

The Westsky Trust

Special Purpose Report to Former Creditors of Skywest Airlines Pty Ltd in Relation to Pooling

17 August 2006



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1 Introduction

This is a special purpose report to persons who had claims against Skywest Airlines Pty Ltd (ACN 008 997 662) (“**Skywest**”) when it went into voluntary administration in September 2001. In this report those persons are referred to as “**Skywest creditors**”. As explained below, Skywest creditors, instead of being entitled to make claims against Skywest, are now entitled to make claims against a trust created in early 2002 to hold certain Skywest assets (“**Westsky Trust**”), being all those assets potentially available for payment to Skywest creditors as a result of Skywest’s administration.

The Westsky Trust is governed by a trust deed dated 7 March 2002 (“**Trust Deed**”). Under the Trust Deed an Ansett Group company called Bodas Pty Ltd (ACN 002 158 741) (subject to Deed of Company Arrangement) (“**Bodas**”) was appointed as trustee of the Westsky Trust, and we (the Ansett Group administrators) were appointed as Bodas’ agents for the purpose of administering the Westsky Trust.

This report is about the appropriate method of distribution of the Westsky Trust’s assets. We have convened a meeting of Skywest creditors to enable those creditors to consider resolutions either:

- to “pool” the assets of, and claims against, the Westsky Trust into Ansett Australia Limited (ACN 004 209 410) (subject to Deed of Company Arrangement) (“**AAL**”) (“**Pooling**”); or,
- determine the method of admitting, calculating, valuing and (if there are assets available) paying claims of Skywest creditors (“**No Pooling**”).

1.1 Pooling

Pooling is a shorthand way of describing the legal process which enables the assets and liabilities of some or all of the companies in an insolvent group of related companies to be merged into one of those companies, thereby simplifying the administration of the insolvent group of related companies.

For the Ansett Group, pooling would involve the assets of some or all of the various Ansett Group companies and trusts (“**Ansett Group**”, as listed in Appendix One), and creditors’ claims against those Ansett Group companies and trusts, being merged into one Ansett Group company (namely, AAL), thereby allowing a “pooled” group of Ansett Group creditors to make claims against a “pooled” group of Ansett Group assets.

1.2 Skywest Creditor Meeting

We have convened a meeting of Skywest creditors to be held at the Mercure Hotel Melbourne (Flinders Room), 13 Spring Street, Melbourne, Victoria on **31 August 2006 at 10am** (“**Skywest Creditor Meeting**”).

A copy of the notice of the Skywest Creditor Meeting is included in Appendix Two to this report.

1.3 Other Ansett Group creditor meetings

We have convened meetings of other Ansett Group companies to be held at the same time and place as the Skywest Creditor Meeting.

Like Skywest creditors, the creditors of the other Ansett Group companies will consider whether or not to pool the company of which they are a creditor. We have prepared reports to the creditors of the other Ansett Group companies for them to consider.

We have recommended to all Ansett Group creditors that they vote in favour of pooling, except where our duties and obligations as administrators prevent it.

1.4 Ansett Group today

The Ansett Group comprises 41 companies and trusts. We are the administrators of the companies and control the trusts.

The value of the assets of the Ansett Group available to pay claims is estimated to be not less than \$640 million.

The value of the claims against the Ansett Group at the commencement of the administrations is estimated to be more than \$5.2 billion. This consists of amounts owed to former Ansett Group employees (“**Employees**”) of approximately \$760 million and amounts owed to other creditors (“**Other Creditors**”) of more than \$4.5 billion.

The amount still owing to Employees is approximately \$156.4 million. In addition, the Commonwealth of Australia is owed approximately \$100.0 million for interim payments made to Employees during the course of the administrations (“**Commonwealth**”).

The Employees and the Commonwealth are entitled to be paid their claims before Other Creditors.

1.5 Estimated impact of pooling

If the Ansett Group as a whole is pooled, we estimate:

- The amount of cash which will become immediately available to pay Employees and the Commonwealth is \$75 million.
- Skywest creditors will receive no payments from the Westsky Trust or from the Ansett Group’s administration overall.

1.6 Estimated impact of not pooling

If the Ansett Group as a whole is not pooled, we estimate:

- The amount of cash which will become immediately available to pay Employees and the Commonwealth is \$ nil.

