

IN THE FEDERAL COURT OF AUSTRALIA  
DISTRICT REGISTRY

No. V621 of 2005

IN THE MATTER OF ANSETT AUSTRALIA LIMITED  
(ACN 004 209 410) & ORS (in accordance with the  
Schedule attached) (All Subject to a Deed of  
Company Arrangement)

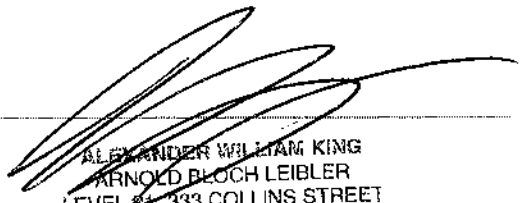
and

MARK ANTHONY KORDA and MARK FRANCIS  
XAVIER MENTHA (as Deed Administrators of the  
Companies)

**CERTIFICATE IDENTIFYING EXHIBIT**

This is the exhibit marked "**MAK-43**" produced and shown to **MARK ANTHONY KORDA** at the time of swearing his affidavit dated 12 September 2005.

Before me:



ALEXANDER WILLIAM KING  
ARNOLD BLOCH LEIBLER  
LEVEL 24, 333 COLLINS STREET  
MELBOURNE 3000  
A NATURAL PERSON WHO IS A CURRENT  
PRACTITIONER WITHIN THE MEANING OF  
THE LEGAL PRACTICE ACT 1996

**Exhibit "MAK-43"**  
**Skywest/Aeropelican DOCAs**

'mak-43'

SKYWEST AVIATION LIMITED  
(ADMINISTRATORS APPOINTED)  
AND

MARK ANTHONY KORDA  
MARK FRANCIS XAVIER MENTHA

---

DEED OF COMPANY ARRANGEMENT

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ANDERSEN LEGAL  
Lawyers  
A member firm of Andersen Worldwide SC  
Level 13  
363 George Street  
SYDNEY NSW 2000  
Tel: (61+2) 9993 6600  
Fax: (61+2) 9993 6650  
DX 1085 Sydney  
Ref: DE/ANS909/1

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THIS DEED OF COMPANY ARRANGEMENT is made on 25 February 2002

**PARTIES:**

Skywest Aviation Limited (ACN 004 444 866) (the Company); and  
Mark Anthony Korda and Mark Francis Xavier Mentha both c/- of Arthur Andersen,  
360 Elizabeth Street, Melbourne 3000 (the Administrators)

**RECITALS**

- A. Mark Anthony Korda and Mark Francis Xavier Mentha were appointed administrators of the Company and Skywest pursuant to an order of the Court on 17 September 2001 which appointment subsists today. This appointment succeeded the appointment of Messrs. Hall, Hedge and Watson as administrators of the Company on 12 September 2001 (the Appointment Date).
- B. On 25 January 2002 a meeting of creditors of the Company was held pursuant to Section 439A of the Corporations Act (the Meeting) at which it was resolved that the Company execute a deed of company arrangement substantially in the form of this Deed and details of which were provided by the Administrators to creditors of the Company pursuant to Section 439A(3)(a) of the Corporations Act.
- C. After execution of this Deed the issued share capital in the Company, owned by Skywest Airlines Pty Limited (Administrators Appointed) (ACN 008 997 662) (Skywest), ("the Shares") may be sold by Skywest ("the Share Sale").
- D. It is not certain as to whether the Company owns any property. Any property that is owned will be available to pay creditors' claims

**OPERATIVE PROVISIONS**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

Where commencing with a capital letter unless the context otherwise requires:

Administrators' Demands has the meaning in clause 5.1(c);

Administrators' Liabilities has the meaning in clause 5.1(b);

Appointment Date has the meaning in Recital A;

Approving Resolution means the resolution of the Company's creditors passed at the Meeting that the Company execute a deed of company arrangement substantially in the form of this Arrangement;

Arrangement means this Deed of Company Arrangement, as amended from time to time and includes the recitals of and any schedules and exhibits to this Deed of Company Arrangement;

Arrangement Period has the meaning in clause 7.1;

**Business Day** means a day that is not a Saturday, a Sunday or a public holiday or public holiday in the State;

**Claim** means as at the Appointment Date a debt owing (whether then, now, in the future or contingently) by, or a claim subsisting against, the Company in favour of a person irrespective of whether the debt or claim arose by virtue of contract, at law, in equity or otherwise and including (without limitation) a claim sounding only in damages and, a debt or claim arising pursuant to any Guarantee;

**Claimant** means a person with a Claim;

**Commencement Date** means the date of this Deed;

**Committee** has the meaning in clause 9.

**Court** means any court having jurisdiction to hear and determine matters under the Corporations Act;

**Enforcement Process** has the same meaning as in the Corporations Act;

**Entitlement** means in relation to a Claim the amount to be determined by a mechanism to be determined at the Subsequent Meeting;

**Guarantee** means any guarantee, indemnity, letter of credit, correspondence giving rise to legal liabilities or suretyship or any other obligation (whatever called and on whatever terms):

- (a) to pay, to purchase or to provide funds for the payment or discharge of;
- (b) to indemnify against the consequences of default in the payment of; or
- (c) otherwise to be responsible for any obligation in respect of any financial indebtedness, dividend, capital or premium on shares or stock, or the insolvency or financial condition of any other person;

**Lessor** means any person who is the legal or beneficial owner of property in the possession of the Company at the Commencement Date that is leased or hired by the Company;

**Meeting** has the meaning in Recital B;

**Owner** means any person who is the legal or beneficial owner of property in the possession of the Company at the Commencement Date which shall include a person with a retention of title claim over property in the possession of the Company established to the satisfaction of the Administrators;

**Secured Creditor** means any person with the benefit of a Security Interest at the Commencement Date over all or any property to the Company securing all or any part of its Claim;

**Security Interest** means any mortgage, charge, lien or pledge as security for the payment or repayment of a monetary obligation or the observance of any other obligation;

Share Sale has the meaning in Recital C;

State means Victoria;

Subsequent Meeting has the meaning in clause 6.5; and

Termination Date has the meaning in clause 7.2.

Where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

## 1.2 Interpretation

In this Arrangement, unless the context otherwise requires:

- (a) month means a calendar month;
- (b) headings are for convenience only and do not affect the interpretation of this Arrangement;
- (c) references to sections, sub-sections and paragraphs of an Act or Law are references to sections, sub-sections and paragraphs of the Corporations Act 2001;
- (d) the singular denotes the plural and vice versa;
- (e) words importing a gender include each other gender;
- (f) an expression importing a natural person includes any corporation, partnership, joint venture, association or other body corporate;
- (g) a reference to any thing or amount is a reference to the whole and each part of it;
- (h) a reference to a Part, Recital, clause, paragraph, Exhibit, Annexure or Schedule is a reference to a Part, clause or paragraph of, or a Recital, Exhibit, Annexure or Schedule to, this Arrangement;
- (i) a reference to any legislation includes any regulation or instrument made under it and where amended re-enacted or replaced means that amended re-enacted or replacement legislation;
- (j) a reference to a document includes a reference to an amendment or supplement to, or replacement or novation of, that document;
- (k) a reference to a party to any document includes a reference to that party's successors and permitted assigns;
- (l) when a day on or by which anything is to be done is not a Business Day, that thing must be done on or by the next Business Day; and
- (m) a covenant or agreement on the part of two or more persons binds them jointly and severally.

## 2. COMMENCEMENT DATE

This Arrangement shall take effect on the date of this Deed.

### 3. **PRESCRIBED PROVISIONS**

The provisions prescribed by Section 444A(5) and as contained in Schedule 8A of the Corporations Regulations are expressly excluded from this Arrangement, except to the extent that they are expressly included.

### 4. **ADMINISTRATORS**

#### 4.1 **Role**

This Arrangement shall be administered by the Administrators who shall have the powers set out in paragraph 2 of Schedule 8A of the Corporations Regulations.

#### 4.2 **Agency**

In exercising the powers conferred by this Arrangement and carrying out the duties arising under this Arrangement, the Administrators shall act as agent for and on behalf of the Company.

#### 4.3 **Limitation of the Administrators' liability**

Subject to the Corporations Act, in the performance of the Administrators' functions and duties and the exercise of the Administrators' powers under this Arrangement the Administrators shall not be personally liable for:

- (a) any debt, liability or other obligation which the Administrators may incur on behalf of the Company pursuant to this Arrangement; or
- (b) any loss or damage caused by any act, default or omission by the Administrators or on behalf of the Administrators in the performance of the Administrators' powers, functions and duties under this Arrangement.

#### 4.4 **General responsibilities and powers**

During the Arrangement Period, the Administrators shall be responsible for the supervision and administration of this Arrangement. During the Arrangement Period the Administrators shall have the rights, powers, privileges, authorities and discretions conferred by the Company's constitution or otherwise by law on its directors to the exclusion of the Company's directors provided that the Administrators shall not be responsible for such statutory obligations as may continue to be imposed on the directors of the Company during the Arrangement Period.

#### 4.5 **Remuneration**

The Administrators shall be:

- (a) remunerated by the Company in respect of any work done by the Administrators, and any partner or employee of the Administrators, in connection with this Arrangement at the scale of rates charged from time to time by Arthur Andersen for the provision of services during the period of the administration or as otherwise agreed by the Committee; and

- (b) reimbursed by the Company in respect of all costs, fees and expenses incurred in connection with the performance of their duties, obligations and responsibilities under this Arrangement.

#### 4.6 Joint Administrator

Where any two or more persons are appointed as Administrators of this Arrangement:

- (a) the function or power of an administrator or administrators of this Arrangement may be performed or exercised by any one of them, or any two or more of them together; and
- (b) the rights, benefits and obligations of an Administrator under this Arrangement, including with respect to the indemnity in clause 5, shall be joint and several.

### 5. ADMINISTRATORS' INDEMNITY

#### 5.1 Nature of indemnity

The Administrators are entitled to be indemnified out of the Company's property for:

- (a) their remuneration, costs, fees and expenses payable pursuant to sub-clause 4.5;
- (b) all liabilities incurred by the Administrators in the course of the Arrangement, including any moneys borrowed by the Administrators in the course of the Arrangement and interest thereon and any contracts adopted or otherwise agreed by the Administrators (the Administrators' Liabilities); and
- (c) all actions, suits, proceedings, accounts, claims and demands arising out of the Arrangement which may be commenced, incurred by or made on the Administrators by any person and against all costs, charges and expenses incurred by the Administrator in respect thereof (the Administrators' Demands),

PROVIDED ALWAYS that the Administrators shall not be entitled to an indemnity in respect of any Administrators' Liabilities or Administrators' Demands if the Administrators, or any partner, employee, authorised agent or delegate of the Administrators has acted dishonestly, in breach of duty, or breach of trust, including (without limitation) any act or omission in contravention of sections 180 to 183 or any act or omission in respect of which this indemnity would be void by reason of section 199A.

