

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)

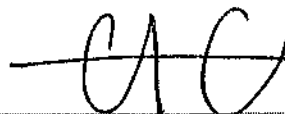
and

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

CERTIFICATE IDENTIFYING EXHIBIT

This is the exhibit marked "**AWK-17**" produced and shown to **ALEXANDER WILLIAM KING** at the time of affirming his affidavit dated 31 March 2006.

Before me:



CARMINE ANTHONY CONTE
Arnold Bloch Leibler
Level 21, 333 Collins Street
Melbourne 3000

An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

Exhibit "AWK-17"
AAE Pooling Compromise Deed (as amended)

AWK 17

Mark Anthony Korda
and
Mark Francis Xavier Mentha
and

Ansett Aviation Equipment Pty Ltd (subject to Deed of Company Arrangement)
[ACN 008 559 733]
and

Ansett Equipment Finance Limited (subject to Deed of Company Arrangement)
[ACN 006 827 989]
and

Ansett Australia Limited (subject to Deed of Company Arrangement)
[ACN 004 209 410]
and

Ansett Australia Holdings Limited (subject to Deed of Company Arrangement)
[ACN 004 216 291]
and

Ansett Holdings Limited (subject to Deed of Company Arrangement)
[ACN 065 117 535]
and

Bodas Pty Ltd
(in its capacity as trustee of the Pelican Trust) (subject to Deed of Company Arrangement)
[ACN 002 158 741]
and

ANST Lednek Airlines (Aust) Pty Ltd
(formerly Kendell Airlines (Aust) Pty Ltd) (subject to Deed of Company Arrangement)
[ACN 000 579 680]
and

Bodas Pty Ltd
(in its capacity as trustee of the Westsky Trust) (subject to Deed of Company Arrangement)
[ACN 002 158 741]
and

ANST Travel Pty Ltd
(formerly Traveland Pty Ltd) (subject to Deed of Company Arrangement)
[ACN 000 240 746]
and

ANST Show Pty Ltd
(formerly Show Group Pty Ltd) (subject to Deed of Company Arrangement)
[ACN 002 968 989]
and

Ansett International Limited (subject to Deed of Company Arrangement)
[ACN 060 622 460]
and

Commonwealth Bank of Australia
[ACN 123 123 124]
and

BNP Paribas
[ABN 23 000 000 117]
and

National Australia Bank Limited
[ACN 004 044 937]

AAE Pooling Compromise Deed
(as amended on March 2006)

ARNOLD BLOCH LEIBLER
Ref: AWK:011349951
392593

TABLE OF CONTENTS

Page no.

1	Definitions and interpretation	5
	1.1 Definitions	5
	1.2 Words and expressions.....	8
	1.3 Other rules of interpretation.....	9
2	Conditions precedent: Court approval and pooling of AAE	9
3	Compromise.....	10
4	Aeroturbine Inc Title Warranty.....	1140
5	Releases	11
6	Indemnities.....	12
7	General	12
	7.1 Entire agreement.....	12
	7.2 Paramourncy of Deed.....	12
	7.3 No merger	1342
	7.4 Attorneys	1342
	7.5 Amendment.....	1342
	7.6 Severability.....	1342
	7.7 Waiver	1342
	7.8 Further assurances	13
	7.9 Costs.....	13
	7.10 Counterparts	13
	7.11 Governing law and jurisdiction	13
	SCHEDULE 1 - ANSETT GROUP COMPANIES.....	14
	SCHEDULE 2 - NATIONAL ALLEGED PROOF OF DEBT IN AAE	16

THIS DEED is made on 29 August 2005, as amended on March 2006

PARTIES

Ansett Aviation Equipment Pty Ltd (subject to Deed of Company Arrangement)
[ACN 008 559 733]
C/- Level 24, 333 Collins Street, Melbourne, Victoria
("AAE")

Ansett Australia Ltd (subject to Deed of Company Arrangement)
[ACN 004 209 410]
C/- Level 24, 333 Collins Street, Melbourne, Victoria
("AAL")

Ansett Equipment Finance Ltd (subject to Deed of Company Arrangement)
[ACN 006 827 989]
C/- Level 24, 333 Collins Street, Melbourne, Victoria
("AEF")

Ansett Australia Holdings Limited (subject to Deed of Company Arrangement)
[ACN 004 216 291]
C/- Level 24, 333 Collins Street, Melbourne, Victoria
("AAHL")

Ansett Holdings Limited (subject to Deed of Company Arrangement)
[ACN 065 117 535]
C/- Level 24, 333 Collins Street, Melbourne, Victoria

Bodas Pty Ltd (in its capacity as trustee of the Pelican Trust) (subject to Deed of Company Arrangement) [ACN 002 158 741]
C/- Level 24, 333 Collins Street, Melbourne, Victoria

ANST Lednek Airlines (Aust) Pty Ltd (formerly Kendell Airlines (Aust) Pty Ltd) (subject to Deed of Company Arrangement) [ACN 000 579 680]
C/- Level 24, 333 Collins Street, Melbourne, Victoria

Bodas Pty Ltd (in its capacity as trustee of the Westsky Trust) (subject to Deed of Company Arrangement) [ACN 002 158 741]
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ANST Travel Pty Ltd (formerly Traveland Pty Ltd) (subject to Deed of Company Arrangement) [ACN 000 240 746]
C/- Level 24, 333 Collins Street, Melbourne, Victoria

ANST Show Pty Ltd (formerly Show Group Pty Ltd) (subject to Deed of Company Arrangement) [ACN 002 968 989]
C/- Level 24, 333 Collins Street, Melbourne, Victoria

Ansett International Limited (subject to Deed of Company Arrangement)
[ACN 060 622 460]
C/- Level 24, 333 Collins Street, Melbourne, Victoria

Mark Anthony Korda

(in his capacity as Deed Administrator of each of the Ansett Group Companies)
C/- Level 24, 333 Collins Street, Melbourne, Victoria