- Skywest creditors will receive no payments from the Westsky Trust or from the Ansett Group's administration overall.
- We will continue to separately administer each of the Ansett Group companies and trusts. We estimate that the total additional costs which will be incurred across the Ansett Group to separately administer the Ansett Group companies and trusts ("**Additional Administration Costs**") will be between \$14.5 million and \$26.5 million.
- The Additional Administration Costs will be paid (to us, as administrators, our lawyers and continuing Ansett Group employees, etc) over the next few years, ultimately to the detriment of the vast majority of Employees and the Commonwealth.

1.7 Our recommendations

We estimate Skywest creditors will receive no payments whether or not Skywest is Pooled.

Pooling the Ansett Group as a whole will result in substantial cost savings which is to the benefit of the vast majority of Employees and the Commonwealth.

Accordingly, we recommend Skywest creditors vote in favour of Pooling.

Our recommendations are based on certain assumptions which are explained in more detail throughout this report.

This introduction is a summary only. We recommend that you read this report carefully and obtain advice about it as you see fit.

2 Report about Skywest's business, property, affairs and financial circumstances

2.1 Estimated Return to creditors

The following table details our estimate of the likely funds available to pay Skywest creditors given the assumptions set out in Part 2.2 below:

Estimated Return to Skywest creditors	\$ million
Realisations to Date	4.3
Expenses to Date	(1.8)
Current Cash at Bank	2.5
Less Estimated Future Expenses:	
Reimbursement of AAL Funds	(0.3)
Ansett Charge-Backs (Part 2.5)	(1.0)
Westsky share of Additional Administration Costs (Part 2.6)	(2.7)
Future Expenses (Limited to Available Funds)	(4.3)
Estimated Funds Available for Creditors	Nil

The only other potential asset of the Westsky Trust is an Ansett Group intercompany receivable totalling approximately \$23.6 million from Ansett Australia Holdings Ltd (subject to Deed of Company Arrangement) ("AAHL"). It is possible that the dividends paid on this related party receivable may result in a return to the Westsky Trust, of approximately \$0.1 million.

The estimated gross expenses in the table above exceed the estimated gross realisations. However in practice, the expenses actually incurred would be limited to the amount of available cash. As a result, there will be no funds available for distribution to Skywest creditors should Skywest not be pooled.

2.2 Assumptions

The assumptions under which the estimated returns to Skywest creditors have been calculated are as follows:

- the Skywest creditors vote against Pooling the Westsky Trust into AAL;
- given (a.) above, the charge-backs and Additional Administration Costs referred to in Parts 2.5 and 2.6 below are levied/incurred;
- the remaining assumptions as set out in Part 3.3 of this report apply (excluding assumptions (g.) and (h.) relating to the charge-back of post administration costs and expenses).

It is important to understand that if Skywest creditors vote against Pooling the Westsky Trust into AAL:

- a. the actual calculations/allocations of charge-backs and Additional Administration Costs may change, and alter the estimated returns;
- b. based on our experience to date, the estimated charge-back values and Additional Administration Costs are more likely to increase than decrease, simply due to the size, complexity and number of issues involved in separating the Ansett Group companies; and
- c. to complete the calculations/allocations of charge-backs and Additional Administration Costs could potentially take several years, given the complexities involved.

2.3 Historical Information

We completed the sale of shares in Skywest to Airline Investments Limited (“**Airline IL**”) on 21 February 2002. Skywest was a regional airline operating predominately in Western Australia. The proceeds from the sale of shares and the assets not acquired by Airline IL (principally debtors) were transferred to Bodas to be held on trust for the Skywest Other Creditors in accordance with the Westsky Trust.

The purchase price for the shares Skywest was approximately \$6.5m. Under the sale agreement, all of the Skywest employees continued their employment and their entitlements were also transferred. The sale price was reduced by the amount of the employee entitlements (not including redundancy and notice amounts) and an allowance for working capital. We also committed under the sale agreement to provide certain shared services to Airline IL, whilst it established its own systems, to ensure trading continuity.

Skywest operated five 46 seat Fokker 50 aircraft which were leased from AAL. The operating leases were novated to Airline IL by AAL. AAL also transferred 3 engines, 5 propellers, tooling and various sundry assets valued at approximately \$1.7 million to Airline IL.

The Airline IL sale transaction was large and complex. A separate detailed report was prepared for the creditors dated 15 January 2002 detailing the background to the sale transaction and the options then available to the Skywest creditors.

All creditor claims against Skywest were released upon the Skywest DOCA terminating and substituted by claims against the net proceeds of Skywest assets now held in the Westsky Trust.