#### 5.2 Continuing indemnity

This indemnity shall take effect on and from the Commencement Date and be without limitation as to time and shall inure for the benefit of the Administrators' respective legal personal representatives notwithstanding the removal of the Administrators or any of them and the appointment of new Administrators or the termination of this Arrangement for any reason whatsoever



### **5.3 Indemnity not to be affected or prejudiced**

The indemnity under sub-clause 5.1 shall not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Administrators and shall extend to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Administrators, the approval and execution of this Arrangement or otherwise; or
- (b) affect or prejudice all or any rights that the Administrators may have against the Company or any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Administrators of or incidental to the exercise or performance of any of the powers or authorities conferred on the Administrators by this Arrangement or otherwise.

## **6. NATURE OF ARRANGEMENT**

### **6.1 All Persons Bound**

This Arrangement binds all persons having a Claim.

### **6.2 Property available**

Subject to the rights of any Secured Creditor or any Owner or Lessor referred to in clause 8, the property of the Company (if any), subject to clause 5.1, shall be available to pay Claims.

### **6.3 Claims extinguished and released**

This Arrangement releases the Company from Claims upon receipt by the relevant Claimant of its Entitlement.

### **6.4 Effect of extinguishment and release**

A person having a Claim shall not:

- (a) make or concur in an application for an order to wind up the Company;
- (b) proceed with such an application made before this Arrangement became binding on such person;
- (c) begin or continue any proceeding against the Company or in relation to any of its property;
- (d) begin or continue with any Enforcement Process in relation to the Company's property, or
- (e) commence or take any additional step in any arbitration against the Company or to which the Company is a party

For the purposes of this clause 6.4, "property" includes property used or occupied by, or in the possession of, the Company.

### **6.5 Calculation and determination of claims**

The method of calculation of and method of payment of Claims, dealing with the Company's assets, if any, available for distribution and the determination of persons entitled to a Claim will be determined at a meeting of creditors of the Company to be held on or about the date to which the second meeting of creditors of various companies in the Ansett group has been adjourned ("the Subsequent Meeting") and to which the provisions of clause 10 will apply.

## **7. CONTINUATION AND TERMINATION**

### **7.1 Continuation**

This Arrangement shall remain in force for the period commencing on the Commencement Date and ending on the Termination Date ("the Arrangement Period").

### **7.2 Termination**

This Arrangement will terminate at such time as is determined by the creditors of the Company at the Subsequent Meeting ("the Termination Date").

## **8. OWNERS, LESSORS AND SECURED CREDITORS**

### **8.1 Owners and Lessors**

Nothing in this Arrangement shall in any way restrict a right that an Owner or Lessor who did not vote in favour of the Approving Resolution has in relation to the relevant property of that Owner or Lessor in the possession of the Company as at the Commencement Date.

### **8.2 Secured Creditors**

Nothing in this Arrangement shall in any way restrict the right of a Secured Creditor who did not vote in favour of the Approving Resolution from lawfully realising or otherwise dealing with its Security Interest.

## **9. COMMITTEE OF CREDITORS**

9.1 The Committee will be comprised of those persons who were members of the committee whilst the Company was under administration.

### **9.2 Functions of the Committee**

The functions of the Committee are:

- (a) to consult with the Administrators about matters relating to this Arrangement;
- (b) to receive and consider reports by the Administrators; and
- (c) to approve the Administrators' remuneration.

9.3 The Committee cannot give directions to the Administrators.

### **9.4 The Committee**

The following rules apply to the Committee:

- (a) each member of the Committee must be a Claimant, an attorney of a Claimant or a person otherwise authorised in writing by a Claimant to be a member of the Committee;
- (b) no Claimant is entitled to have more than one representative (including the creditor himself or herself, if a natural person) on the Committee;
- (c) minutes of the proceedings of each meeting of the Committee must be made and entered in books to be provided from time to time for that purpose by the Administrators;
- (d) if the minutes of a meeting purport to be signed by the chairman of the meeting, or by the chairman of the next meeting of the Committee, the minutes are prima facie evidence of the matters contained in them;
- (e) a resolution of committee members is passed if committee members sign a document containing a statement to the effect that they are in favour of the resolution set out in the document;
- (f) unless the contrary is proved, the meeting is taken to have been properly convened and all proceedings are taken to have properly occurred;
- (g) a corporation (being otherwise qualified for membership of the Committee) is not entitled to be a member of the Committee but may appoint a person to represent it on the Committee; and
- (h) sections 549, 550 and 551 apply, with such modifications as are necessary, to the Committee as if the references in those sections to the liquidator were references to the Administrators and the references to contributories and the option of seeking leave of a Court were deleted.

#### 9.5 No remuneration for members of the Committee

Each member of the Committee shall be entitled to be reimbursed for the reasonable out of pocket expenses incurred by him or her in attending meetings of the Committee, as may be approved from time to time by the Administrators in their absolute discretion, but shall not otherwise be entitled to claim or receive from the Company, the Administrators or the Claimants (other than, where applicable, the member's appointor) any remuneration for acting as a member of the Committee.

### 10. MEETINGS OF CREDITORS

#### 10.1 Convening meetings

Meetings of creditors of the Company may be convened by the Administrators from time to time in accordance with section 445F.

#### 10.2 Corporations Regulations

Except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Arrangement, regulations 5.6.12 to 5.6.36A of the Corporations Regulations apply, with such modifications as are necessary, to meetings of the creditors or of the Committee as if the references to "the liquidator", "the liquidator or provisional liquidator", the "liquidator, provisional liquidator or chairman", or "a

liquidator, provisional liquidator or trustee for debenture holders", as the case may be, were references to the Administrator.

## **11. GENERAL**

### **11.1 Governing law**

This Arrangement shall be governed by and construed in accordance with the laws in force in the State. Any action or proceeding arising out of or in connection with this Arrangement shall be instituted or brought in a Court.

### **11.2 Inconsistency with the Corporations Act**

If there is any inconsistency between the terms of this Arrangement and the Corporations Act then the Corporations Act shall, only to the extent of the inconsistency, prevail and this Arrangement shall be interpreted accordingly.

### **11.3 Severance**

Notwithstanding anything contained in any provision of this Arrangement, if any such provision shall be held or found to be void, invalid or otherwise unenforceable, such provision shall be deemed to be severed from this Arrangement to the extent only that it is void, invalid or unenforceable but the remainder of any such provision and this Arrangement shall remain in full force and effect.

### **11.4 This Arrangement prevails over Constitution, contracts etc.**

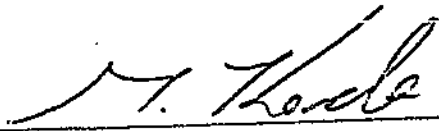
If there is any inconsistency between the provisions of this Arrangement and the constitution of the Company or any other obligations binding on the Company, then the provisions of this Arrangement shall prevail to the extent of the inconsistency.

### **11.5 Variation of this Arrangement by creditors**

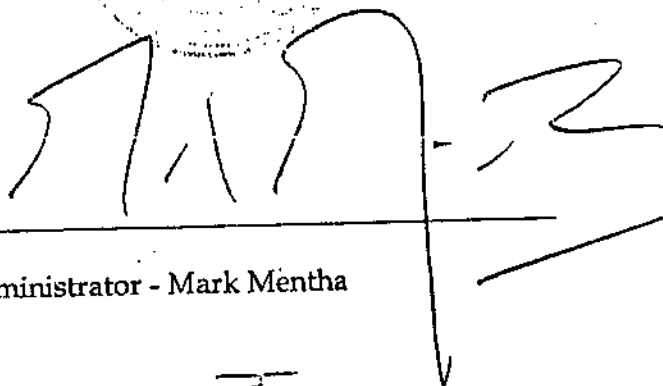
This Arrangement may be varied by a resolution passed at a meeting of the Claimants convened under this Arrangement only if the variation is not materially different from a proposed variation set out in the notice of meeting.

EXECUTED as a deed.

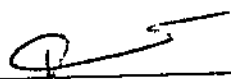
Executed by Messrs Korda and Mentha as  
ADMINISTRATORS of SKYWEST  
AVIATION LIMITED (ADMINISTRATORS  
APPOINTED):



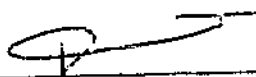
Administrator - Mark Korda



Administrator - Mark Mentha

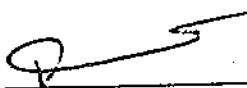


Witness




Witness

SIGNED by MARK ANTHONY KORDA in  
the presence of:



Witness



DAMIAN TEMPLETON

Name


PLEASE PRINT

MARK KORDA

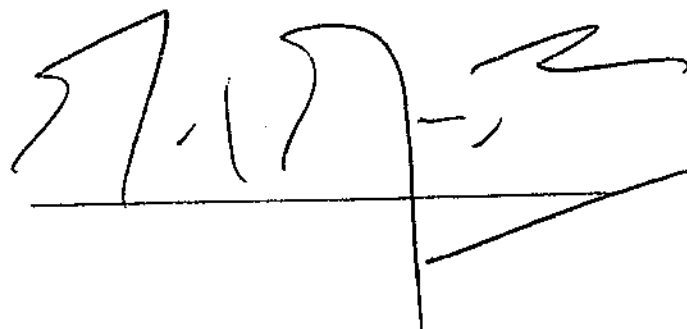
Name

PLEASE PRINT

SIGNED by MARK FRANCIS XAVIER  
MENTHA in the presence of:



Witness



DAMIAN TEMPLETON

Name

PLEASE PRINT

MARK MENTHA

Name

PLEASE PRINT

SKYWEST JET CHARTER PTY LTD  
(ADMINISTRATORS APPOINTED)

AND

MARK ANTHONY KORDA  
MARK FRANCIS XAVIER MENTHA

---

**DEED OF COMPANY ARRANGEMENT**

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**ANDERSEN LEGAL**  
Lawyers  
A member firm of Andersen Worldwide SC  
Level 13  
363 George Street  
SYDNEY NSW 2000  
Tel: (61+2) 9993 6600  
Fax: (61+2) 9993 6650  
DX 1085 Sydney  
Ref: DE/ANS909/11