Mark Francis Xavier Mentha

(in his capacity as Deed Administrator of each of the Ansett Group Companies)
C/- Level 24, 333 Collins Street, Melbourne, Victoria
(together, "Deed Administrators")

Commonwealth Bank of Australia

[ACN 123 123 124]
Level 15, 385 Bourke Street, Melbourne VIC 3000
("CBA")

National Australia Bank Ltd

[ACN 004 044 937]
500 Bourke Street, Melbourne VIC 3000
("National")

BNP Paribas

[ARBN 000 000 117]
60 Castlereagh Street, Sydney NSW 2000
("BNP")

BACKGROUND

- A "Ansett" commenced operations in 1936. By 2001 the Ansett Group had become Australia's largest domestic airline.
- B When voluntary administrators were appointed to the Ansett Group in September and October 2001 there were 41 companies within the Ansett Group. The Ansett Group then employed approximately 16,000 employees, made approximately 900 flights per day across Australia and had a fleet of 130 aircraft which carried millions of passengers and millions of tonnes of cargo each year.
- C The Deed Administrators were appointed as voluntary administrators of all but one of the Ansett Group Companies on 17 September 2001 (and in respect of the other, on 4 October 2001) following the resignation of other voluntary administrators of the Ansett Group Companies who had been so appointed on 12 and 14 September 2001.
- D It was quickly apparent to the Deed Administrators, following their appointment and the commencement of their investigations into the Ansett Group's affairs, that historically the Ansett Group had largely been operated as a single business. For example, it had been common for Ansett Group Companies to:
- (a) provide cash to other entities within the Ansett Group without taking appropriate security or seeking repayment;
 - (b) share employees between Ansett Group companies without charges being raised by the employer company to the account of the company receiving the employee's services;
 - (c) share assets, such as the Flight Simulator Centre, brands, trademarks and other intellectual property, information technology and real property, without charging commercial rates or rents for such use;
 - (d) share liabilities; and

- (e) prepare Ansett Group tax returns with tax losses transferred throughout the Ansett Group in order to minimise tax obligations, without any corresponding adjustments to intercompany loan balances.
- E In the early days of their voluntary administration, the Ansett Group Companies entered into various commercial arrangements, including the Air New Zealand Memorandum of Understanding ("**MOU**") dated 3 October 2001 and the SEESA Deed dated 14 December 2001, in order to maximise the chances that the Ansett Group, or as much as possible of its business, would continue to exist and operate and, if that was not possible, to facilitate a better return for the Ansett Group's creditors and members than would result from an immediate winding up of the Ansett Group or parts of it.
- F Pursuant to the MOU, Air New Zealand Limited and its subsidiaries (other than the Ansett Group) and their directors agreed to procure the New Zealand Government to immediately pay \$150M on behalf of Air New Zealand to the Ansett Group. Pursuant to the MOU, the Deed Administrators agreed to take all reasonable steps to propose and recommend that each Ansett Group Company enter into a deed of company arrangement ("**DOCA**") which would acknowledge and incorporate the terms of the MOU and which would seek to "pool" all of the assets and liabilities of the Ansett Group so that for the purposes of the Ansett DOCAs the assets and liabilities of all Ansett Group Companies would be treated as those of one Ansett Group Company.
- G The SEESA Deed was created in relation to the provision of funds by the Commonwealth under a scheme known as the "Special Employee Entitlements Scheme for Ansett Group Employees" ("**SEESA Scheme**"), which scheme was designed to effect the early payment of unpaid Ansett Group employee entitlements. The Scheme was conditional upon the Commonwealth being subrogated to the rights of employees to recover their entitlements from the administration or liquidation of the Ansett Group. One of the conditions on which the Commonwealth agreed to advance funds was that if the Deed Administrators decided to recommend the execution of DOCAs by each Ansett Group Company, then each such DOCA would seek to "pool" all the assets and liabilities of the relevant Ansett Group Companies into one Ansett Group Company so that for the purposes of the Ansett DOCAs the assets and liabilities of all Ansett Group Companies would be treated as those of one Ansett Group Company. As a consequence, the Deed Administrators entered into a further agreement for the payment of funds by SEES Pty Ltd, as agent of the Commonwealth, which reflected the terms of the SEESA Deed, and the requirement to recommend pooling.
- H With the exception of three Ansett Group Companies whose circumstances are not materially relevant ("**Carved-Out Ansett Group Companies**"), at an adjourned second meeting of creditors held on 27 March 2002, it was resolved by a majority of creditors of each Ansett Group Company, both in number and in value, that each Ansett Group Company execute a DOCA.
- I On or about 2 May 2002 each Ansett Group Company (except the Carved-Out Ansett Group Companies) executed a DOCA pursuant to which the Deed Administrators were appointed deed administrators of each such Ansett Group Company. Each such DOCA was materially in the same form and contained materially the same terms.
- J The Deed Administrators remain of the opinion that all of the assets and liabilities of the Ansett Group should be pooled because it had largely been operated as a single business and because it would be practically difficult, if not impossible, and financially prohibitive and detrimental to the Ansett Group priority creditors under the various Ansett Group DOCAs, to continue to separately administer each of the Ansett Group Companies.