2.4 Claims

2.4.1 Employees

Employee entitlements of Skywest were transferred to Airline IL. There are no outstanding Skywest Employee claims.

2.4.2 Other Creditors

The Skywest creditor claims except Skywest Employee claims were assigned to the Westsky Trust. Skywest’s Other Creditors are comprised of:

- third party Other Creditors – 245 creditors with claims of \$668.1 million; and
- Ansett Group intercompany loan Other Creditors – 6 creditors with claims of \$63.1 million.

We estimate Skywest Other Creditors will receive no payments whether or not Skywest is Pooled.

We have not admitted or otherwise conceded the validity of any of the above claims. Further, we have not conducted a formal proof of debt process.

No distributions have been made to any Skywest creditors to date.

2.5 Ansett Charge-Backs

2.5.1 Background to Charge-Backs

Significant Ansett Group charge-backs have not yet been levied/reconciled between various companies in the Ansett Group.

Ansett charge-backs are commercial charges between group companies (such as AAL and Skywest) for the use of assets, goods, services, staff, etc of the related party: for example, use by Skywest of AAL's IT systems. The post-Administration use of AAL's assets, etc by other Ansett Group companies and trusts has been accurately recorded during the course of the Ansett Group administrations.

If Skywest is not pooled, significant time and costs will be incurred by Skywest to reconcile, levy and pay charge-backs. That may involve having to resolve disputes between AAL (or other Ansett Group companies) and Skywest about charge-backs. If Pooling occurs it will not be necessary to reconcile, levy and pay any charge-backs.

The Westsky Trust has \$2.5 million in the bank. If Skywest does not pool, the balance of the net Ansett charge-backs recorded to date against Skywest will immediately be levied. Further, the estimated Additional Administration Costs (refer Part 2.6 below for specific details) of \$2.7 million will be funded by the Westsky Trust (to the extent of available funds). This will result in the \$2.5 million in the bank being paid to AAL on account of charge-backs and Additional Administration Costs.

2.5.2 Basis of Charge-Backs

Charge-backs recorded to date against Skywest are estimated to total a minimum of approximately \$1.0 million. We have put on hold any further investigation into Skywest charge-backs pending the outcome of the Skywest Creditor Meeting. That said, we estimate there could be significant further charge-backs to be levied against Skywest.

Some of the items included in the \$1.0 million estimate above include:

- Credit card charges incurred by AAL during the trading period;

- Reservation (website and call centre) costs and a portion of the Merlin system hosting costs incurred by AAL during the trading period. (The Merlin system was the Ansett Group IT system for ticketing, reservations and departure control);
- Agent fees incurred by AAL during the trading period;
- GDS charges (US\$3.50 per sector) incurred by AAL during the trading period;
- Insurance incurred by AAL during the trading period;
- Ground handling costs incurred by AAL during the trading period; and
- Portions of payroll (Management, Fleet Trading, Finance staff), training, telecommunications, IT hardware and software costs incurred by AAL during the trading period and the subsequent administration.

Examples of further possible charge-backs include:

- Financial support charges for the cost of financing Skywest operations incurred by AAL during the trading period;
- Interline benefits gained by Skywest by virtue of AAL trading at a loss during administration;
- Balance of the Merlin and other Ansett/Skywest systems costs incurred by AAL during the trading period not yet re-charged. (Note: the Ansett's Group's group-wide IT charges immediately prior to administration were approximately \$20 million per month);
- Software licences the costs of which were incurred by AAL during the trading period;
- Merchant fees (for credit card bookings) and costs associated with the interface with ANZ, Diners Club and AMEX incurred by AAL during the trading period;
- Agency ticketing costs via IATA and BSP incurred by AAL during the trading period;
- Reconciliation processing (for credit cards, availings, etc.) costs incurred by AAL during the trading period;
- Costs of dealing with retention of title claims;
- Payroll and legal costs for the debtor recovery team incurred by AAL during the administration period;
- Payroll and legal costs for the Diners Club litigation team incurred by AAL during the administration period; and
- Cost of ticketing interface with SBRA finance database incurred by AAL during the trading period.

While the above list is not exhaustive, it indicates the complexity and potential cost of the charge-back issues.