THIS DEED OF COMPANY ARRANGEMENT is made on 15 February 2002

**PARTIES:**

Skywest Jet Charter Pty Ltd (ACN 008 800 155) (the Company); and  
Mark Anthony Korda and Mark Francis Xavier Mentha both c/- of Arthur Andersen,  
360 Elizabeth Street, Melbourne 3000 (the Administrators)

**RECITALS**

- A. Mark Anthony Korda and Mark Francis Xavier Mentha were appointed administrators of the Company and Skywest pursuant to an order of the Court on 17 September 2001 which appointment subsists today. This appointment succeeded the appointment of Messrs. Hall, Hedge and Watson as administrators of the Company on 12 September 2001 (the Appointment Date).
- B. On 25 January 2002 a meeting of creditors of the Company was held pursuant to Section 439A of the Corporations Act (the Meeting) at which it was resolved that the Company execute a deed of company arrangement substantially in the form of this Deed and details of which were provided by the Administrators to creditors of the Company pursuant to Section 439A(3)(a) of the Corporations Act.
- C. After execution of this Deed the issued share capital in the Company, owned by Skywest Airlines Pty Limited (Administrators Appointed)(ACN 008 997 662) (Skywest), ("the Shares") may be sold by Skywest ("the Share Sale").
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**1.1 Definitions**

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#### 4.4 General responsibilities and powers

During the Arrangement Period, the Administrators shall be responsible for the supervision and administration of this Arrangement. During the Arrangement Period the Administrators shall have the rights, powers, privileges, authorities and discretions conferred by the Company's constitution or otherwise by law on its directors to the exclusion of the Company's directors provided that the Administrators shall not be responsible for such statutory obligations as may continue to be imposed on the directors of the Company during the Arrangement Period.

#### 4.5 Remuneration

The Administrators shall be:

- (a) remunerated by the Company in respect of any work done by the Administrators, and any partner or employee of the Administrators, in connection with this Arrangement at the scale of rates charged from time to time by Arthur Andersen for the provision of services during the period of the administration or as otherwise agreed by the Committee; and

- (b) reimbursed by the Company in respect of all costs, fees and expenses incurred in connection with the performance of their duties, obligations and responsibilities under this Arrangement.

#### 4.6 Joint Administrator

Where any two or more persons are appointed as Administrators of this Arrangement:

- (a) the function or power of an administrator or administrators of this Arrangement may be performed or exercised by any one of them, or any two or more of them together; and
- (b) the rights, benefits and obligations of an Administrator under this Arrangement, including with respect to the indemnity in clause 5, shall be joint and several.

### 5. ADMINISTRATORS' INDEMNITY

#### 5.1 Nature of indemnity

The Administrators are entitled to be indemnified out of the Company's property for:

- (a) their remuneration, costs, fees and expenses payable pursuant to sub-clause 4.5;
- (b) all liabilities incurred by the Administrators in the course of the Arrangement, including any moneys borrowed by the Administrators in the course of the Arrangement and interest thereon and any contracts adopted or otherwise agreed by the Administrators (the Administrators' Liabilities); and
- (c) all actions, suits, proceedings, accounts, claims and demands arising out of the Arrangement which may be commenced, incurred by or made on the Administrators by any person and against all costs, charges and expenses incurred by the Administrator in respect thereof (the Administrators' Demands),

PROVIDED ALWAYS that the Administrators shall not be entitled to an indemnity in respect of any Administrators' Liabilities or Administrators' Demands if the Administrators, or any partner, employee, authorised agent or delegate of the Administrators has acted dishonestly, in breach of duty, or breach of trust, including (without limitation) any act or omission in contravention of sections 180 to 183 or any act or omission in respect of which this indemnity would be void by reason of section 199A.

#### 5.2 Continuing indemnity

This indemnity shall take effect on and from the Commencement Date and be without limitation as to time and shall inure for the benefit of the Administrators' respective legal personal representatives notwithstanding the removal of the Administrators or any of them and the appointment of new Administrators or the termination of this Arrangement for any reason whatsoever

### **5.3 Indemnity not to be affected or prejudiced**

The indemnity under sub-clause 5.1 shall not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Administrators and shall extend to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Administrators, the approval and execution of this Arrangement or otherwise; or
- (b) affect or prejudice all or any rights that the Administrators may have against the Company or any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Administrators of or incidental to the exercise or performance of any of the powers or authorities conferred on the Administrators by this Arrangement or otherwise.

## **6. NATURE OF ARRANGEMENT**

### **6.1 All Persons Bound**

This Arrangement binds all persons having a Claim.

### **6.2 Property available**

Subject to the rights of any Secured Creditor or any Owner or Lessor referred to in clause 8, the property of the Company (if any), subject to clause 5.1, shall be available to pay Claims.

### **6.3 Claims extinguished and released**

This Arrangement releases the Company from Claims upon receipt by the relevant Claimant of its Entitlement.

### **6.4 Effect of extinguishment and release**

A person having a Claim shall not:

- (a) make or concur in an application for an order to wind up the Company;
- (b) proceed with such an application made before this Arrangement became binding on such person;
- (c) begin or continue any proceeding against the Company or in relation to any of its property;
- (d) begin or continue with any Enforcement Process in relation to the Company's property, or
- (e) commence or take any additional step in any arbitration against the Company or to which the Company is a party

For the purposes of this clause 6.4, "property" includes property used or occupied by, or in the possession of, the Company.

### **6.5 Calculation and determination of claims**

The method of calculation of and method of payment of Claims, dealing with the Company's assets, if any, available for distribution and the determination of persons entitled to a Claim will be determined at a meeting of creditors of the Company to be held on or about the date to which the second meeting of creditors of various companies in the Ansett group has been adjourned ("the Subsequent Meeting") and to which the provisions of clause 10 will apply.

## **7. CONTINUATION AND TERMINATION**

### **7.1 Continuation**

This Arrangement shall remain in force for the period commencing on the Commencement Date and ending on the Termination Date ("the Arrangement Period").

### **7.2 Termination**

This Arrangement will terminate at such time as is determined by the creditors of the Company at the Subsequent Meeting ("the Termination Date").

## **8. OWNERS, LESSORS AND SECURED CREDITORS**

### **8.1 Owners and Lessors**

Nothing in this Arrangement shall in any way restrict a right that an Owner or Lessor who did not vote in favour of the Approving Resolution has in relation to the relevant property of that Owner or Lessor in the possession of the Company as at the Commencement Date.

### **8.2 Secured Creditors**

Nothing in this Arrangement shall in any way restrict the right of a Secured Creditor who did not vote in favour of the Approving Resolution from lawfully realising or otherwise dealing with its Security Interest.

## **9. COMMITTEE OF CREDITORS**

**9.1** The Committee will be comprised of those persons who were members of the committee whilst the Company was under administration.

### **9.2 Functions of the Committee**

The functions of the Committee are:

- (a) to consult with the Administrators about matters relating to this Arrangement;
- (b) to receive and consider reports by the Administrators; and
- (c) to approve the Administrators' remuneration.

**9.3** The Committee cannot give directions to the Administrators.

### **9.4 The Committee**

The following rules apply to the Committee:

- (a) each member of the Committee must be a Claimant, an attorney of a Claimant or a person otherwise authorised in writing by a Claimant to be a member of the Committee;
- (b) no Claimant is entitled to have more than one representative (including the creditor himself or herself, if a natural person) on the Committee;
- (c) minutes of the proceedings of each meeting of the Committee must be made and entered in books to be provided from time to time for that purpose by the Administrators;
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- (e) a resolution of committee members is passed if committee members sign a document containing a statement to the effect that they are in favour of the resolution set out in the document;
- (f) unless the contrary is proved, the meeting is taken to have been properly convened and all proceedings are taken to have properly occurred;
- (g) a corporation (being otherwise qualified for membership of the Committee) is not entitled to be a member of the Committee but may appoint a person to represent it on the Committee; and
- (h) sections 549, 550 and 551 apply, with such modifications as are necessary, to the Committee as if the references in those sections to the liquidator were references to the Administrators and the references to contributories and the option of seeking leave of a Court were deleted.

#### **9.5 No remuneration for members of the Committee**

Each member of the Committee shall be entitled to be reimbursed for the reasonable out of pocket expenses incurred by him or her in attending meetings of the Committee, as may be approved from time to time by the Administrators in their absolute discretion, but shall not otherwise be entitled to claim or receive from the Company, the Administrators or the Claimants (other than, where applicable, the member's appointor) any remuneration for acting as a member of the Committee.

### **10. MEETINGS OF CREDITORS**

#### **10.1 Convening meetings**

Meetings of creditors of the Company may be convened by the Administrators from time to time in accordance with section 445F.

#### **10.2 Corporations Regulations**

Except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Arrangement, regulations 5.6.12 to 5.6.36A of the Corporations Regulations apply, with such modifications as are necessary, to meetings of the creditors or of the Committee as if the references to "the liquidator", "the liquidator or provisional liquidator", the "liquidator, provisional liquidator or chairman", or "a

liquidator, provisional liquidator or trustee for debenture holders", as the case may be, were references to the Administrator.

## **11. GENERAL**

### **11.1 Governing law**

This Arrangement shall be governed by and construed in accordance with the laws in force in the State. Any action or proceeding arising out of or in connection with this Arrangement shall be instituted or brought in a Court.

### **11.2 Inconsistency with the Corporations Act**

If there is any inconsistency between the terms of this Arrangement and the Corporations Act then the Corporations Act shall, only to the extent of the inconsistency, prevail and this Arrangement shall be interpreted accordingly.

### **11.3 Severance**

Notwithstanding anything contained in any provision of this Arrangement, if any such provision shall be held or found to be void, invalid or otherwise unenforceable, such provision shall be deemed to be severed from this Arrangement to the extent only that it is void, invalid or unenforceable but the remainder of any such provision and this Arrangement shall remain in full force and effect.

### **11.4 This Arrangement prevails over Constitution, contracts etc.**

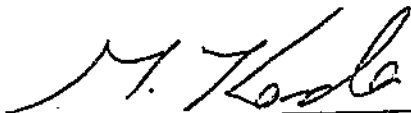
If there is any inconsistency between the provisions of this Arrangement and the constitution of the Company or any other obligations binding on the Company, then the provisions of this Arrangement shall prevail to the extent of the inconsistency.

### **11.5 Variation of this Arrangement by creditors**

This Arrangement may be varied by a resolution passed at a meeting of the Claimants convened under this Arrangement only if the variation is not materially different from a proposed variation set out in the notice of meeting.