- K The Ansett Group Companies and the Deed Administrators have issued the Pooling Application in the Court for directions or orders pursuant to s447A and s447D of the *Corporations Act 2001* (Cth) in relation to the course that the Deed Administrators should follow in connection with the administrations, particularly, in relation to the pooling of the assets and liabilities of each Ansett Group Company into a single entity.
- L The Deed Administrators have issued the Pooling Application because they are cognisant of potential conflicts between their duties, statutory and fiduciary, owed to each individual Ansett Group Company to maximise the returns to the deed creditors of those entities, and their obligations pursuant to the MOU and the SEESA Deed and pursuant to each DOCA, to take all reasonable steps to propose and recommend pooling of the assets and liabilities of all Ansett Group Companies. Whilst these conflicts might be overcome by the appointment of new administrators or special purpose administrators, the Deed Administrators consider the cost and expense associated with such appointments to be prohibitive and likely to be detrimental to the Ansett Group priority creditors under the various Ansett Group DOCAs.
- M AAE is one of the Ansett Group Companies that the Deed Administrators seek to Pool. However, a majority of AAE Creditors in number and value (in particular, the AAE Banks) have advised the Deed Administrators that they object in principle to Pooling and, absent the compromise documented in this Deed, will oppose the Pooling Application. As at the date of this Deed, the Deed Administrators estimate that, absent Pooling, approximately \$38,000,000 would be available for distribution among AAE Deed Creditors from AAE's assets and that, based on claims made by the AAE Banks as at the date of this Deed, were the Deed Administrators to call for proofs of debt in AAE, then the AAE Banks would lodge proofs of debt totalling no less than approximately \$161,400,000 (against a maximum of two other AAE Creditor likely proofs of debt totalling approximately \$17,500,000). Further, the Deed Administrators estimate that if proofs of debt in AAE were called and the Deed Administrators were to reject some or all of the AAE Banks' proofs of debt, which is likely, then following litigation (first instance and appeals) in connection with the rejection(s) of those proofs, the AAE Banks would nonetheless control a majority of the voting rights (both number and value) in relation to AAE.
- N Further, in relation to National:
- (a) National alleges that as at 12 September 2001 Ansett Group Companies owed National \$177,727,257 (being amounts said to be actually or contingently owing to National under facilities advanced to Ansett Group Companies: Schedule 2, column 1);
 - (b) the Deed Administrators allege that as at 12 September 2001 National owed the Ansett Group Companies \$61,899,805 (being the net credit balance in Ansett Group Company accounts held with National: Schedule 2, column 4);
 - (c) after 12 September 2001 National from time to time received funds into Ansett Group Company accounts, to a total of \$10,754,319: (Schedule 2, column 5) ("**Post-Administration Receipts**");
 - (d) National has purported to set off monies allegedly owed by Ansett Group Companies to it as at 12 September 2001 against monies it owed to Ansett Group Companies at that date and against the Post-Administration Receipts ("**Set Offs**");
 - (e) National claims to be entitled to prove under the AAE DOCA for not less than \$103,881,830 (Schedule 2, column 8) ("**Proof of Debt Claim**"); and

- (f) disputes have arisen between the Deed Administrators, on behalf of Ansett Group Companies, and National in relation to the Post-Administration Receipts, the Set Offs and the Proof of Debt Claim (together, "**National Disputes**").
- O It has become clear to the Deed Administrators, in the course of preparing for and since the commencement of the Pooling Application, that unless the claims made by the AAE Banks and related disputes (including the National Disputes) are compromised, then lengthy, complex and costly litigation will ensue between AAE and other Ansett Group Companies and National, which is also likely to involve CBA and BNP. Any such litigation would create uncertainty for all Deed Creditors, reduce the assets ultimately available for distribution to Deed Creditors (in particular, Ansett Group priority creditors) and prolong the Ansett Group administrations for an indefinite period.
- P It is the Deed Administrators' opinion, having regard to their duties and obligations, cognisant of the possible conflicts detailed above, and given the AAE Banks' claims (in particular, the National Claims), that to avoid uncertain and costly litigation, in order to maximise returns to Deed Creditors (in particular, Ansett Group priority creditors), and without any admission of any liability by any party, a compromise with the AAE Creditors on the terms of this Deed, which compromise is conditional upon:
- (a) approval of or non-objection to the compromise by the Court in the Pooling Application; and
 - (b) Pooling of AAE;
- is in the best interests of the Ansett Group as a whole.

AGREED TERMS

1 Definitions and interpretation

1.1 Definitions

In this document, unless the context requires otherwise:

"**AAE**" means Ansett Aviation Equipment Pty Ltd (subject to Deed of Company Arrangement);

"**AAE Banks**" means National, CBA and BNP, in their capacities as alleged Deed Creditors of AAE;

"**AAE Creditors**" means National, CBA, BNP, the Commonwealth and AEF in their capacities as alleged Deed Creditors of AAE;

"**AAE DOCA**" means the deed of company arrangement executed by AAE and others on 2 May 2002;

"**AAL**" means Ansett Australia Ltd (subject to Deed of Company Arrangement);

"**AAHL**" means Ansett Australia Holdings Ltd (subject to Deed of Company Arrangement);

"**Act**" means the *Corporations Act* 2001 (Cth);

"**AEF**" means Ansett Equipment Finance Ltd (subject to Deed of Company Arrangement);

"AeroTurbine Inc Deed" means the written agreement made on or about 13 September 2004 between AAE, AAL, AeroTurbine Inc and AeroTurbine Capital Corp in relation to the sale and purchase of six Boeing 767-200 aircraft and four CF6-80A spare engines;

"AeroTurbine Inc Warranty Claim" means any claim made under clause 11 of the AeroTurbine Inc Deed;

"AHL" means Ansett Holdings Ltd (subject to Deed of Company Arrangement);

"Ansett Group" means the group of companies (each an **"Ansett Group Company"**) set out in Schedule 1 to this Deed;

"Bank" means a corporation authorised by law to carry on the general business of banking in Australia;

"Business Day" means a day on which Banks are open for general banking business in Melbourne excluding Saturdays, Sundays and public holidays;

"Claim" means any claim (including any counterclaim, cross-claim or set off), demand, action, proceeding or entitlement of any kind, statutory or otherwise, present or future, actual or contingent, known or unknown, in relation to any act or omission arising out of, relating in any way to, touching on or concerning a Relevant Matter or its circumstances but excludes any such claim (including any such counterclaim, cross-claim or set off), demand, action, proceeding or entitlement in relation to an Excluded Matter;

"Court" means the Federal Court of Australia;

"Deed" means this document;