2.6 Additional Administration Costs

Additional Administration Costs which may be incurred if Skywest is not pooled, include:

- Reconstruction of pre-Administration intercompany loans (including pre-administration cost allocations);
- Resolution of asset ownership issues;
- Reconciliation and apportionment of administration costs and expenses;
- Resolution of Ansett Group tax issues;
- Proof of debt process;
- Apportionment of MOU Monies; and
- Appointment of special purpose Administrators.

We estimate that Skywest's Additional Administration Costs may total a minimum of \$2.7 million. This amount has been included in the estimated return to Skywest creditors set out in Part 2.1 above.

2.7 Previous Reports to Creditors of the Ansett Group

We have provided the following reports and information to Ansett Group creditors during the course of the Ansett Group administrations.

- First Report to Creditors (16 January 2002)
- Second Report to Creditors (15 March 2002)
- Third Report to Creditors (16 September 2002)
- Fourth Report to Creditors (31 March 2004)
- Fifth Report to Creditors (31 March 2005)
- Sixth Report to Creditors (31 March 2006)
- 81 updates to the Ansett Committees of Creditors
- 46 updates to Employees

Regular meetings have been held with key stakeholders, including the Ansett Committees of Creditors, and Employee and Commonwealth representatives.

Detailed additional reports have been provided to Employee representatives and the Commonwealth about matters particularly relevant to those creditors.

3 The Pooling Application and our estimates, opinions and recommendations about pooling the entire Ansett Group

3.1 Pooling Application

In June 2005 we made an application to the Federal Court of Australia (“**Court**”) in connection with the proposed pooling of the Ansett Group as a whole (“Pooling Application”);

In previous reports to creditors we advised that, in due course, Ansett Group creditors would be asked to vote at meetings of creditors about whether to place the Ansett Group companies into liquidation or to vary the Ansett Group DOCAs to effect pooling.

In the Pooling Application we presented evidence to the Court as to why, in our opinion, the Ansett Group as a whole should be pooled and, to that end, told the Court that we would recommend pooling to Ansett Group creditors. Among other things, we sought the Court’s permission to vote in favour of certain pooling resolutions, on behalf of Ansett Group companies or trusts which are creditors of other Ansett Group companies, at meetings of Ansett Group creditors to be convened to consider pooling resolutions (“**Voting Directions**”).

The Pooling Application was heard on 24 October 2005. On 22 March 2006 the Court published written reasons for judgment in the Pooling Application. In summary, the Court:

- a. stated, based on the evidence we presented to the Court, that our pooling proposal for the Ansett Group as a whole “*is sensible and advantageous to most of the [Ansett Group] creditors from a practical point of view*”;
- b. despite that, declined to give us the Voting Directions, pending our presenting further evidence to the Court about the potential disadvantages of pooling to a small minority of Ansett Group creditors, following which the Court would be likely to reconsider our request for the Voting Directions; and
- c. approved a deed of compromise between us and some of the creditors (“**Bank Creditors**”) of Ansett Aviation Equipment Pty Ltd (subject to Deed of Company Arrangement) (“**AAE**”), which compromise facilitated the pooling of AAE’s assets into AAL. The Court also directed that we, as administrators of the Ansett Group companies which are parties to that deed, may properly perform and give effect to that deed (“**AAE Pooling Compromise Deed**”).

Copies of the documents filed with the Court in the Pooling Application (except confidential documents) are available via the internet, at the Ansett websites, which are:

- a. www.ansett.com.au
- b. www.kordamentha.com
- c. www.abl.com.au (go to the “Ansett” page)

Appendix Three to this report is a list of those documents.

Various non-Ansett Group parties participated in the Pooling Application, including the Commonwealth, the Australian Securities and Investments Commission (“ASIC”), the Australian Council of Trade Unions (“ACTU”) and affiliated unions, and each of the Bank Creditors.

To ensure that Ansett Group creditors’ interests were fully considered by the Court in the Pooling Application, we identified an Ansett Group creditor whose interests may be adversely affected by pooling to act as a “contradictor” to the Pooling Application and to represent the interests of all other creditors who may be adversely affected by pooling. WTH Pty Ltd, trading as “Avis Australia”, a creditor of several Ansett Group companies, agreed to act as contradictor (“**Contradictor**”).

As is usual in these sorts of applications, the Ansett Group indemnified the Contradictor for its legal costs to oppose the Pooling Application, and agreed to indemnify all of the other parties to the Pooling Application for their legal costs in relation to the Pooling Application.