EXECUTED as a deed.

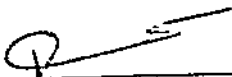
Executed by Messrs Korda and Mentha as  
ADMINISTRATORS of SKYWEST JET  
CHARTER PTY LTD (ADMINISTRATORS  
APPOINTED):




Administrator - Mark Korda



Administrator - Mark Mentha

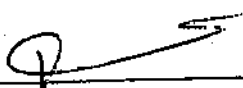


Witness




Witness

SIGNED by MARK ANTHONY KORDA in  
the presence of:



Witness



DAMIAN TEMPLER

Name

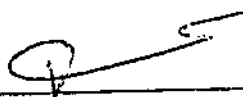
PLEASE PRINT

MARK KORDA

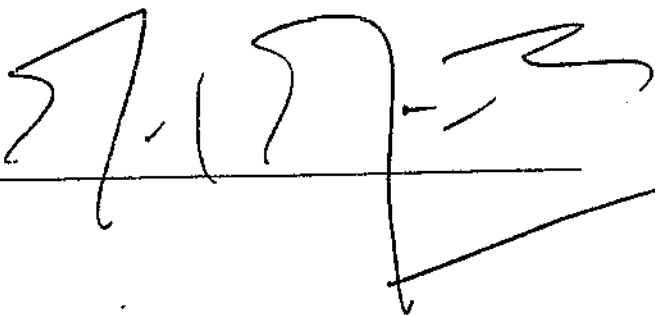
Name

PLEASE PRINT

SIGNED by MARK FRANCIS XAVIER  
MENTHA in the presence of:



Witness



DAMIAN TEMPLER

Name

PLEASE PRINT

MARK MENTHA

Name

PLEASE PRINT



SKYWEST HOLDINGS PTY LIMITED

(ADMINISTRATORS APPOINTED)

AND

MARK ANTHONY KORDA

MARK FRANCIS XAVIER MENTHA

---

**DEED OF COMPANY ARRANGEMENT**

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**ANDERSEN LEGAL**

**Lawyers**

A member firm of Andersen Worldwide SC

Level 13

363 George Street

SYDNEY NSW 2000

Tel: (61+2) 9993 6600

Fax: (61+2) 9993 6650

DX 1085 Sydney

Ref: DE/ANS909/11

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THIS DEED OF COMPANY ARRANGEMENT is made on 15 February 2002

## PARTIES:

Skywest Holdings Pty Limited (ACN 008 905 646) (the Company); and  
Mark Anthony Korda and Mark Francis Xavier Mentha both c/- of Arthur Andersen,  
360 Elizabeth Street, Melbourne 3000 (the Administrators)

## RECITALS

- A. Mark Anthony Korda and Mark Francis Xavier Mentha were appointed administrators of the Company and Skywest pursuant to an order of the Court on 17 September 2001 which appointment subsists today. This appointment succeeded the appointment of Messrs. Hall, Hedge and Watson as administrators of the Company on 12 September 2001 (the Appointment Date).
- B. On 25 January 2002 a meeting of creditors of the Company was held pursuant to Section 439A of the Corporations Act (the Meeting) at which it was resolved that the Company execute a deed of company arrangement substantially in the form of this Deed and details of which were provided by the Administrators to creditors of the Company pursuant to Section 439A(3)(a) of the Corporations Act.
- C. After execution of this Deed the issued share capital in the Company, owned by Morael Pty Limited (Administrators Appointed) (ACN 003 286 440) (Skywest), ("the Shares") may be sold by Skywest ("the Share Sale").
- D. It is not certain as to whether the Company owns any property. Any property that is owned will be available to pay creditors' claims

## OPERATIVE PROVISIONS

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

Where commencing with a capital letter unless the context otherwise requires:

Administrators' Demands has the meaning in clause 5.1(c);

Administrators' Liabilities has the meaning in clause 5.1(b);

Appointment Date has the meaning in Recital A;

Approving Resolution means the resolution of the Company's creditors passed at the Meeting that the Company execute a deed of company arrangement substantially in the form of this Arrangement;

Arrangement means this Deed of Company Arrangement, as amended from time to time and includes the recitals of and any schedules and exhibits to this Deed of Company Arrangement;

Arrangement Period has the meaning in clause 7.1;

Business Day means a day that is not a Saturday, a Sunday or a public holiday or public holiday in the State;

Claim means as at the Appointment Date a debt owing (whether then, now, in the future or contingently) by, or a claim subsisting against, the Company in favour of a person irrespective of whether the debt or claim arose by virtue of contract, at law, in equity or otherwise and including (without limitation) a claim sounding only in damages and, a debt or claim arising pursuant to any Guarantee;

Claimant means a person with a Claim;

Commencement Date means the date of this Deed;

Committee has the meaning in clause 9.

Court means any court having jurisdiction to hear and determine matters under the Corporations Act;

Enforcement Process has the same meaning as in the Corporations Act;

Entitlement means in relation to a Claim the amount to be determined by a mechanism to be determined at the Subsequent Meeting;

Guarantee means any guarantee, indemnity, letter of credit, correspondence giving rise to legal liabilities or suretyship or any other obligation (whatever called and on whatever terms):

- (a) to pay, to purchase or to provide funds for the payment or discharge of;
- (b) to indemnify against the consequences of default in the payment of; or
- (c) otherwise to be responsible for any obligation in respect of any financial indebtedness, dividend, capital or premium on shares or stock, or the insolvency or financial condition of any other person;

Lessor means any person who is the legal or beneficial owner of property in the possession of the Company at the Commencement Date that is leased or hired by the Company;

Meeting has the meaning in Recital B;

Owner means any person who is the legal or beneficial owner of property in the possession of the Company at the Commencement Date which shall include a person with a retention of title claim over property in the possession of the Company established to the satisfaction of the Administrators;

Secured Creditor means any person with the benefit of a Security Interest at the Commencement Date over all or any property to the Company securing all or any part of its Claim;

Security Interest means any mortgage, charge, lien or pledge as security for the payment or repayment of a monetary obligation or the observance of any other obligation;

Share Sale has the meaning in Recital C;

State means Victoria;

Subsequent Meeting has the meaning in clause 6.5; and

Termination Date has the meaning in clause 7.2.

Where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

## 1.2 Interpretation

In this Arrangement, unless the context otherwise requires:

- (a) month means a calendar month;
- (b) headings are for convenience only and do not affect the interpretation of this Arrangement;
- (c) references to sections, sub-sections and paragraphs of an Act or Law are references to sections, sub-sections and paragraphs of the Corporations Act 2001;
- (d) the singular denotes the plural and vice versa;
- (e) words importing a gender include each other gender;
- (f) an expression importing a natural person includes any corporation, partnership, joint venture, association or other body corporate;
- (g) a reference to any thing or amount is a reference to the whole and each part of it;
- (h) a reference to a Part, Recital, clause, paragraph, Exhibit, Annexure or Schedule is a reference to a Part, clause or paragraph of, or a Recital, Exhibit, Annexure or Schedule to, this Arrangement;
- (i) a reference to any legislation includes any regulation or instrument made under it and where amended re-enacted or replaced means that amended re-enacted or replacement legislation;
- (j) a reference to a document includes a reference to an amendment or supplement to, or replacement or novation of, that document;
- (k) a reference to a party to any document includes a reference to that party's successors and permitted assigns;
- (l) when a day on or by which anything is to be done is not a Business Day, that thing must be done on or by the next Business Day; and

- (m) a covenant or agreement on the part of two or more persons binds them jointly and severally.

## 2. COMMENCEMENT DATE

This Arrangement shall take effect on the date of this Deed.

## 3. PRESCRIBED PROVISIONS

The provisions prescribed by Section 444A(5) and as contained in Schedule 8A of the Corporations Regulations are expressly excluded from this Arrangement, except to the extent that they are expressly included.

## 4. ADMINISTRATORS

### 4.1 Role

This Arrangement shall be administered by the Administrators who shall have the powers set out in paragraph 2 of Schedule 8A of the Corporations Regulations.

### 4.2 Agency

In exercising the powers conferred by this Arrangement and carrying out the duties arising under this Arrangement, the Administrators shall act as agent for and on behalf of the Company.

### 4.3 Limitation of the Administrators' liability

Subject to the Corporations Act, in the performance of the Administrators' functions and duties and the exercise of the Administrators' powers under this Arrangement the Administrators shall not be personally liable for:

- (a) any debt, liability or other obligation which the Administrators may incur on behalf of the Company pursuant to this Arrangement; or
- (b) any loss or damage caused by any act, default or omission by the Administrators or on behalf of the Administrators in the performance of the Administrators' powers, functions and duties under this Arrangement.

### 4.4 General responsibilities and powers

During the Arrangement Period, the Administrators shall be responsible for the supervision and administration of this Arrangement. During the Arrangement Period the Administrators shall have the rights, powers, privileges, authorities and discretions conferred by the Company's constitution or otherwise by law on its directors to the exclusion of the Company's directors provided that the Administrators shall not be responsible for such statutory obligations as may continue to be imposed on the directors of the Company during the Arrangement Period.

#### 4.5 Remuneration

The Administrators shall be:

- (a) remunerated by the Company in respect of any work done by the Administrators, and any partner or employee of the Administrators, in connection with this Arrangement at the scale of rates charged from time to time by Arthur Andersen for the provision of services during the period of the administration or as otherwise agreed by the Committee; and
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Where any two or more persons are appointed as Administrators of this Arrangement:

- (a) the function or power of an administrator or administrators of this Arrangement may be performed or exercised by any one of them, or any two or more of them together; and
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#### 5.1 Nature of indemnity

The Administrators are entitled to be indemnified out of the Company's property for:

- (a) their remuneration, costs, fees and expenses payable pursuant to sub-clause 4.5;
- (b) all liabilities incurred by the Administrators in the course of the Arrangement, including any moneys borrowed by the Administrators in the course of the Arrangement and interest thereon and any contracts adopted or otherwise agreed by the Administrators (the Administrators' Liabilities); and
- (c) all actions, suits, proceedings, accounts, claims and demands arising out of the Arrangement which may be commenced, incurred by or made on the Administrators by any person and against all costs, charges and expenses incurred by the Administrator in respect thereof (the Administrators' Demands),

**PROVIDED ALWAYS** that the Administrators shall not be entitled to an indemnity in respect of any Administrators' Liabilities or Administrators' Demands if the Administrators, or any partner, employee, authorised agent or delegate of the Administrators has acted dishonestly, in breach of duty, or breach of trust, including (without limitation) any act or omission in contravention of sections 180 to 183 or any act or omission in respect of which this indemnity would be void by reason of section 199A.