"Deed Administrators" means Mark Anthony Korda and Mark Francis Xavier Mentha;

"Deed Creditor" has, in relation to AAE, the meaning given to it in the AAE DOCA and, in relation to each other Ansett Group Company, the meaning given to it in the DOCA executed in respect of that company;

"Excluded Matter" means any breach by a party of the terms of this Deed;

"Liability" means liability of any kind, statutory or otherwise, present or future, actual or contingent, known or unknown, in relation to any act or omission arising out of, relating in any way to, touching on or concerning the Relevant Matters or their circumstances but excludes any such liability in relation to an Excluded Matter;

"Non-Ansett AAE Creditors" means National, CBA, BNP and the Commonwealth, in their capacities as Deed Creditors of AAE;

"Payments" means the payments of \$7,000,000, \$10,000,000 and \$10,000,000 referred to in clause 3 of this Deed;

~~**"Pooled Assets"** means the assets of the Ansett Group Companies as pooled into AAL by way of Pooling;~~

"Pooling" means the pooling of the assets and liabilities of ~~any~~ Ansett Group Company, not being AAL, into one Ansett Group Company, being AAL, and **"Pool"** and **"Pooled"** ~~have has a~~ corresponding meanings;

"Pooling Application" means Court application N^o. VID 621 of 2005;

"Pooling Meeting" means, in relation to each Ansett Group Company, the meeting (and any adjourned or further meeting) of Deed Creditors of the relevant Ansett Group Company proposed to be convened or convened by the Deed Administrators for the purpose of considering and voting upon Pooling of that Ansett Group Company;

"Relevant Matter" means:

- the affairs, operations or administration of any Ansett Group Company;
- the ISDA Master Agreement dated 14 December 1993 between National and AAHL (formerly Ansett Transport Industries Ltd);
- the Loan Agreement (Syndicated US\$83,352,239 Cash Advance Facility) dated 17 December 1997, between National, Midland Bank PLC, ING N.V. and AAL and AHL;
- the Merchant Agreement dated 24 May 2000 between National and AAL;
- any facility offered, or restated, in the Corporate Letter of Offer dated 1 June 2000 between National and AHL and its subsidiaries;
- the Loan Agreement (AUD \$50m Revolving Working Capital Facility) dated 15 June 2000 between National and AHL;
- the Loan Agreement (AUD \$40m Revolving Working Capital Facility) dated 15 June 2000 between National and AHL;
- the Guarantee and Indemnity Agreement dated 15 June 2000 between National and AAHL, AAL and AAE as joint and several guarantors;
- the Deed of Covenant dated 15 June 2000 between National and AHL;
- the Set-Off Agreement dated 20 June 2000 between National and AHL, AAL, Kendell Airlines (Aust) Pty Ltd, Aeropelican Air Services Pty Ltd; Show Group Pty Ltd, Traveland Pty Ltd, Skywest Airlines Pty Ltd;
- the Interlocking Guarantee and Indemnity dated 20 June 2000 between National and AHL, AAHL, AAL (and divisions of AAL), Kendell Airlines (Aust) Pty Ltd, Aeropelican Air Services Pty Ltd, Show Group Pty Ltd, Traveland Pty Ltd, Skywest Airlines Pty Ltd;
- any facility offered, or restated, under the Corporate Letter of Offer dated 23 July 2001 between National and AHL, AAL, AAHL, Traveland Pty Ltd, Skywest Airlines Pty Ltd; Kendell Airlines (Aust) Pty Ltd; Show Group Pty Ltd, Aeropelican Air Services Pty Ltd;
- the Deed of Covenant dated 28 March 2000 between State Bank of New South Wales (succeeded by CBA) and AHL;
- the A\$20,000,000 Bill Facility Agreement dated 28 March 2000 between State Bank of New South Wales (succeeded by CBA) and AHL, AAL, AAHL and AAE;
- the Facility Agreement dated 24 December 1993 (as amended) between AAHL and BNP;

- the Guarantee Agreement dated 13 June 1997 between BNP and AAL, AAE and AAHL;
- the Deed of Covenant dated 13 June 1997 between BNP and AAHL;
- the Deed of Covenant dated 20 January 1999 between BNP and AHL;
- the National Disputes and the subject matter thereof;
- the receipt by National, at any time and from any source whatsoever, of funds on account of an Ansett Group Company, whether or not such funds were ever applied to the credit of an account maintained by National in the name of an Ansett Group Company;
- the receipt by CBA, at any time and from any source whatsoever, of funds on account of an Ansett Group Company, whether or not such funds were ever applied to the credit of an account maintained by CBA in the name of an Ansett Group Company;
- the receipt by BNP, at any time and from any source whatsoever, of funds on account of an Ansett Group Company, whether or not such funds were ever applied to the credit of an account maintained by BNP in the name of an Ansett Group Company;
- any account maintained by National in the name of an Ansett Group Company;
- any account maintained by CBA in the name of an Ansett Group Company;
- any account maintained by BNP in the name of an Ansett Group Company;
- the set-off of funds between accounts maintained by National in the name of an Ansett Group Company or in the names of different Ansett Group Companies;
- any matter referred to in any correspondence between the parties or their solicitors in connection with or ancillary to the negotiation of this Deed and the Pooling Application;
- any matter outlined in the background paragraphs to this Deed; and
- any statements or communications, including but not limited to those which are or are considered by any party to be defamatory, made by any party or their agents, officers, advisers or representatives of any person concerning the documents, matters or things described in this definition.

