

- 14.2 The total proceeds of the sale ("Gross Timber Proceeds"), from all Trees marketed and harvested by the Manager (pursuant to clause 14.1) that relate to Hectares planted in a particular Financial Year ("Harvested Hectares") will be dealt with as follows:
- (a) the Harvesting Fee relating to the marketing and harvesting of the Trees (together with the amounts payable under the terms of the Project Documents) will be deducted from the Gross Timber Proceeds; and
 - (b) the balance of the Gross Timber Proceeds ("Net Timber Proceeds") will be distributed to the Growers based on the percentage that their Harvested Hectares in respect of a Financial Year bear to the total number of all Harvested Hectares for that Financial Year.

15 Transfer and transmission of Hectares

Transfer of Hectares

- 15.1 All or part of a Grower's interest in the Project may be transferred provided such transfer is of an entire Hectare (including the relevant Lease Agreement, Sublease Agreement, or Pre-Lease Agreement (as applicable), Forestry Management Agreement, if still subsisting).
- 15.2 All transfers of Hectares shall be effected by transfer in writing ("Instrument of Transfer") in a form which the Manager approves and every Instrument of Transfer shall be delivered to the Manager, together with:
- (a) the Grower's part of the Forestry Management Agreement relating to the Hectare to be transferred (if applicable);
 - (b) the Grower's part of the Lease Agreement, Sublease Agreement or Pre-Lease Agreement (as applicable) of the Hectare to be transferred;
 - (c) if there is any amount payable under the Forestry Management Agreement, a duly executed assignment of the Forestry Management Agreement (in a form acceptable to the Manager);
 - (d) a duly executed and stamped assignment of the Lease Agreement, Sublease Agreement or Pre-Lease Agreement (as applicable) (in a form acceptable to the Manager);
 - (e) if required, a duly executed and stamped transfer or assignment of the Grower's interest in any Forestry Right relating to the relevant Hectare; and
 - (f) payment in full of any taxes, duties, lodging fees and any other statutory charges or fees payable in order to fully effect the transfer of the Grower's interest in the Hectare to the transferee.
- 15.3 The Manager may refuse to Register any transfer of a Hectare while there is any money due but unpaid under the terms of any relevant Project Document.

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- 15.4 Subject to clause 15.3, the Manager shall within 21 days of receipt by the Manager of the documents and moneys referred to in clause 15.2:
- (a) advise the Grower and the proposed transferee that the Manager has approved of the proposed transferee; and
 - (b) Register the name of the transferee in respect of that Hectare.

Project Documents

- 15.5 Within 1 month after entry of the name of the transferee in the Register the Manager shall deliver to the transferee:
- (a) the Grower's part of the relevant Forestry Management Agreement (if applicable);
 - (b) the transferee's part of the relevant Instrument of Transfer executed by the transferee;
 - (c) the Lessee's or Sub-Lessee's (as applicable) part of the relevant Lease Agreement or Sublease Agreement (as applicable) (or, if applicable, the Pre-Lease Agreement); and
 - (d) the transferee's part of the assignment of the Forestry Management Agreement referred to in clause 15.2(c) (if applicable);
 - (e) the transferee's part of the assignment of Lease Agreement, Sublease Agreement or Pre-Lease Agreement (as applicable) referred to in clause 15.2(d); and
 - (f) the transferee's part of the transfer or assignment of the interest in a Forestry Right referred to in clause 15.2(e) (if applicable).
- 15.6 Within 1 month after entry of the name of the transferee in the Register the Manager shall deliver to the transferor:
- (a) the transferor's part of the relevant Instrument of Transfer; and
 - (b) the transferor's part of the assignment of the Forestry Management Agreement (if applicable);
 - (c) the transferor's part of the assignment of Lease Agreement, Sublease Agreement or Pre-Lease Agreement (as applicable); and
 - (d) the transferor's part of the transfer or assignment of the interest in a Forestry Right (if applicable).
- 15.7 The Manager shall on behalf of and as duly appointed agent and attorney of and at the cost of the transferee lodge with any governmental or other statutory authority all such documents as are necessary to fully effect the transfer of the Hectare to the transferee.
- 15.8 The transferor of a Hectare shall be deemed to remain the owner until the name of the transferee is Registered in respect of that Hectare.