Each of the parties made submissions to the Court. In summary, the parties’ submissions at the hearing of the Pooling Application were as follows:

The Commonwealth

The Commonwealth supported the making of the orders and directions we sought (“**Orders**”). The Commonwealth submitted that pooling the Ansett Group companies into AAL would be commercially appropriate, would mean that the vast majority of Ansett Group creditors would be better off, and would be likely to lead to substantial savings in administration and legal costs.

ASIC

ASIC declined to make submissions on the merits of the Pooling Application but submitted that the Orders as sought were appropriate, if the Court decided that pooling was appropriate.

ACTU and affiliated unions

The ACTU and affiliated unions supported the making of the Orders because, for the vast majority of Employees (over 99% of them, on our estimation), pooling will produce a better result for those Employees than not pooling.

Contradictor

The Contradictor was specifically asked to oppose the Pooling Application, which it did. It submitted to the Court that our decision to exercise Ansett Group intercompany votes, and casting votes, in favour of pooling resolutions at creditors’ meetings of those Ansett Group companies and trusts whose creditors are likely to be worse off as a result of pooling would be contrary to the interests of those creditors and should not be approved or sanctioned by the Court. The Court agreed with the Contradictor’s submission and, as noted above, invited us to present further evidence on this point before it would further consider giving us the Voting Directions.

Bank Creditors

Each of the Bank Creditors supported the making of the Orders.

Following the 22 March 2006 judgment, we obtained orders from the Court permitting us to present further evidence to the Court as to why it should give us the Voting Directions.

In May 2006 we presented further evidence to the Court about the potential disadvantage to a small minority of Ansett Group creditors if the Ansett Group as a whole is pooled.

At the end of May 2006 the Court granted us the Voting Directions in relation to the Non-Asset Holding Companies. The Voting Directions will allow us, as administrators of those 32 companies, to vote in favour of Pooling at the Non-Asset Holding Company Creditor Meetings. Further, we indicated to the Court that, at this stage, we would not prepare and present further detailed evidence to the Court (at significant cost, and potential delay) about the potential disadvantages of pooling to a small minority of Ansett Group creditors. Instead, we would shortly convene meetings of the Ansett Group creditors and present further detailed information directly to those creditors so that they could vote on pooling, sooner rather than later.

3.2 Reasons why we recommend that the Ansett Group as a whole be pooled

Our reasons for seeking the orders and Voting Directions are set out in the affidavits of Mark Korda sworn 12 September, 30 September and 13 October 2005 and 15 May 2006, in the Pooling Application (all of which are available on the Ansett websites).

In summary:

- a. Historically, the Ansett Group was in many respects operated as a single business, not as separate entities, as evidenced by:
 - i. provision of cash by some Ansett Group companies to other Ansett Group companies without the taking of security or funds being repaid;
 - ii. sharing of employees between various Ansett Group companies in circumstances where no charges were raised by the employer (or apparent employer) company against the recipient company and no formal or documented arrangements existed to govern such sharing;
 - iii. sharing of numerous Ansett Group assets, in circumstances where the “asset owning” (or apparently “asset owning”) companies either did not levy charges, or did not levy charges at commercial rates, to the recipient companies for the use of those assets, such assets including the Ansett Flight Simulator Centre, Ansett Group brands, trademarks and other intellectual property, information technology software applications and programs, Ansett Group headquarters located at 501 Swanston Street at the northern end of the Melbourne CBD (“Head Office”) and adjoining properties located at 465-475 and 489 Swanston Street and 20-32 Franklin Street (“Other Ansett CBD Properties”);