1.2 Words and expressions

In this Deed, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) words denoting any gender include all genders;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a party, clause, paragraph or schedule is a reference to a party, clause, paragraph or schedule to or of this Deed;
- (e) a reference to this Deed includes any schedules;

- (f) headings are for convenience and do not affect interpretation;
- (g) the background or recitals to this Deed are adopted as and form part of this document;
- (h) a reference to any document or agreement includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (i) a reference to "\$", "A\$" or "dollar" is a reference to Australian currency;
- (j) a reference to a party includes his or its current and former officers, employees, agents, executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (k) words and expressions denoting natural persons include bodies corporate, partnerships, associations, firms, governments and governmental authorities and agencies and vice versa;
- (l) a reference to any legislation or to any provision of any legislation includes:
 - (i) any modification or re-enactment of the legislation;
 - (ii) any legislative provision substituted for, and all legislation, statutory instruments and regulations issued under, the legislation or provision; and
 - (iii) where relevant, corresponding legislation in any Australian State or Territory;
- (m) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it; and
- (n) the words "including", "for example", "such as" or other similar expressions (in any form) are not words of limitation.

1.3 Other rules of interpretation

In this Deed, unless expressly provided otherwise:

- (a) **(joint and several liability)** a promise, representation or warranty given by or in favour of two or more persons under this Deed is given by them or for their benefit jointly and severally;
- (b) **(Business Days)** if:
 - (i) the day on or by which any act, matter or thing is to be done is a day other than a Business Day, the act, matter or thing will be done on the next Business Day; and
 - (ii) any money falls due for payment on a date other than a Business Day, that money will be paid on the next Business Day (without interest or any other amount being payable in respect of the intervening period); and
- (c) **(inconsistency within Deed)** if a clause of this Deed is inconsistent with a schedule or annexure of this Deed, the clause prevails to the extent of the inconsistency.

2 Conditions precedent: Court approval and pooling of AAE

2.1 Save for the immediate and continuing operation of clauses 2.2 and 2.3, to which the parties hereby agree and acknowledge, the operation of this Deed and performance by the parties of their obligations under it are entirely subject to and conditional upon:

- (a) the approval of or non-objection to the agreements and compromises documented in this Deed by the Court in the Pooling Application; and

(b) a majority in value and number of the creditors of AAE voting in favour of the Pooling of AAE (whether or not other Ansett Group Companies are Pooled),

(together, "Conditions Precedent").

2.2 The parties will use their best endeavours to fulfil the Conditions Precedent. If either of the Conditions Precedent is not satisfied by 15 May 2006~~December 2005~~ or such later date as the parties agree in writing, the obligations of the parties under this Deed will terminate.

2.3 The parties acknowledge and agree that any admission or concession, express or implied, made or thought to have been made by any party for the purpose of negotiating the agreements and compromises documented in this Deed ("**Negotiation Communications**") was made without prejudice to the party making it and that if the Court in the Pooling Application neither approves nor does not object to the agreements and compromises documented in this Deed then all Negotiation Communications remain without prejudice or regain their without prejudice character in relation to and for the benefit of the party who or which made the Negotiation Communication.

3 **Compromise**

In consideration of:

- (a) each of National, CBA and BNP agreeing to do all things necessary to promote and encourage, and to vote in favour of the Pooling of AAE at the AAE Pooling Meeting; and
- (b) each of National, CBA and BNP, each in its capacity (if any) as an alleged Deed Creditor of any other Ansett Group Company, agreeing to do all things necessary to promote and encourage, and to vote in favour of the Pooling of that Ansett Group Company at the Pooling Meeting of that Ansett Group Company; and
- (c) each of CBA and BNP agreeing not to lodge a proof or proofs of debt or like claim or claims against AAL or any other Ansett Group Company following Pooling of AAE;
- (d) the parties agreeing to do all things necessary to promote and encourage, and agreeing not to object to the deregistration of each Ansett Group Company following Pooling (if achieved) of each such Ansett Group Company; and
- (e) the releases and indemnities in clauses 5 and 6 of this Deed;

AAL will pay (inclusive of GST, if any) ~~from the Pooled Assets~~ as expenses properly incurred by the Deed Administrators pursuant to s556(1)(a), alternatively s556(1)(dd) of the Act:

- (f) to National, \$7,000,000 (comprised of \$10,754,319 to be paid by National to AAL by way of payment of the Post-Administration Receipts to the companies entitled to them (as identified in Schedule 2) and \$17,754,319 to be paid by AAL to National in compromise of the Proof of Debt Claim);
- (g) to CBA, \$10,000,000;
- (h) to BNP, \$10,000,000;

such payments to be made within 14 days, as to the first 30% of each payment, within 30 days of a majority in value and number of the creditors of AAE voting in favour of the Pooling of AAE into AAL and, as to the balance of each payment, on or before 31 May 2006.

4 AeroTurbine Inc Title Warranty

In the event of an AeroTurbine Inc Warranty Claim, should the Deed Administrators determine, after consultation with National, CBA and BNP, to defend and/or negotiate a reasonable settlement of such claim, then AAE's and/or AAL's (as the case may be) costs of and incidental to that defence (including any judgment, costs and interest) and/or negotiation (including the Deed Administrators' properly incurred costs and expenses) will be borne by:

- (a) National, as to 7/38ths, to a maximum of \$7,000,000 in aggregate of all such claims;
- (b) CBA, as to 10/38ths, to a maximum of \$10,000,000 in aggregate of all such claims;
- (c) BNP, as to 10/38ths, to a maximum of \$10,000,000 in aggregate of all such claims; and
- (d) AAL, as to 11/38ths, to a maximum of \$11,000,000 in aggregate of all such claims.

5 Releases

5.1 Each of CBA and BNP, to the extent permitted by law, hereby:

- (a) irrevocably releases and discharges each of the Deed Administrators and each of the Ansett Group Companies from all Claims and Liabilities;
- (b) irrevocably covenants not to sue (whether on its own behalf or otherwise) any of the Ansett Group Companies or either of the Deed Administrators in relation to any Relevant Matter; and
- (c) irrevocably covenants not to induce, encourage, counsel or assist any person to instigate, initiate, commence, maintain, prosecute or advance legal proceedings (whether on their own behalf or otherwise) against any of the Ansett Group Companies or either of the Deed Administrators which it would be barred or otherwise prevented from instigating, initiating, commencing, prosecuting or advancing by reason of this Deed.