## **5.2 Continuing indemnity**

This indemnity shall take effect on and from the Commencement Date and be without limitation as to time and shall inure for the benefit of the Administrators' respective legal personal representatives notwithstanding the removal of the Administrators or any of them and the appointment of new Administrators or the termination of this Arrangement for any reason whatsoever

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The indemnity under sub-clause 5.1 shall not:

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This Arrangement releases the Company from Claims upon receipt by the relevant Claimant of its Entitlement.

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A person having a Claim shall not:

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For the purposes of this clause 6.4, "property" includes property used or occupied by, or in the possession of, the Company.

#### **6.5 Calculation and determination of claims**

The method of calculation of and method of payment of Claims, dealing with the Company's assets, if any, available for distribution and the determination of persons entitled to a Claim will be determined at a meeting of creditors of the Company to be held on or about the date to which the second meeting of creditors of various companies in the Ansett group has been adjourned ("the Subsequent Meeting") and to which the provisions of clause 10 will apply.

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Notwithstanding anything contained in any provision of this Arrangement, if any such provision shall be held or found to be void, invalid or otherwise unenforceable, such provision shall be deemed to be severed from this Arrangement to the extent only that it is void, invalid or unenforceable but the remainder of any such provision and this Arrangement shall remain in full force and effect.

### **11.4 This Arrangement prevails over Constitution, contracts etc.**

If there is any inconsistency between the provisions of this Arrangement and the constitution of the Company or any other obligations binding on the Company, then the provisions of this Arrangement shall prevail to the extent of the inconsistency.

### **11.5 Variation of this Arrangement by creditors**

This Arrangement may be varied by a resolution passed at a meeting of the Claimants convened under this Arrangement only if the variation is not materially different from a proposed variation set out in the notice of meeting.

EXECUTED as a deed.

Executed by Messrs Korda and Mentha as  
ADMINISTRATORS of SKYWEST  
HOLDINGS LIMITED  
(ADMINISTRATORS APPOINTED):

[Signature]

Administrator - Mark Korda

[Signature]

Administrator - Mark Mentha

[Signature]

Witness

[Signature]

Witness

SIGNED by MARK ANTHONY KORDA in  
the presence of:

[Signature]

Witness

[Signature]

DAMIAN TEMPLER

Name

PLEASE PRINT

MARK KORDA

Name

PLEASE PRINT

SIGNED by MARK FRANCIS XAVIER  
MENTHA in the presence of:

[Signature]

Witness

[Signature]

DAMIAN TEMPLER

Name

PLEASE PRINT

MARK MENTHA

Name

PLEASE PRINT

SKYWEST AIRLINES PTY LIMITED

(ADMINISTRATORS APPOINTED)

AND

MARK ANTHONY KORDA

MARK FRANCIS XAVIER MENTHA

AND

BODAS PTY LIMITED (ADMINISTRATORS APPOINTED)

---

**DEED OF COMPANY ARRANGEMENT**

---

**ANDERSEN LEGAL**

**Lawyers**

A member firm of Andersen Worldwide SC

Level 13

363 George Street

SYDNEY NSW 2000

Tel: (61+2) 9993 6600

Fax: (61+2) 9993 6650

DX 1085 Sydney

Ref: DE/MR/ANS909/11

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THIS DEED OF COMPANY ARRANGEMENT is made on 15 February 2002

**PARTIES:**

Skywest Airlines Pty Limited (ACN 008 997 662) (the Company);  
Mark Anthony Korda and Mark Francis Xavier Mentha both c/- of Arthur Andersen,  
360 Elizabeth Street, Melbourne 3000 (the Administrators); and  
Bodas Pty Limited (Administrators Appointed) (ACN 002 158 741) (Bodas).

**RECITALS**

- A. Mark Anthony Korda and Mark Francis Xavier Mentha were appointed administrators of the Company and Bodas pursuant to an order of the Court on 17 September 2001 which appointment subsists today. This appointment succeeded the appointment of Messrs. Hall, Hedge and Watson as administrators of the Company on 12 September 2001 (the Appointment Date).
- B. On 25 January 2002 a meeting of creditors of the Company was held pursuant to Section 439A of the Corporations Act (the Meeting) at which it was resolved that the Company execute a deed of company arrangement substantially in the form of this Deed and details of which were provided by the Administrators to creditors of the Company pursuant to Section 439A(3)(a) of the Corporations Act.
- C. After execution of this Deed the entire issued share capital in the Company ("the Shares") may be sold by Bodas ("the Share Sale") and certain assets of the Company ("the Assets") will be transferred to Bodas ("the Asset Sale"). The proceeds of sale for the Shares and the Assets ("the Trust Assets") will be held on trust in the terms set out in the trust deed ("the Trust Deed") to be entered into after completion of the Share Sale and the Asset Sale.
- D. Pending completion of the Share Sale and the Asset Sale this Deed will provide the Administrators with the flexibility to carry on the Company's business with a view to seeking a purchaser for the Shares or, at the Administrators' discretion, for the Company's business and assets.

**OPERATIVE PROVISIONS**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions**

Where commencing with a capital letter unless the context otherwise requires:

Administrators' Demands has the meaning in clause 5.1(c);

Administrators' Liabilities has the meaning in clause 5.1(b);

Appointment Date has the meaning in Recital A;

Approving Resolution means the resolution of the Company's creditors passed at the Meeting that the Company execute a deed of company arrangement substantially in the form of this Arrangement;

**Arrangement** means this Deed of Company Arrangement, as amended from time to time and includes the recitals of and any schedules and exhibits to this Deed of Company Arrangement;

**Arrangement Period** has the meaning in clause 7.1;

**Asset Sale** has the meaning in Recital C;

**Business Day** means a day that is not a Saturday, a Sunday or a public holiday or public holiday in the State;

**Claim** means as at the Appointment Date a debt owing (whether then, now, in the future or contingently) by, or a claim subsisting against, the Company in favour of a person irrespective of whether the debt or claim arose by virtue of contract, at law, in equity or otherwise other than (in the case of a Share Sale) an Employee Priority Claim and including (without limitation) a claim sounding only in damages and, a debt or claim arising pursuant to any Guarantee;

**Claimant** means a person with a Claim;

**Commencement Date** means the date of this Deed;

**Committee** has the meaning in clause 9;

**Corporations Act** means the Corporations Act 2001;

**Court** means any court having jurisdiction to hear and determine matters under the Corporations Act;

**Employee Priority Claim** means if the Company is the subject of a Share Sale any right or entitlement of any employee of the Company on the Sale Date in respect of termination or redundancy entitlements accrued and accruing which such person has on the Sale Date;

**Enforcement Process** has the same meaning as in the Corporations Act;

**Entitlement** means in relation to a Claim the amount to be determined by a mechanism to be determined at the Subsequent Meeting;

**Guarantee** means any guarantee, indemnity, letter of credit, correspondence giving rise to legal liabilities or suretyship or any other obligation (whatever called and on whatever terms);

- (a) to pay, to purchase or to provide funds for the payment or discharge of;
- (b) to indemnify against the consequences of default in the payment of; or
- (c) otherwise to be responsible for any obligation in respect of any financial indebtedness, dividend, capital or premium on shares or stock, or the insolvency or financial condition of any other person;

**Lessor** means any person who is the legal or beneficial owner of property in the possession of the Company at the Commencement Date that is leased or hired by the Company;



Meeting has the meaning in Recital B;

Owner means any person who is the legal or beneficial owner of property in the possession of the Company at the Commencement Date which shall include a person with a retention of title claim over property in the possession of the Company established to the satisfaction of the Administrators;

Sale Date means the date that the Share Sale and Asset Sale settle;

Secured Creditor means any person with the benefit of a Security Interest at the Commencement Date over all or any property to the Company securing all or any part of its Claim;

Security Interest means any mortgage, charge, lien or pledge as security for the payment or repayment of a monetary obligation or the observance of any other obligation;

Share Sale has the meaning in Recital C;

State means Victoria;

Subsequent Meeting has the meaning in clause 6.5;

Termination Date has the meaning in clause 7.2;

Trust Assets has the meaning in Recital C; and

Trust Deed has the meaning in Recital C.

Where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

## 1.2 Interpretation

In this Arrangement, unless the context otherwise requires:

- (a) month means a calendar month;
- (b) headings are for convenience only and do not affect the interpretation of this Arrangement;
- (c) references to sections, sub-sections and paragraphs of an Act or Law are references to sections, sub-sections and paragraphs of the Corporations Act 2001;
- (d) the singular denotes the plural and vice versa;
- (e) words importing a gender include each other gender;
- (f) an expression importing a natural person includes any corporation, partnership, joint venture, association or other body corporate;
- (g) a reference to any thing or amount is a reference to the whole and each part of it;

- (h) a reference to a Part, Recital, clause, paragraph, Exhibit, Annexure or Schedule is a reference to a Part, clause or paragraph of, or a Recital, Exhibit, Annexure or Schedule to, this Arrangement;
- (i) a reference to any legislation includes any regulation or instrument made under it and where amended re-enacted or replaced means that amended re-enacted or replacement legislation;
- (j) a reference to a document includes a reference to an amendment or supplement to, or replacement or novation of, that document;
- (k) a reference to a party to any document includes a reference to that party's successors and permitted assigns;
- (l) when a day on or by which anything is to be done is not a Business Day, that thing must be done on or by the next Business Day; and
- (m) a covenant or agreement on the part of two or more persons binds them jointly and severally.

## **2. COMMENCEMENT DATE**

This Arrangement shall take effect on the date of this Deed.

## **3. PRESCRIBED PROVISIONS**

The provisions prescribed by Section 444A(5) and as contained in Schedule 8A of the Corporations Regulations are expressly excluded from this Arrangement, except to the extent that they are expressly included.

## **4. ADMINISTRATORS**

### **4.1 Role**

This Arrangement shall be administered by the Administrators who shall have the powers set out in paragraph 2 of Schedule 8A of the Corporations Regulations 2001.

### **4.2 Agency**

In exercising the powers conferred by this Arrangement and carrying out the duties arising under this Arrangement, the Administrators shall act as agent for and on behalf of the Company.

### **4.3 Limitation of the Administrators' liability**

Subject to the Corporations Act, in the performance of the Administrators' functions and duties and the exercise of the Administrators' powers under this Arrangement the Administrators shall not be personally liable for:

- (a) any debt, liability or other obligation which the Administrators may incur on behalf of the Company pursuant to this Arrangement; or
- (b) any loss or damage caused by any act, default or omission by the Administrators or on behalf of the Administrators in the performance of the Administrators' powers, functions and duties under this Arrangement.