- iv. complex cross-Ansett Group leasing and financing arrangements in relation to the use and operation of numerous Ansett Group aircraft;
 - v. treatment of the Ansett Group as a whole for the purposes of taxation, in circumstances where Ansett Group income tax returns were prepared and tax losses transferred between Ansett Group companies without adjustment of inter-company loan balances.
- b. Because the Ansett Group was in many respects operated as a single business, the Group as a whole would need to spend very significant time and costs to calculate “charge-backs” as between various Ansett Group companies. “Charge-backs” may need to be raised for the pre-administration use by some Ansett Group companies of particular assets and/or tax benefits belonging to, and of personnel employed by, other Ansett Group companies. There is no guarantee of accurate, or even fair and equitable results from the “charge-backs” process. This issue is directly linked to the Ansett Group’s intercompany loans position and problems. To the extent pre-administration “charge-backs” were actually raised within the Ansett Group, those “charge-backs” were normally reflected in Ansett Group company intercompany loan accounts. The Ansett Group has intercompany loan transactions to a total value of approximately \$3.3 billion. It follows that any “charge-backs” which might now need to be raised would affect the current intercompany loan balances.
- c. In our opinion it is impracticable and, in some cases, impossible for us determine which Ansett Group companies owned the following Ansett Group assets, or parts of them:
- i. certain aircraft and engines; and
 - ii. information technology systems and software.
- d. The operation of certain deeds of cross-guarantee affect many Ansett Group companies.
- e. If pooling does not occur, significant time and costs will be required to raise “charge-backs” as between Ansett Group companies for the post-administration use by some Ansett Group companies of particular assets and/or tax benefits belonging (or apparently belonging) to, and personnel employed by other Ansett Group companies.
- f. If pooling does not occur we will need to undertake an apportionment of certain costs incurred in the administrations, those costs having so far been funded out of AAL.
- g. If pooling does not occur the time and costs which would be required to resolve (if possible) various Ansett Group tax issues would be enormous, without guarantee of accurate, or even fair and equitable results.
- h. If pooling does not occur very significant time and costs will be incurred in conducting a proof of debt process for particular Ansett Group companies.
- i. In our opinion it is impracticable, if not impossible, for us to apportion between the Ansett Group companies and trusts the monies received by the Ansett Group under the Air New Zealand memorandum of understanding entered into in October 2001 (“**MOU Monies**”) without seeking the Court’s directions and orders or putting the issue to the relevant Ansett

Group creditors for consideration. In any event, we apprehend that were we to purport to allocate the MOU Monies without first putting the issue to the relevant Ansett Group creditors, those creditors who thought themselves adversely affected by our apportionment decisions may commence legal proceedings in relation to our allocations. If past experience is any guide, such litigation would be extremely expensive and time consuming.

- j. The provisions of the MOU require us to facilitate pooling and to ensure payment in full of all Employee entitlements.
- k. The provisions of the deed governing the SEESA scheme (being the scheme by which the Commonwealth facilitated interim payments to Employees) require us to seek pooling so as to maximise repayment of monies loaned by the Commonwealth to us, as administrators, under the SEESA scheme.
- l. The provisions of the Ansett Group DOCAs expressly contemplate pooling.
- m. To the best of our knowledge, no Ansett Group creditor objected to or opposed the proposed “pooling” provisions of any of the MOU, the SEESA scheme or the Ansett Group DOCAs.

3.3 Our assumptions

We have made the following assumptions about the Ansett Group’s affairs for the purposes of the Pooling Application and in preparing our estimates, opinions and recommendations as set out in this report.

- a. We have used the Ansett Group’s 2000 audited accounts and 2001 unaudited accounts as a starting point in determining Ansett Group asset and liability positions, particularly in relation to intercompany loan balances.
- b. Estimated final net asset realisations assume that the Ansett Group as a whole is pooled and that the AAE Pooling Compromise Deed is given effect. (Note, the AAE Pooling Compromise Deed has now come into effect.)
- c. AAL is assumed to be the owner of the proceeds of sale (and accrued interest) of the Head Office and the Other Ansett CBD Properties.
- d. The creditors of each Ansett Group company which is a party to a deed of cross-guarantee referred to in paragraph (d) in Part 3.2 of this report are assumed to have claims in the administrations of each of the other Ansett Group companies which are party to the particular deed of cross-guarantee to which the first-named Ansett Group company is a party. (The practical effect of this assumption is that some Ansett Group creditors are entitled to lodge proofs of debt for the same claim against more than one Ansett Group company.)
- e. In relation to (d) above, and based on the relevant terms of the cross-guarantees, creditors who are priority creditors of one Ansett Group company (such as the Employees and the Commonwealth in respect of AAL) do not have the same priority when proving as creditors of another Ansett Group company which is a party to a cross-guarantee to which the first-named

Ansett Group company is also a party. (To give a practical example, while the Employees and the Commonwealth are priority creditors for the purposes of their claims against AAL, they are non-priority creditors in respect of those claims as made against AAHL.)