5.2 National, to the extent permitted by law, hereby:

- (a) irrevocably releases and discharges AAE and each of the Deed Administrators in his capacity as voluntary or deed administrator of any Ansett Group Company, from all claims (including counterclaims, cross-claims and set offs), demands, actions, proceedings, entitlements and liabilities of any kind, statutory or otherwise, present or future, actual or contingent, known or unknown, in relation to any act or omission arising out of, relating in any way to, touching on or concerning the affairs, operations or administration of AAE, including the entry of any party into this Deed;
- (b) irrevocably covenants not to sue (whether on its own behalf or otherwise) AAE or the Deed Administrators in their capacities as voluntary or deed administrators of any Ansett Group Company in relation to any act or omission arising out of, relating in any way to, touching on or concerning the affairs, operations or administration of AAE, including the entry of any party into this Deed, or to lodge any proof of debt or like claim in respect of AAE; and
- (c) irrevocably covenants not to induce, encourage, counsel or assist any person to instigate, initiate, commence, maintain, prosecute or advance legal proceedings (whether on its own behalf or otherwise) against AAE or the Deed Administrators in their capacities as voluntary or deed administrators of any Ansett Group

Company, which it would be barred or otherwise prevented from investigating, initiating, commencing, prosecuting or advancing by reason of this Deed.

- 5.3 Each of the Deed Administrators and each of the Ansett Group Companies, to the extent permitted by law, hereby:
- (a) irrevocably release and discharge National, CBA and BNP from all Claims and Liabilities;
 - (b) irrevocably covenant not to sue (whether on his or its own behalf or otherwise) National, CBA and BNP in relation to any Relevant Matter; and
 - (c) irrevocably covenant not to induce, encourage, counsel or assist any person to instigate, initiate, commence, maintain, prosecute or advance legal proceedings (whether on his or its own behalf or otherwise) against National, CBA or BNP which he or it would be barred or otherwise prevented from instigating, initiating, commencing, prosecuting or advance by reason of this Deed.
- 5.4 Each of the parties:
- (a) acknowledges that if any of the covenants not to sue in this clauses 5 is breached, money damages would not be an adequate remedy; and
 - (b) on the application of any of the parties, will consent to entry of a permanent injunction enjoining it from breaching the relevant covenant not to sue and will indemnify that party against any liability (including legal costs, to be agreed and aid on an indemnity basis) incurred by that party resulting from the breach of the covenant not to sue.
- 5.5 Any party may plead this Deed in bar to any Claim, or Liability which is the subject of any release or covenant not to sue in this clause 5.
- 5.6 The parties acknowledge and agree that the releases, covenants and indemnities in this clause 5 are intended to be directly enforceable by current and former officers, employees and agents of the parties (as the case may be) such that this Deed operates as a deed poll in their favour.

6 Indemnities

Each party indemnifies each other party from and against all claims and any costs, liabilities and expenses (including legal costs on an indemnity basis) incurred as a result of or in relation to any breach of this Deed by that party.

7 General

7.1 Entire agreement

This Deed constitutes the entire agreement between the parties in relation to its subject matter. All prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to that subject matter are replaced by this Deed and have no further effect.

7.2 Paramountcy of Deed

If this Deed conflicts with any other document, agreement or arrangement, this document prevails to the extent of the inconsistency.

7.3 No merger

The provisions of this Deed will not merge on completion of any transaction contemplated in this document and, to the extent any provision has not been fulfilled, will remain in force.

7.4 Attorneys

Each person who executes this Deed on behalf of a party under a power of attorney warrants that he or she has no notice of the revocation of that power or of any fact or circumstance that might affect his or her authority to execute this Deed under that power.

7.5 Amendment

This Deed may not be amended or varied unless the amendment or variation is in writing signed by all parties.

7.6 Severability

Part or all of any provision of this Deed that is illegal or unenforceable will be severed from this document and will not affect the continued operation of the remaining provisions of this Deed.

7.7 Waiver

Waiver of any power or right under this Deed:

- (a) must be in writing signed by the party entitled to the benefit of that power or right; and
- (b) is effective only to the extent set out in that written waiver.

7.8 Further assurances

Each party must do or cause to be done all things necessary or reasonably desirable to give full effect to this Deed and the transactions contemplated by it (including, but not limited to, the execution of documents).

7.9 Costs

Each party must bear its own legal, accounting and other costs for the preparation and execution of this Deed.

7.10 Counterparts

This Deed may be executed in any number of counterparts and all counterparts taken together will constitute one Deed.

7.11 Governing law and jurisdiction

This Deed will be governed by and construed in accordance with the laws in force in the State of Victoria and each party submits to the exclusive jurisdiction of the courts of that State.

SCHEDULE 1 - ANSETT GROUP COMPANIES

	ACN
1 501 Swanston Street Pty Ltd (Subject to Deed of Company Arrangement)	005 477 618
2 Airport Terminals Pty Ltd (Subject to Deed of Company Arrangement)	053 976 444
3 Aidong Services Pty Ltd (Subject to Deed of Company Arrangement)	000 258 113
4 Ansett Aircraft Finance Limited (Subject to Deed of Company Arrangement)	008 643 276
5 Ansett Australia and Air New Zealand Engineering Services Limited (Subject to Deed of Company Arrangement)	089 520 696
6 Ansett Australia Holdings Limited (Subject to Deed of Company Arrangement)	004 216 291
7 Ansett Australia Limited (Subject to Deed of Company Arrangement)	004 209 410
8 Ansett Aviation Equipment Pty Ltd (Subject to Deed of Company Arrangement)	008 559 733
9 Ansett Carts Pty Ltd (Subject to Deed of Company Arrangement)	005 181 215
10 Ansett Equipment Finance Limited (Subject to Deed of Company Arrangement)	006 827 989
11 Ansett Finance Limited (Subject to Deed of Company Arrangement)	006 555 166
12 Ansett Holdings Limited (Subject to Deed of Company Arrangement)	065 117 535
13 Ansett International Limited (Subject to Deed of Company Arrangement)	060 622 460
14 Bodas Pty Ltd (Subject to Deed of Company Arrangement)	002 158 741
15 Brazson Pty Ltd (Subject to Deed of Company Arrangement)	055 259 008
16 Eastwest Airlines (Operations) Limited (Subject to Deed of Company Arrangement)	000 259 469
17 Eastwest Airlines Limited (Subject to Deed of Company Arrangement)	000 063 972
18 Anst Lednek Airlines (Aust) Pty Ltd (formerly Kendell Airlines (Aust) Pty Ltd) (Subject to Deed of Company Arrangement)	000 579 680
19 Morael Pty Ltd (Subject to Deed of Company Arrangement)	003 286 440
20 Northern Airlines Limited (Subject to Deed of Company Arrangement)	009 607 069
21 Northern Territory Aerial Work Pty Ltd	009 611 321