Death, legal disability of a Grower

- 15.9 In case of the death of a Grower the survivor or survivors of the deceased Grower where that person was a joint holder or the executors or administrators of the deceased Grower where that person was a sole holder shall be the only persons recognised by the Manager as having any title to the interest of the Grower in the Project.
- 15.10 Any person becoming entitled to a Hectare in consequence of the death, liquidation or bankruptcy of a Grower may upon such evidence being produced as may from time to time be required by the Manager and subject to this Investment Deed elect either to be Registered as the Grower or to have some person nominated by that person Registered as the transferee.
- 15.11 If the person so becoming entitled elects to be Registered that person must deliver or send to the Manager a notice in the form prescribed by the Manager confirming the election.
- 15.12 If the person so becoming entitled elects to have a nominee Registered, the person and the nominee shall confirm the election by delivering or sending to the Manager a notice in the form prescribed by the Manager stating that they so elect.
- 15.13 All the provisions of this Investment Deed relating to the Registration of transfers of Hectares are applicable to any notice under clause 15.9 or 15.10 as if the death or bankruptcy of the Grower had not occurred and the notice was an Instrument of Transfer executed by such Grower.
- 15.14 A person becoming entitled to any Hectare in consequence of the death, bankruptcy or liquidation of a Grower shall be entitled to receive and may give a discharge for all moneys payable in respect of the Grower's interest in the Project but shall not be entitled to receive notices of or attend or vote at any meetings of Growers until being Registered.
- 15.15 Subject to the provisions of any applicable stamp duty legislation and clauses 4.12 and 4.13, any persons becoming entitled to any Hectare in consequence of the death, bankruptcy or liquidation of any Grower or any person becoming entitled in equity to any Hectare in consequence of any change of trusteeship in respect of any Hectare, upon producing evidence of entitlement as required under this clause as the Manager may think fit may:
- (a) be Registered as a Grower in respect of such Hectare; or
 - (b) may subject to the provisions of this Investment Deed regarding transfers, transfer such Hectare.

16 Meetings of Growers

Convening meetings

- 16.1 The Manager may at any time convene a meeting of Growers.

Manager may determine

- 16.2 Subject to this clause 16, the Manager may determine the time and place at which a meeting of Growers will be convened and the manner in which the meeting will be conducted.

Quorum

- 16.3 The quorum for a meeting of Growers is at least 5 Growers present in person or by proxy together, unless the Project has less than 5 Growers who may vote on a Resolution or Special Resolution, in which case the total number of Growers constitutes a quorum.

No quorum

- 16.4 If a quorum is not present within 30 minutes after the scheduled time for the meeting, the meeting is:

- (a) if convened on the requisition of Growers - dissolved; or
- (b) otherwise - adjourned to such place and time as the Manager decides.

At any adjourned meeting, those Growers present in person or by proxy constitute a quorum.

Chairperson

- 16.5 The Manager may appoint a person to chair a meeting of Growers.
- 16.6 The decision of the chairperson on any matter relating to the conduct of the meeting is final.

Adjournment

- 16.7 The chairperson has power to adjourn a meeting for any reason to such place and time as the chairperson thinks fit.

Resolutions binding

- 16.8 A Resolution or Special Resolution binds each Grower, whether or not they were present at the meeting, except to the extent that the Resolution or Special Resolution is inconsistent with the rights of the Grower under the Project Documents.
- 16.9 No objection may be made to any vote cast unless the objection is made at the meeting.

17 Period of the project

Commencement

- 17.1 The Project commences when the first Hectares are issued.

Termination

- 17.2 The Project terminates on the earliest of:
- (a) the 80th anniversary of the day before the Project commenced;
 - (b) where there are no contractual obligations to be fulfilled or performed by the Manager under any Project Document, the date specified by the Manager as the date of termination of the Project in a notice given to Growers, such date being at least 3 months after the notice is given; and
 - (c) the date on which the Project terminates in accordance with another provision of this Investment Deed.