#### 4.4 General responsibilities and powers

During the Arrangement Period, the Administrators shall be responsible for the supervision and administration of this Arrangement. During the Arrangement Period the Administrators shall have the rights, powers, privileges, authorities and discretions conferred by the Company's constitution or otherwise by law on its directors to the exclusion of the Company's directors provided that the Administrators shall not be responsible for such statutory obligations as may continue to be imposed on the directors of the Company during the Arrangement Period.

#### 4.5 Remuneration

The Administrators shall be:

- (a) remunerated by the Company in respect of any work done by the Administrators, and any partner or employee of the Administrators, in connection with this Arrangement at the scale of rates charged from time to time by Arthur Andersen for the provision of services during the period of the administration or as otherwise agreed by the Committee; and
- (b) reimbursed by the Company in respect of all costs, fees and expenses incurred in connection with the performance of their duties, obligations and responsibilities under this Arrangement.

#### 4.6 Joint Administrator

Where any two or more persons are appointed as Administrators of this Arrangement:

- (a) the function or power of an administrator or administrators of this Arrangement may be performed or exercised by any one of them, or any two or more of them together; and
- (b) the rights, benefits and obligations of an Administrator under this Arrangement, including with respect to the indemnity in clause 5, shall be joint and several.

### 5. ADMINISTRATORS' INDEMNITY

#### 5.1 Nature of indemnity

The Administrators are entitled to be indemnified out of the Company's property for:

- (a) their remuneration, costs, fees and expenses payable pursuant to sub-clause 4.5;
- (b) all liabilities incurred by the Administrators in the course of the Arrangement, including any moneys borrowed by the Administrators in the course of the Arrangement and interest thereon and any contracts adopted or otherwise agreed by the Administrators (the Administrators' Liabilities); and
- (c) all actions, suits, proceedings, accounts, claims and demands arising out of the Arrangement which may be commenced, incurred by or made on the Administrators by any person and against all costs, charges and expenses incurred by the Administrator in respect thereof (the Administrators' Demands),

PROVIDED ALWAYS that the Administrators shall not be entitled to an indemnity in respect of any Administrators' Liabilities or Administrators' Demands if the Administrators, or any partner, employee, authorised agent or delegate of the Administrators has acted dishonestly, in breach of duty, or breach of trust, including (without limitation) any act or omission in contravention of sections 180 to 183 or any act or omission in respect of which this indemnity would be void by reason of section 199A.

## 5.2 Continuing indemnity

This indemnity shall take effect on and from the Commencement Date and be without limitation as to time and shall inure for the benefit of the Administrators' respective legal personal representatives notwithstanding the removal of the Administrators or any of them and the appointment of new Administrators or the termination of this Arrangement for any reason whatsoever

## 5.3 Indemnity not to be affected or prejudiced

The indemnity under sub-clause 5.1 shall not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Administrators and shall extend to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Administrators, the approval and execution of this Arrangement or otherwise; or
- (b) affect or prejudice all or any rights that the Administrators may have against the Company or any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Administrators of or incidental to the exercise or performance of any of the powers or authorities conferred on the Administrators by this Arrangement or otherwise.

## 5.4 Assuming a Share Sale and an Asset Sale, the reference to the "Company's property" in clause 5.1 shall, upon such sales, read as if it was a reference to the Trust Assets.

## 6. NATURE OF ARRANGEMENT

### 6.1 All Persons Bound

This Arrangement binds all persons having a Claim.

### 6.2 Property available

Subject to the rights of any Secured Creditor or any Owner or Lessor referred to in clause 8:

- a) assuming a Share Sale and an Asset Sale, the Trust Assets shall be held by Bodas on trust and available to pay Claims in accordance with the Trust Deed; or
- b) if the Administrators decide that a Share Sale and an Asset Sale is not achievable, all of the property of the Company, subject to clause 5.1, shall be available to pay Claims.

### 6.3 Claims extinguished and released

- a) Assuming a Share Sale and an Asset Sale, all Claims are extinguished by this Arrangement and this Arrangement releases the Company from all Claims immediately upon settlement of the Share Sale and Asset Sale.
- b) Assuming the Administrators decide a Share Sale and an Asset Sale is not achievable, this Arrangement releases the Company from a Claim upon receipt by the relevant Claimant of its Entitlement.

### 6.4 Effect of extinguishment and release

A person having a Claim shall not:

- (a) make or concur in an application for an order to wind up the Company;
- (b) proceed with such an application made before this Arrangement became binding on such person;
- (c) begin or continue any proceeding against the Company or in relation to any of its property;
- (d) begin or continue with any Enforcement Process in relation to the Company's property, or
- (e) commence or take any additional step in any arbitration against the Company or to which the Company is a party

For the purposes of this clause 6.4, "property" includes property used or occupied by, or in the possession of, the Company.

### 6.5 Calculation and determination of claims

The method of calculation of and method of payment of Claims and the determination of persons entitled to a Claim will be determined at a meeting of creditors of the Company to be held on or about the date to which the second meeting of creditors of various companies in the Ansett group has been adjourned ("the Subsequent Meeting") and to which the provisions of clause 10 will apply.

## 7. CONTINUATION AND TERMINATION

### 7.1 Continuation

This Arrangement shall remain in force for the period commencing on the Commencement Date and ending on the Termination Date ("the Arrangement Period").

### 7.2 Termination

This Arrangement shall terminate immediately upon settlement of a Share Sale and an Asset Sale, unless the Administrators decide that a Share Sale and an Asset Sale is not achievable, whereupon this Arrangement will terminate at such time as is determined by the creditors of the Company at the Subsequent Meeting ("the Termination Date").

## **8. OWNERS, LESSORS AND SECURED CREDITORS**

### **8.1 Owners and Lessors**

Nothing in this Arrangement shall in any way restrict a right that an Owner or Lessor who did not vote in favour of the Approving Resolution has in relation to the relevant property of that Owner or Lessor in the possession of the Company as at the Commencement Date.

### **8.2 Secured Creditors**

Nothing in this Arrangement shall in any way restrict the right of a Secured Creditor who did not vote in favour of the Approving Resolution from lawfully realising or otherwise dealing with its Security Interest.

## **9. COMMITTEE OF CREDITORS**

9.1 The Committee will be comprised of those persons who were members of the committee whilst the Company was under administration.

### **9.2 Functions of the Committee**

The functions of the Committee are:

- (a) to consult with the Administrators about matters relating to this Arrangement;
- (b) to receive and consider reports by the Administrators; and
- (c) to approve the Administrators' remuneration.

9.3 The Committee cannot give directions to the Administrators.

### **9.4 The Committee**

The following rules apply to the Committee:

- (a) each member of the Committee must be a Claimant, an attorney of a Claimant or a person otherwise authorised in writing by a Claimant to be a member of the Committee;
- (b) no Claimant is entitled to have more than one representative (including the creditor himself or herself, if a natural person) on the Committee;
- (c) minutes of the proceedings of each meeting of the Committee must be made and entered in books to be provided from time to time for that purpose by the Administrators;
- (d) if the minutes of a meeting purport to be signed by the chairman of the meeting, or by the chairman of the next meeting of the Committee, the minutes are prima facie evidence of the matters contained in them;
- (e) a resolution of committee members is passed if committee members sign a document containing a statement to the effect that they are in favour of the resolution set out in the document;

- (f) unless the contrary is proved, the meeting is taken to have been properly convened and all proceedings are taken to have properly occurred;
- (g) a corporation (being otherwise qualified for membership of the Committee) is not entitled to be a member of the Committee but may appoint a person to represent it on the Committee; and
- (h) sections 549, 550 and 551 apply, with such modifications as are necessary, to the Committee as if the references in those sections to the liquidator were references to the Administrators and the references to contributories and the option of seeking leave of a Court were deleted.

#### 9.5 No remuneration for members of the Committee

Each member of the Committee shall be entitled to be reimbursed for the reasonable out of pocket expenses incurred by him or her in attending meetings of the Committee, as may be approved from time to time by the Administrators in their absolute discretion, but shall not otherwise be entitled to claim or receive from the Company, the Administrators or the Claimants (other than, where applicable, the member's appointor) any remuneration for acting as a member of the Committee.

### 10. MEETINGS OF CREDITORS

#### 10.1 Convening meetings

Meetings of creditors of the Company may be convened by the Administrators from time to time.

#### 10.2 Corporations Regulations

Except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Arrangement, regulations 5.6.12 to 5.6.36A of the Corporations Regulations 2001 apply, with such modifications as are necessary, to meetings of the creditors or of the Committee as if the references to "the liquidator", "the liquidator or provisional liquidator", the "liquidator, provisional liquidator or chairman", or "a liquidator, provisional liquidator or trustee for debenture holders", as the case may be, were references to the Administrator.

### 11. GENERAL

#### 11.1 Governing law

This Arrangement shall be governed by and construed in accordance with the laws in force in the State. Any action or proceeding arising out of or in connection with this Arrangement shall be instituted or brought in a Court.

#### 11.2 Inconsistency with the Corporations Act

If there is any inconsistency between the terms of this Arrangement and the Corporations Act then the Corporations Act shall, only to the extent of the inconsistency, prevail and this Arrangement shall be interpreted accordingly.

### 11.3 Severance

Notwithstanding anything contained in any provision of this Arrangement, if any such provision shall be held or found to be void, invalid or otherwise unenforceable, such provision shall be deemed to be severed from this Arrangement to the extent only that it is void, invalid or unenforceable but the remainder of any such provision and this Arrangement shall remain in full force and effect.

### 11.4 This Arrangement prevails over constitution, contracts etc.

If there is any inconsistency between the provisions of this Arrangement and the constitution of the Company or any other obligations binding on the Company, then the provisions of this Arrangement shall prevail to the extent of the inconsistency.

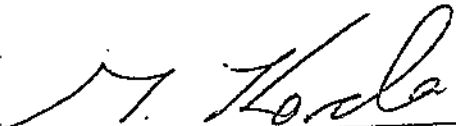
### 11.5 Variation of this Arrangement by creditors


This Arrangement may be varied by a resolution passed at a meeting of the Claimants convened under this Arrangement only if the variation is not materially different from a proposed variation set out in the notice of meeting.




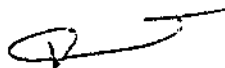
EXECUTED as a deed.