	(Subject to Deed of Company Arrangement)	
22	Rock-It-Cargo (Aust) Pty Ltd (Subject to Deed of Company Arrangement)	003 004 126
23	ANST Show Pty Ltd (Formerly Show Group Pty Ltd) (Subject to Deed of Company Arrangement)	002 968 989
24	ANST Westsky Aviation Limited (Formerly Skywest Aviation Limited) (Subject to Deed of Company Arrangement)	004 444 866
25	ANST Westsky Holdings Pty Ltd (Formerly Skywest Holdings Pty Ltd) (Subject to Deed of Company Arrangement)	008 905 646
26	ANST Westsky Jet Charter Pty Ltd (Formerly Skywest Jet Charter Pty Ltd) (Subject to Deed of Company Arrangement)	008 800 155
27	South Centre Maintenance Pty Ltd (Subject to Deed of Company Arrangement)	007 286 660
28	Spaca Pty Ltd (Subject to Deed of Company Arrangement)	006 773 593
29	Traveland International (Aust) Pty Ltd (Subject to Deed of Company Arrangement)	000 275 936
30	ANST Travel International Pty Ltd (Formerly Traveland International Pty Ltd) (Subject to Deed of Company Arrangement)	000 598 452
31	Traveland New Staff Pty Ltd (Subject to Deed of Company Arrangement)	080 739 037
32	ANST Travel Pty Ltd (Formerly Traveland Pty Ltd) (Subject to Deed of Company Arrangement)	000 240 746
33	Walgali Pty Ltd (Subject to Deed of Company Arrangement)	055 258 921
34	Westintech Limited (Subject to Deed of Company Arrangement)	009 084 039
35	Westintech Nominees Pty Ltd (Subject to Deed of Company Arrangement)	009 302 158
36	Whitsunday Affairs Pty Ltd (Subject to Deed of Company Arrangement)	009 694 553
37	Whitsunday Harbour Pty Ltd (Subject to Deed of Company Arrangement)	010 375 470
38	Wridgways Holdings Limited (Subject to Deed of Company Arrangement)	004 449 085
39	Wridgways (Vic) Pty Ltd (Subject to Deed of Company Arrangement)	004 153 413

SCHEDULE 2 - NATIONAL ALLEGED PROOF OF DEBT IN AAE

1	2	3	4	5	6	7	8
Ansett group company	Contingent / actual amount owed to National as at 12/09/2001	Facility under which debt is owed	Net credit balance in accounts at 12/09/01	Post-administration Receipts	Mutual dealing	Balance owing to National after S 553C set-off	Claimed against AAE
Ansett Australia Limited	\$60,378,792	Merchant Facility	\$49,698,398	\$9,412,286	AAI credit funds applied against AAL debt	\$1,268,108	Nil
	\$12,354,744	Syndicated Facility				\$12,354,744	\$12,354,744
	\$7,127,313	Bank Guarantee Facility				\$7,127,313	\$7,127,313
Ansett Holdings Limited	\$50,000,000	Working Capital Facility	N/A			\$50,000,000	\$50,000,000
	\$12,737,019	Bank Guarantee Facility		\$0		\$12,737,019	\$12,737,019
Ansett Australia Holdings Limited	\$16,319,172	ISDA	\$5,349,749	\$19,592	AAHL credit funds applied against AAHL debt	\$11,367,472	\$11,367,472
	\$417,641	Bank Guarantee Facility				\$0	\$0
Bodas Pty Ltd (in its capacity as trustee of the Pelican Trust)	\$4,549,203	Overdraft account number 48-442-0457	\$0	\$1,225	Aeropelican credit funds applied against Aeropelican debt	\$4,547,978	\$4,547,978
ANST Lednek Airlines (Aust) Pty Ltd (formerly Kendall Airlines (Aust) Pty Ltd)	\$7,168,311	Overdraft account number 48-296-9083	\$0	\$69,183	Show Group funds applied against Kendall debt - Interlocking Guarantee and indemnity	\$53,388	\$53,388
Bodas Pty Ltd (in its capacity as trustee of the Westsky Trust)	\$6,150,916	Overdraft account number 48-296-9198	\$0	\$123,505	Skywest and Traveland credit funds applied against Skywest debt - interlocking Guarantee and Indemnity	\$5,674,424	\$5,674,424
ANST Travel Pty Ltd (formerly Traveland Pty Ltd)	\$524,146	Overdraft account number 48-454-5233	\$0	\$877,133	Traveland credit funds applied against Traveland debt	\$0	\$0
ANST Show Pty Ltd (formerly Show Group Pty Ltd)	N/A		\$6,794,468	\$261,272		\$0	\$0
Ansett International Ltd	N/A		\$57,190	\$123		\$0	\$0
		Total	\$61,899,805	\$10,754,319		\$105,150,038	\$103,881,930