- f. The books and records of the Ansett Group as a whole, as supplemented by informal proofs of debt lodged by Ansett Group creditors during the course of the administrations, accurately reflect the formal proofs of debt likely to be lodged by the relevant Ansett Group creditors, were formal proofs of debt to be called.
- g. Post-administration “charge-backs” are not taken into account, except in respect of AAE.
- h. Post-administration costs and expenses have not been apportioned among individual Ansett Group companies and trusts, except in respect of AAE.
- i. The MOU Monies have not been apportioned between individual Ansett Group companies and trusts. In other words, they are treated as belonging to AAL.
- j. All outstanding matters between the Ansett Group and the Commonwealth are assumed to be settled.
- k. The Commonwealth (in whatever capacity) agrees to vote in favour of the pooling of each and every Ansett Group company of which it is a creditor (or, at least, agrees not to oppose the pooling of those companies).
- l. The “round robin” effect of repeated hypothetical payments as a result of intercompany debts, and through intercompany loan accounts, is factored in. To explain, when initial payments are received by an Ansett Group company (for example, AAHL), those payments are, in turn, paid to various related company creditors to satisfy intercompany debts. Some of those initial payments will eventually return to AAHL (or AAL) from related company debtors by virtue of payments resulting from further intercompany debts.

The assumptions are more fully detailed in Mark Korda’s 12 September 2005 affidavit in the Pooling Application.

4 Skywest Creditor Meeting

4.1 Details of the Skywest Creditor Meeting

The Skywest Creditor Meeting will be held at the Mercure Hotel Melbourne (Flinders Room), 13 Spring Street, Melbourne, Victoria on **31 August 2006 at 10am**. **Registration for all creditors will open at 9.30am**. The meeting will commence at 10am sharp. For the purposes of the meeting, please find attached the following:

- Notice of Meeting (Appendix Two)
- Appointment of Proxy Form (Appendix Four)
- Formal Proof of Debt of Claim (Appendix Five)

Creditors are required to lodge **proofs of debt no later than 4pm on 30 August 2006**, failing which they may be excluded from voting at the meeting pursuant to Regulation 5.6.23 of the Corporations Regulations. Proofs of debt may be sent to KordaMentha at GPO Box 2985, Melbourne Vic 3001 or by fax to +61 3 8600 8484.

Creditors who have already lodged any proof of debt (formal or informal) are not required to lodge a further proof of debt (unless they wish to amend their claim).

If you intend to appoint another person to act on your behalf at the Skywest Creditor Meeting, or if you are a corporate creditor, you are required to complete the proxy form appointing your representative and return it to KordaMentha at GPO Box 2985, Melbourne Vic 3001 or faxed to +61 3 8600 8484 **no later than 4pm on 30 August 2006**.

If you are representing a corporate creditor, please ensure that your proxy form is properly executed pursuant to Section 127 of the Corporations Act or that you have properly been appointed pursuant to Section 250A of the Corporations Act, failing which you will not be entitled to vote at the Skywest Creditor Meeting.

Please note that any proxies lodged in respect of prior meetings of creditors held on various dates are not valid for this meeting.

4.2 Resolutions

- “1 That the creditors are in favour of pooling the assets of the trust (“Westsky Trust”) established by deed of trust declared 7 March 2002 (“Westsky Trust Deed”) by Bodas Pty Ltd (ACN 002 158 741) (subject to Deed of Company Arrangement) (“Bodas”) into Ansett Australia Limited (ACN 004 209 410) (subject to Deed of Company Arrangement) (“AAL”) and allowing all persons who wish to be classed as “Admitted Creditors” of the Westsky Trust (“Admitted Creditors”) to make their claims against AAL instead of the Westsky Trust”
- “2 That the Westsky Trust Deed be varied, in accordance with the above resolution, so as to effect the pooling of the assets of the Westsky Trust into AAL and to allow all persons who wish to be

classed as Admitted Creditors to make their claims against AAL instead of the Westsky Trust, by inserting a new clause 6.2 as follows: “Pursuant to a resolution of creditors passed 31 August 2006 in accordance with clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for pooling assets and claims set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002, as varied (including, for the avoidance of doubt, as varied as a consequence of the meeting of Bodas’ creditors held on or about 31 August 2006 in relation to the proposed pooling of Bodas into AAL) as if the references in the Bodas DOCA to “the Company”, “the Distribution Amounts”, “the Deed Administrators”, “Deed Creditors”, “Claim” and “Pooling Resolutions”, respectively, were references to the Westsky Trust, the Fund, the Administrators, Admitted Creditors, Admissible Claim and this and the above resolution, respectively.”” (A copy of the Westsky Trust Deed, as varied if this resolution is passed, is Appendix Six to this report. A copy of the Bodas DOCA, as varied if Bodas is pooled into AAL, is Appendix Seven to this report.)