Executed by Messrs Korda and Mentha as  
ADMINISTRATORS of SKYWEST  
AIRLINES PTY LIMITED  
(ADMINISTRATORS APPOINTED):

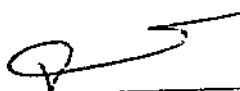
  
\_\_\_\_\_  
Administrator - Mark Korda

  
\_\_\_\_\_  
Administrator - Mark Mentha

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_  
Witness

SIGNED by MARK ANTHONY KORDA in  
the presence of:

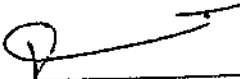
  
\_\_\_\_\_  
Witness


  
\_\_\_\_\_

DAMIAN TEMPLER  
Name PLEASE PRINT

MARK KORDA  
Name PLEASE PRINT

SIGNED by MARK FRANCIS XAVIER  
MENTHA in the presence of:

  
\_\_\_\_\_  
Witness

  
\_\_\_\_\_

DAMIAN TEMPLER  
Name PLEASE PRINT

MARK MENTHA  
Name PLEASE PRINT

EXECUTED as a deed.

Executed by Messrs Korda and Mentha as  
ADMINISTRATORS of BODAS PTY  
LIMITED (ADMINISTRATORS  
APPOINTED):



A handwritten signature of Mark Korda in black ink, written over a horizontal line.

Administrator - Mark Korda

A handwritten signature of Mark Mentha in black ink, written over a horizontal line.

Administrator - Mark Mentha

A handwritten signature of a witness in black ink, written over a horizontal line.

Witness

A handwritten signature of a witness in black ink, written over a horizontal line.

Witness

AEROPELICAN AIR SERVICES PTY LIMITED  
(ADMINISTRATORS APPOINTED)

AND

MARK ANTHONY KORDA  
MARK FRANCIS XAVIER MENTHA

AND

BODAS PTY LIMITED (ADMINISTRATORS APPOINTED)

---

DEED OF COMPANY ARRANGEMENT

---

ANDERSEN LEGAL  
Lawyers  
A member firm of Andersen Worldwide SC  
Level 13  
363 George Street  
SYDNEY NSW 2000  
Tel: (61+2) 9993 6600  
Fax: (61+2) 9993 6650  
DX 1085 Sydney  
Ref: DGE/MR/ANS909/06

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THIS DEED OF COMPANY ARRANGEMENT is made on 15 February 2002

**PARTIES:**

Aeropelican Air Services Pty Limited (ACN 000 653 083) (the Company);  
Mark Anthony Korda and Mark Francis Xavier Mentha both c/- of Arthur Andersen,  
360 Elizabeth Street, Melbourne 3000 (the Administrators); and  
Bodas Pty Limited (Administrators Appointed) (ACN 002 158 741) (Bodas); and

**RECITALS**

- A. Mark Anthony Korda and Mark Francis Xavier Mentha were appointed administrators of the Company and Bodas pursuant to an order of the Court on 17 September 2001 which appointment subsists today. This appointment succeeded the appointment of Messrs. Hall, Hedge and Watson as administrators of the Company on 12 September 2001 (the Appointment Date).
- B. On 25 January 2002 a meeting of creditors of the Company was held pursuant to Section 439A of the Corporations Act (the Meeting) at which it was resolved:
- (i) that the Company execute a deed of company arrangement substantially in the form of this Deed and details of which were provided by the Administrators to creditors of the Company pursuant to Section 439A(3)(a) of the Corporations Act; and
  - (ii) that the Administrators be appointed deed administrators of the Deed.
- C. After execution of this Deed:
- (a) land may be transferred by the Company ("the Land Sale");
  - (b) certain aircraft of the Company ("the Aircraft") may be transferred by the Company ("the Aircraft Sale"); and
  - (c) the entire issued share capital in the Company ("the Shares") may be sold by Bodas ("the Share Sale");
  - (d) the Company may transfer certain assets to Bodas ("the Asset Transfer");
- (collectively "the Transactions");
- (e) security (which includes but is not limited to an aircraft mortgage and a fixed and floating charge) may be required under the Transactions, and granted by the Company immediately on termination of this Arrangement.
- D. The proceeds of sale from the Transactions ("the Trust Assets") will be held on trust in the terms set out in the trust deed ("the Trust Deed") to be entered into after completion of the Transactions.
- E. Pending completion of the Transactions, this Deed will provide the Administrators with the flexibility to carry on the Company's business with a view to seeking a purchaser for the Shares or at the Administrators' discretion, for the Company's business and assets.

## OPERATIVE PROVISIONS

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

Where commencing with a capital letter unless the context otherwise requires:

Administrators' Demands has the meaning in clause 5.1(c);

Administrators' Liabilities has the meaning in clause 5.1(b);

Aircraft Sale has the meaning in Recital C;

Appointment Date has the meaning in Recital A;

Approving Resolution means the resolution of the Company's creditors passed at the Meeting that the Company execute a deed of company arrangement substantially in the form of this Arrangement;

Arrangement means this Deed of Company Arrangement, as amended from time to time and includes the recitals of and any schedules and exhibits to this Deed of Company Arrangement;

Arrangement Period has the meaning in clause 7.1;

Business Day means a day that is not a Saturday, a Sunday or a public holiday or public holiday in the State;

Claim means as at the Appointment Date a debt owing (whether then, now, in the future or contingently) by, or a claim subsisting against, the Company in favour of a person irrespective of whether the debt or claim arose by virtue of contract, at law, in equity or otherwise other than (in the case of a Share Sale) an Employee Priority Claim and including (without limitation) a claim sounding only in damages and, a debt or claim arising pursuant to any Guarantee;

Claimant means a person with a Claim;

Commencement Date means the date of this Deed;

Committee has the meaning in clause 9;

Court means any court having jurisdiction to hear and determine matters under the Corporations Act;

Employee Priority Claim means if the Company is the subject of a Share Sale any right or entitlement of any employee of the Company on the Sale Date in respect of termination or redundancy entitlements accrued and accruing which such person has on the Sale Date unless otherwise provided for in the terms of the Share Sale or Aircraft Sale;

Enforcement Process has the same meaning as in the Corporations Act;

Entitlement means in relation to a Claim the amount to be determined by a mechanism to be determined at the Subsequent Meeting;

Guarantee means any guarantee, indemnity, letter of credit, correspondence giving rise to legal liabilities or suretyship or any other obligation (whatever called and on whatever terms):

- (a) to pay, to purchase or to provide funds for the payment or discharge of;
- (b) to indemnify against the consequences of default in the payment of; or
- (c) otherwise to be responsible for any obligation in respect of any financial indebtedness, dividend, capital or premium on shares or stock, or the insolvency or financial condition of any other person;

Lessor means any person who is the legal or beneficial owner of property in the possession of the Company at the Commencement Date that is leased or hired by the Company;

Meeting has the meaning in Recital B;

Owner means any person who is the legal or beneficial owner of property in the possession of the Company at the Commencement Date which shall include a person with a retention of title claim over property in the possession of the Company established to the satisfaction of the Administrators;

Sale Date means the date that the Transactions complete;

Secured Creditor means any person with the benefit of a Security Interest at the Commencement Date over all or any property to the Company securing all or any part of its Claim;

Security Interest means any mortgage, charge, lien or pledge as security for the payment or repayment of a monetary obligation or the observance of any other obligation;

Share Sale has the meaning in Recital C;

State means New South Wales;

Subsequent Meeting has the meaning in clause 6.5;

Termination Date has the meaning in clause 7.2; and

Trust Assets has the meaning in Recital C;

Trust Deed has the meaning in Recital C.

Where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

## 1.2 Interpretation

In this Arrangement, unless the context otherwise requires:

- (a) month means a calendar month;
- (b) headings are for convenience only and do not affect the interpretation of this Arrangement;
- (c) references to sections, sub-sections and paragraphs of an Act or Law are references to sections, sub-sections and paragraphs of the Corporations Act 2001;
- (d) the singular denotes the plural and vice versa;
- (e) words importing a gender include each other gender;
- (f) an expression importing a natural person includes any corporation, partnership, joint venture, association or other body corporate;
- (g) a reference to any thing or amount is a reference to the whole and each part of it;
- (h) a reference to a Part, Recital, clause, paragraph, Exhibit, Annexure or Schedule is a reference to a Part, clause or paragraph of, or a Recital, Exhibit, Annexure or Schedule to, this Arrangement;
- (i) a reference to any legislation includes any regulation or instrument made under it and where amended re-enacted or replaced means that amended re-enacted or replacement legislation;
- (j) a reference to a document includes a reference to an amendment or supplement to, or replacement or novation of, that document;
- (k) a reference to a party to any document includes a reference to that party's successors and permitted assigns;
- (l) when a day on or by which anything is to be done is not a Business Day, that thing must be done on or by the next Business Day; and
- (m) a covenant or agreement on the part of two or more persons binds them jointly and severally.

## 2. COMMENCEMENT DATE

This Arrangement shall take effect on the date of this Deed.

## 3. PRESCRIBED PROVISIONS

The provisions prescribed by Section 444A(5) and as contained in Schedule 8A of the Corporations Regulations are expressly excluded from this Arrangement, except to the extent that they are expressly included.



#### **4. ADMINISTRATORS**

##### **4.1 Role**

This Arrangement shall be administered by the Administrators who shall have the powers set out in paragraph 2 of Schedule 8A of the Corporations Regulations.

##### **4.2 Agency**

In exercising the powers conferred by this Arrangement and carrying out the duties arising under this Arrangement, the Administrators shall act as agent for and on behalf of the Company.

##### **4.3 Limitation of the Administrators' liability**

Subject to the Corporations Act, in the performance of the Administrators' functions and duties and the exercise of the Administrators' powers under this Arrangement the Administrators shall not be personally liable for:

- (a) any debt, liability or other obligation which the Administrators may incur on behalf of the Company pursuant to this Arrangement; or
- (b) any loss or damage caused by any act, default or omission by the Administrators or on behalf of the Administrators in the performance of the Administrators' powers, functions and duties under this Arrangement.

##### **4.4 General responsibilities and powers**

During the Arrangement Period, the Administrators shall be responsible for the supervision and administration of this Arrangement. During the Arrangement Period the Administrators shall have the rights, powers, privileges, authorities and discretions conferred by the Company's constitution or otherwise by law on its directors to the exclusion of the Company's directors provided that the Administrators shall not be responsible for such statutory obligations as may continue to be imposed on the directors of the Company during the Arrangement Period.