18 Notices to Growers

- 18.1 A notice or other communication required under this Investment Deed to be given to a Grower must be given in writing (which includes a fax) or in such other manner as the Manager determines, and be delivered or sent to the Grower at the Grower's physical or electronic address last advised to the Manager for delivery of notices.
- 18.2 A cheque payable to a Grower may be posted to the Grower's physical address or handed to the Grower or a person authorised in writing by the Grower.
- 18.3 In the case of joint Growers, the physical or electronic address of the Grower means the physical or electronic address of the Grower first named in the Register.
- 18.4 A notice, cheque or other communication sent by post is taken to be received on the Business Day after it is posted and a fax is taken to be received 1 hour after receipt by the transmitter of confirmation of transmission from the receiving fax machine. Proof of actual receipt is not required. The Manager may determine the time at which other forms of communication will be taken to be received.

19 Notices to the Manager

- 19.1 A notice required under this Investment Deed to be given to the Manager must be given in writing (which includes a fax), or in such other manner as the Manager determines.
- 19.2 The notice is effective only at the time of receipt.
- 19.3 The notice must bear the actual, facsimile or electronic signature of the Grower or a duly authorised officer or representative of the Grower unless the Manager dispenses with this requirement.

20 Amendments to this Investment Deed

Manager may amend

- 20.1 The Manager may by deed amend this Investment Deed where:
 - (a) it considers the amendment will not adversely affect Growers' rights; or
 - (b) a Special Resolution of Growers has approved the amendment.

21 Interpretation

Definitions

- 21.1 In the interpretation of this Investment Deed, wherever the context shall permit:

Assets: all the property, rights and income of the Project, but not application money or property in respect of which Hectares have not yet been issued.

Business Day: a day other than a Saturday or a Sunday on which banks are open for general banking business in Melbourne.

Consultant Forester: any person appointed by the Manager to make recommendations and reports to the Manager in respect of the Plantation and the works required to be undertaken on the Land.

Financial Year:

- (a) for the last financial year, the period from 1 July before the date the Project terminates to the date of distribution on winding up of the Project; and
- (b) in all other circumstances, the 12 month period ending on 30 June in each year.

Forestry Management Agreement: a contract for the establishment, development and maintenance of a Grower's Trees in the form for the time being specified by the Manager.

Forestry Right: is an interest in the land granted by the owner of the land under which the person who has the benefit of the interest is generally, among other things, entitled to enter the land to establish, maintain and harvest a crop of trees on the land. It includes (without limitation) a forestry right within the meaning of section 87A of the Conveyancing Act 1919 (NSW) or a forestry property right within the meaning of section 3 of the Forestry Rights Act 1996 (Vic).

Grower: the person Registered as the holder of a Hectare, and includes persons jointly or to be deemed jointly so Registered.

Harvesting Fee: means the fee charged under clause 10.1(b).

Headlease: is a lease between the owner of Land and the Manager, where the Manager has granted a sublease to the Grower.

Hectare: an interest in one hectare of the Land and all improvements to that Land pursuant to a Project Document (and any applicable Forestry Right).

Information Memorandum: the information memorandum, product disclosure statement or other disclosure document prepared in relation to the Project.

Investment Deed: this investment deed as amended.

Land: any land acquired or leased by the Manager for the purposes of the Project.

Land Tenure: a form of occupation or possession of Land granted by the Manager to the Grower, including but not limited to, a licence, sub-licence or sub-sub-licence:

- (a) to establish, maintain and manage timber plantations on that Land; and
- (b) to take or convert forest product (defined to include vegetation or product derived from vegetation) on that Land,

and do all other things necessary or convenient to be done for or in connection with, or incidental to, paragraphs (a) and (b).

Lease Agreement: a lease or other form of Land Tenure (as applicable) in the form for the time being specified by the Manager.

Liabilities: all present liabilities of the Project including any provision which the Manager decides should be taken into account in determining the liabilities of the Project.

Manager: Willmott Forests Limited.

Materially Damaged: destroyed or damaged, other than by:

- (a) acts of terrorism, war, hostilities or rebellion;
- (b) ionising radiation or contamination by radioactivity from any nuclear fuel or waste, the combustion of nuclear fuel or nuclear weapons material; and
- (c) any other cause of damage specified for this purpose in the Information Memorandum,

so that, in the reasonable opinion of an independent forester appointed by the Manager, there is a materially adverse impact on the value or long term viability of the relevant Trees.