EXECUTED as an DEED

EXECUTED by MARK ANTHONY KORDA)
(Deed Administrator) in the presence of)
)

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED by MARK FRANCIS XAVIER)
MENTHA (as Deed Administrator) in the)
presence of)

Signature of witness

Mark Francis Xavier Mentha

Name of witness (print)

EXECUTED for and on behalf of Ansett)
Aviation Equipment Pty Ltd (subject to)
Deed of Company Arrangement)
(ACN 008 559 733) in the presence of)

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of Ansett)
Australia Limited (subject to Deed of)
Company Arrangement) (ACN 004 209)
410) in the presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of Ansett)
Equipment Finance Limited (subject to)
Deed of Company Arrangement) (ACN)
006 827 989) in the presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of Ansett)
Australia Holdings Limited (subject to)
Deed of Company Arrangement))
(ACN 004 216 291) in the presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of Ansett)
Holdings Limited (subject to Deed of)
Company Arrangement) (ACN 065 117)
535) in the presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of Bodas)
Pty Ltd (in its capacity as trustee of the)
Pelican Trust) (subject to Deed of)
Company Arrangement) (ACN 002 158)
741) in the presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of ANST)
Lednek Airlines (Aust) Pty Ltd (formerly)
Kendell Airlines (Aust) Pty Ltd) (subject to)
Deed of Company Arrangement) (ACN)
000 579 680) in the presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of Bodas)
Pty Ltd (in its capacity as trustee of the)
Westsky Trust) (subject to Deed of)
Company Arrangement) (ACN 002 158)
741) in the presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of ANST)
Travel Pty Ltd (formerly Traveland Pty)
Ltd) (subject to Deed of Company)
Arrangement) (ACN 000 240 746) in the)
presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of ANST)
Show Pty Ltd (formerly Show Group Pty)
Ltd) (subject to Deed of Company)
Arrangement) (ACN 002 968 989) in the)
presence of

Signature of witness

Mark Anthony Korda

Name of witness (print)

EXECUTED for and on behalf of Ansett)
International Ltd (subject to Deed of)
 Company Arrangement) (ACN 060 622)
 460) in the presence of

 Signature of witness

 Mark Anthony Korda

 Name of witness (print)

- | | | |
|--|----------------------------|--|
| <input type="checkbox"/> EXECUTED by | <input type="checkbox"/>) | <input type="checkbox"/> |
| as attorney for | <input type="checkbox"/>) | <input type="checkbox"/> |
| NATIONAL AUSTRALIA BANK | <input type="checkbox"/>) | <input type="checkbox"/> |
| LIMITED (ACN 004 044 937) under | <input type="checkbox"/>) | <input type="checkbox"/> |
| power of attorney dated 28/02/1991 (a | <input type="checkbox"/>) | <input type="checkbox"/> |
| copy of which is filed in Permanent | <input type="checkbox"/>) | <input type="checkbox"/> |
| Order Book 277 at Page 3) who states | <input type="checkbox"/>) | <input type="checkbox"/> |
| that he holds the office in the Bank | <input type="checkbox"/>) | <input type="checkbox"/> By executing this deed the attorney |
| indicated under his signature in the | <input type="checkbox"/>) | states that the attorney has received |
| presence of: | <input type="checkbox"/>) | no notice of revocation of the power of |
| <input type="checkbox"/> | <input type="checkbox"/>) | attorney |
| <input type="checkbox"/> | <input type="checkbox"/>) | |
| <input type="checkbox"/> | <input type="checkbox"/>) | |
| <input type="checkbox"/> Signature of witness | <input type="checkbox"/>) | |
| <input type="checkbox"/> | <input type="checkbox"/>) | |
| <input type="checkbox"/> | <input type="checkbox"/>) | |
| <input type="checkbox"/> Name of witness (block letters) | <input type="checkbox"/>) | |
| | <input type="checkbox"/>) | |

SIGNED for and on behalf of)
COMMONWEALTH BANK OF)
AUSTRALIA (ACN 123 123 124) by its)
Attorney Garry John Butcher under)
power of attorney dated 16th December)
1998 (a certified copy of which is filed in)
the Permanent Order Book No 277 at)
Page 13 who certifies that he is an)
Executive Manager of the)
COMMONWEALTH BANK OF)
AUSTRALIA in the presence of:

.....
Garry John Butcher

.....
Signature of witness

.....
Name of witness

EXECUTED by **BNP PARIBAS** (ABN 23)
000 000 117) by its Attorneys in the)
presence of:

.....
Signature of witness

.....
~~Ross Francis Fett~~Greg Reardon |

.....
Name of witness

.....
Signature of witness

.....
Michael David Adam

.....
Name of witness

IN THE MATTER OF:

ANSETT AUSTRALIA LTD
(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)**

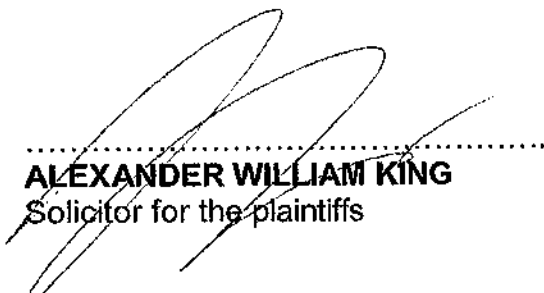
Plaintiffs

AFFIDAVIT - CERTIFICATE OF COMPLIANCE

(Order 14, rule 5A)

I, **ALEXANDER WILLIAM KING**, certify to the Court that my affidavit affirmed on 31
March 2006 filed on behalf of the plaintiffs complies with Order 14, rule 2 of the
Federal Court Rules.

Date: 31 March 2006


.....
ALEXANDER WILLIAM KING
Solicitor for the plaintiffs

Version 2

Filed on behalf of the Plaintiffs

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

Telephone: (03) 9229 9696
Facsimile: (03) 9229 9900
Reference: AWK:01-1349951
(Alex King)