##### **4.5 Remuneration**

The Administrators shall be:

- (a) remunerated by the Company in respect of any work done by the Administrators, and any partner or employee of the Administrators, in connection with this Arrangement at the scale of rates charged from time to time by Arthur Andersen for the provision of services during the period of the administration or as otherwise agreed by the Committee; and
- (b) reimbursed by the Company in respect of all costs, fees and expenses incurred in connection with the performance of their duties, obligations and responsibilities under this Arrangement.

#### 4.6 Joint Administrator

Where any two or more persons are appointed as Administrators of this Arrangement:

- (a) the function or power of an administrator or administrators of this Arrangement may be performed or exercised by any one of them, or any two or more of them together; and
- (b) the rights, benefits and obligations of an Administrator under this Arrangement, including with respect to the indemnity in clause 5, shall be joint and several.

### 5. ADMINISTRATORS' INDEMNITY

#### 5.1 Nature of indemnity

The Administrators are entitled to be indemnified out of the Company's property for:

- (a) their remuneration, costs, fees and expenses payable pursuant to sub-clause 4.5;
- (b) all liabilities incurred by the Administrators in the course of the Arrangement, including any moneys borrowed by the Administrators in the course of the Arrangement and interest thereon and any contracts adopted or otherwise agreed by the Administrators (the Administrators' Liabilities); and
- (c) all actions, suits, proceedings, accounts, claims and demands arising out of the Arrangement which may be commenced, incurred by or made on the Administrators by any person and against all costs, charges and expenses incurred by the Administrator in respect thereof (the Administrators' Demands),

PROVIDED ALWAYS that the Administrators shall not be entitled to an indemnity in respect of any Administrators' Liabilities or Administrators' Demands if the Administrators, or any partner, employee, authorised agent or delegate of the Administrators has acted dishonestly, in breach of duty, or breach of trust, including (without limitation) any act or omission in contravention of sections 180 to 183 or any act or omission in respect of which this indemnity would be void by reason of section 199A.

#### 5.2 Continuing indemnity

This indemnity shall take effect on and from the Commencement Date and be without limitation as to time and shall inure for the benefit of the Administrators' respective legal personal representatives notwithstanding the removal of the Administrators or any of them and the appointment of new Administrators or the termination of this Arrangement for any reason whatsoever

#### 5.3 Indemnity not to be affected or prejudiced

The indemnity under sub-clause 5.1 shall not:

- (a) be affected, limited or prejudiced in any way by any irregularity, defect or invalidity in the appointment of the Administrators and shall extend to all actions, suits, proceedings, accounts, liabilities, claims and demands arising in any way out of any defect in the appointment of the Administrators, the approval and execution of this Arrangement or otherwise; or

- (b) affect or prejudice all or any rights that the Administrators may have against the Company or any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Administrators of or incidental to the exercise or performance of any of the powers or authorities conferred on the Administrators by this Arrangement or otherwise.
- 5.4 Assuming completion of the Transactions, the reference to the "Company's property" in clause 5.1 shall, upon such sales, read as if it was a reference to the Trust Assets.
- 6. NATURE OF ARRANGEMENT
- 6.1 All Persons Bound

This Arrangement binds all persons having a Claim.
- 6.2 Property available

Subject to the rights of any Secured Creditor or any Owner or Lessor referred to in clause 8:

  - a) assuming completion of the Transactions, the Trust Assets shall to the extent necessary be transferred to Bodas, and be held by Bodas on trust and available to pay Claims in accordance with the Trust Deed;
  - b) if the Administrators decide that the Transactions are not achievable, all of the property of the Company, subject to clause 5.1, shall be available to pay Claims.
- 6.3 Claims extinguished and released
  - a) Assuming completion of the Transactions, all Claims are extinguished by this Arrangement and this Arrangement releases the Company from all Claims immediately upon completion of the Transactions.
  - b) Assuming the Administrators decide any one or more of the Transactions are not achievable, this Arrangement releases the Company from a Claim upon receipt by the relevant Claimant of its Entitlement.
- 6.4 Effect of extinguishment and release

A person having a Claim shall not:

  - (a) make or concur in an application for an order to wind up the Company;
  - (b) proceed with such an application made before this Arrangement became binding on such person;
  - (c) begin or continue any proceeding against the Company or in relation to any of its property;
  - (d) begin or continue with any Enforcement Process in relation to the Company's property, or
  - (e) commence or take any additional step in any arbitration against the Company or to which the Company is a party

For the purposes of this clause 6.4, "property" includes property used or occupied by, or in the possession of, the Company.

**6.5 Calculation and determination of claims**

The method of calculation of and method of payment of Claims and the determination of persons entitled to a Claim will be determined at a meeting of creditors of the Company to be held on or about the date to which the second meeting of creditors of various companies in the Ansett group has been adjourned ("the Subsequent Meeting") and to which the provisions of clause 10 will apply.

**7. CONTINUATION AND TERMINATION**

**7.1 Continuation**

This Arrangement shall remain in force for the period commencing on the Commencement Date and ending on the Termination Date ("the Arrangement Period").

**7.2 Termination**

This Arrangement shall terminate immediately the Completion Date, as defined in the Transactions, unless the Administrators decide that the Transactions are not achievable, whereupon this Arrangement will terminate at such time as is determined by the creditors of the Company at the Subsequent Meeting ("the Termination Date").

**8. OWNERS, LESSORS AND SECURED CREDITORS**

**8.1 Owners and Lessors**

Nothing in this Arrangement shall in any way restrict a right that an Owner or Lessor who did not vote in favour of the Approving Resolution has in relation to the relevant property of that Owner or Lessor in the possession of the Company as at the Commencement Date.

**8.2 Secured Creditors**

Nothing in this Arrangement shall in any way restrict the right of a Secured Creditor who did not vote in favour of the Approving Resolution from lawfully realising or otherwise dealing with its Security Interest.

**9. COMMITTEE OF CREDITORS**

**9.1 The Committee will be comprised of those persons who were members of the committee whilst the Company was under administration.**

**9.2 Functions of the Committee**

The functions of the Committee are:

- (a) to consult with the Administrators about matters relating to this Arrangement; and
- (b) to receive and consider reports by the Administrators; and

- (c) to approve the Administrators' remuneration.

9.3 The Committee cannot give directions to the Administrators.

9.4 The Committee

The following rules apply to the Committee:

- (a) each member of the Committee must be a Claimant, an attorney of a Claimant or a person otherwise authorised in writing by a Claimant to be a member of the Committee;
- (b) no Claimant is entitled to have more than one representative (including the creditor himself or herself, if a natural person) on the Committee;
- (c) minutes of the proceedings of each meeting of the Committee must be made and entered in books to be provided from time to time for that purpose by the Administrators;
- (d) if the minutes of a meeting purport to be signed by the chairman of the meeting, or by the chairman of the next meeting of the Committee, the minutes are prima facie evidence of the matters contained in them;
- (e) a resolution of committee members is passed if committee members sign a document containing a statement to the effect that they are in favour of the resolution set out in the document;
- (f) unless the contrary is proved, the meeting is taken to have been properly convened and all proceedings are taken to have properly occurred;
- (g) a corporation (being otherwise qualified for membership of the Committee) is not entitled to be a member of the Committee but may appoint a person to represent it on the Committee; and
- (h) sections 549, 550 and 551 apply, with such modifications as are necessary, to the Committee as if the references in those sections to the liquidator were references to the Administrators and the references to contributories and the option of seeking leave of a Court were deleted.

10. MEETINGS OF CREDITORS

10.1 Convening meetings

Meetings of creditors of the Company may be convened by the Administrators from time to time.

10.2 Corporations Regulations

Except to the extent (if any) they are excluded or modified by or are inconsistent with the terms of this Arrangement, regulations 5.6.12 to 5.6.36A of the Corporations Regulations apply, with such modifications as are necessary, to meetings of the creditors or of the Committee as if the references to "the liquidator", "the liquidator or provisional liquidator", the "liquidator, provisional liquidator or chairman", or "a liquidator, provisional liquidator or trustee for debenture holders", as the case may be, were references to the Administrator.

## **11. GENERAL**

### **11.1 Governing law**

This Arrangement shall be governed by and construed in accordance with the laws in force in the State. Any action or proceeding arising out of or in connection with this Arrangement shall be instituted or brought in a Court.

### **11.2 Inconsistency with the Corporations Act**

If there is any inconsistency between the terms of this Arrangement and the Corporations Act then the Corporations Act shall, only to the extent of the inconsistency, prevail and this Arrangement shall be interpreted accordingly.

### **11.3 Severance**

Notwithstanding anything contained in any provision of this Arrangement, if any such provision shall be held or found to be void, invalid or otherwise unenforceable, such provision shall be deemed to be severed from this Arrangement to the extent only that it is void, invalid or unenforceable but the remainder of any such provision and this Arrangement shall remain in full force and effect.

### **11.4 This Arrangement prevails over Constitution, contracts etc.**

If there is any inconsistency between the provisions of this Arrangement and the constitution of the Company or any other obligations binding on the Company, then the provisions of this Arrangement shall prevail to the extent of the inconsistency.

### **11.5 Variation of this Arrangement by creditors**

This Arrangement may be varied by a resolution passed at a meeting of the Claimants convened under this Arrangement but only if the variation is not materially different from a proposed variation set out in the notice of meeting.

Executed by Messrs Korda and Mentha as  
ADMINISTRATORS of AEROPELICAN  
AIR SERVICES PTY LIMITED  
(ADMINISTRATORS APPOINTED):



Mark Korda

Administrator - Mark Korda

Mark Mentha

Administrator - Mark Mentha

[Signature]

Witness

[Signature]

Witness

SIGNED by MARK ANTHONY KORDA in  
the presence of:

[Signature]

Witness

Mark Korda

DAMIAN TEMPLETON

Name

PLEASE PRINT

MARK KORDA

Name

PLEASE PRINT

SIGNED by MARK FRANCIS XAVIER  
MENTHA in the presence of:

[Signature]

Witness

Mark Mentha

DAMIAN TEMPLETON

Name

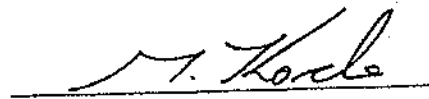
PLEASE PRINT

MARK MENTHA

Name

PLEASE PRINT

Executed by Messrs Korda and Mentha as  
ADMINISTRATORS of BODAS PTY  
LIMITED (ADMINISTRATORS  
APPOINTED):



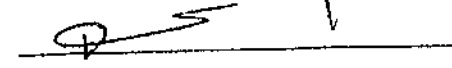
Administrator - Mark Korda



Administrator - Mark Mentha



Witness



Witness