Plantation: that part of the Land as is planted with Trees, together with such of the Land as is required for the purposes of access and firebreaks.

Pre-Lease Agreement: an agreement entered into between the Grower and the Manager (where the Manager considers that it is not immediately in a position to grant a Lease Agreement or Sublease Agreement (as applicable)) under which the Manager is obliged to take all reasonable steps to grant the Grower a Lease Agreement or Sublease Agreement in respect of their Hectares within 9 months of their application for the Project being accepted by the Manager.

Project: the project established pursuant to this Investment Deed and includes all the Assets and Liabilities of the Project.

Project Documents: the current Lease Agreement or Sublease Agreement (as applicable) (and/or, if applicable, a Pre-Lease Agreement) and Forestry Management Agreement executed by a Grower and the Manager.

Register: the register of Growers kept by the Manager.

Registered: recorded in the Register.

Registration: recording in the Register.

Resolution:

- (a) a resolution passed at a meeting of Growers:
 - (i) on a show of hands, by a majority of Growers present in person or by proxy and voting on the show of hands; or
 - (ii) on a poll, by a majority of votes cast by Growers present in person or by proxy and voting on the poll; or
- (b) where the law allows, a resolution in writing signed by Growers holding the a majority of the Hectares.

Except where this Investment Deed or any applicable law provides otherwise, “a majority” is a simple majority.

Special Resolution: a Resolution that has been passed by at least 75% of the votes cast by Growers entitled to vote.

Stocking Guarantee Period: in relation to a Hectare, the period disclosed as the guarantee period in the Information Memorandum under which the Hectare is issued.

Sublease Agreement: a sublease or other form of Land Tenure (as applicable) being in the form for the time being specified by the Manager. It may include a lease of a leasehold interest (known as the Headlease) to which the Manager is the sub-lessor and the Grower the sublessee.

Tax: all kinds of taxes, duties, imposts, deductions and charges imposed by a government, together with interest and penalties.

Tax Act: the Income Tax Assessment Act 1936 (“**1936 Act**”), the Income Tax Assessment Act 1997 (“**1997 Act**”) or both the 1936 Act and the 1997 Act, as appropriate.

Trees: pinus radiata trees.

21.2 Unless the contrary intention appears, in this Investment Deed:

- (a) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements;
- (b) the singular includes the plural and vice versa;
- (c) the words “includes” or “including”, “for example” or “such as” when introducing a list of items do not exclude a reference to other items, whether of the same class or genus or not;
- (d) amend includes delete or replace;
- (e) person includes a firm, a body corporate, an unincorporated association or an authority;
- (f) the cover page, contents, headings, footnotes, marginal notes and finding lists are for convenience only and do not affect interpretation of this Investment Deed;
- (g) a reference to a year (other than a Financial Year), quarter or month means a calendar year, calendar quarter or calendar month respectively; and

Other documents

- 21.3 A document does not become part of this Investment Deed by reason only of that document referring to this Investment Deed or vice versa, or any electronic link between them.

Investment Deed legally binding

- 21.4 This Investment Deed binds the Manager and each present and future Grower and any person claiming through any of them in accordance with its terms (as amended from time to time) as if each of them had been a party to this Investment Deed.

Governing law

- 21.5 This Investment Deed is governed by the law of Victoria.

Other obligations excluded

- 21.6 All obligations of the Manager which might otherwise be implied or imposed by law or equity are expressly excluded to the extent permitted by law, including without limitation any obligation of the Manager in its capacity as manager of the Project arising under any statute.

Execution page

Investment Deed of the Willmott Forests - Professional Investor - 2006 Project

EXECUTED by **WILLMOTT FORESTS**)
LIMITED (ABN 17 063 263 650) in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cwlth) by authority)
of its directors:)

.....)
Signature of director)

.....)
Signature of director/~~company secretary~~*)
*delete whichever is not applicable)

Marcus Derham)
Name of director (block letters))

Jonathan Madgwick.....)
Name of director/~~company secretary~~*)
(block letters))
*delete whichever is not applicable)

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