- “3 Alternatively to resolutions 1 and 2, that the calculation and determination of Company creditor claims, as required by clause 6.1 of the deed of trust declared 7 March 2002 (“Westsky Trust Deed”) by Bodas Pty Ltd (ACN 001 158 741) (subject to Deed of Company Arrangement) (“Bodas”) in relation to the Westsky Trust (“Westsky Trust”), be undertaken by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for the proofs of debt and ascertainment of Claims (as defined) and priority of payments to Deed Creditors (as defined) set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002 (as varied at any time up to but excluding 31 August 2006)”
- “4 Alternatively to resolutions 1 and 2, that the Westsky Trust Deed be varied, in accordance with the above resolution, by inserting a new clause 6.2 as follows: “6.2 Pursuant to a resolution of creditors passed 31 August 2006 pursuant to clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for the proofs of debt and ascertainment of Claims (as defined) and priority of payments to Deed Creditors (as defined) set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002 (as varied at any time up to but excluding 31 August 2006)”.

4.3 Voting by Ansett Group companies or trusts

At the Skywest Creditor Meeting we will not vote the debts of the Ansett Group companies or trusts in favour of Pooling due to potential conflicts of interests and duties.

4.4 Casting vote

For the reason as outlined in Part 4.3 above, we will not exercise a casting vote, as chairman of the Skywest Creditor Meeting.

4.5 Example Varied Trust Deed

We have prepared and posted on the Ansett websites a copy of the Westsky Trust Deed in the form it will appear if the Westsky Trust is Pooled (Appendix Six) and a copy of the Bodas DOCA in the form it will appear if Bodas is pooled into AAL (Appendix Seven).

5 Our opinions

Our opinions about each of the resolutions to be put to the Skywest Creditor Meeting are set out below under each resolution.

- “1 That the creditors are in favour of pooling the assets of the trust (“Westsky Trust”) established by deed of trust declared 7 March 2002 (“Westsky Trust Deed”) by Bodas Pty Ltd (ACN 002 158 741) (subject to Deed of Company Arrangement) (“Bodas”) into Ansett Australia Limited (ACN 004 209 410) (subject to Deed of Company Arrangement) (“AAL”) and allowing all persons who wish to be classed as “Admitted Creditors” of the Westsky Trust (“Admitted Creditors”) to make their claims against AAL instead of the Westsky Trust.”

Opinion - For the reasons set out in this report, we recommend that Skywest creditors **vote in favour** of resolution 1.

- “2 That the Westsky Trust Deed be varied, in accordance with the above resolution, so as to effect the pooling of the assets of the Westsky Trust into AAL and to allow all persons who wish to be classed as Admitted Creditors to make their claims against AAL instead of the Westsky Trust, by inserting a new clause 6.2 as follows: “Pursuant to a resolution of creditors passed 31 August 2006 in accordance with clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for pooling assets and claims set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002, as varied (including, for the avoidance of doubt, as varied as a consequence of the meeting of Bodas’ creditors held on or about 31 August 2006 in relation to the proposed pooling of Bodas into AAL) as if the references in the Bodas DOCA to “the Company”, “the Distribution Amounts”, “the Deed Administrators”, “Deed Creditors”, “Claim” and “Pooling Resolutions”, respectively, were references to the Westsky Trust, the Fund, the Administrators, Admitted Creditors, Admissible Claim and this and the above resolution, respectively.”” (A copy of the Westsky Trust Deed, as varied if this resolution is passed, is Appendix Six to this report. A copy of the Bodas DOCA, as varied if Bodas is pooled into AAL, is Appendix Seven to this report.)

Opinion - For the reasons set out in this report, we recommend that Skywest creditors **vote in favour** of resolution 2.

- “3 Alternatively to resolutions 1 and 2, that the calculation and determination of Company creditor claims, as required by clause 6.1 of the deed of trust declared 7 March 2002 (“Westsky Trust Deed”) by Bodas Pty Ltd (ACN 001 158 741) (subject to Deed of Company Arrangement) (“Bodas”) in relation to the Westsky Trust (“Westsky Trust”), be undertaken by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for the proofs of debt and ascertainment of Claims (as defined) and priority of payments to Deed Creditors (as defined) set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002 (as varied at any time up to but excluding 31 August 2006)”

Opinion - For the reasons set out in this report, if resolutions 1 and 2 are not passed, we recommend that Skywest creditors **vote in favour** of resolution 3.

- “4 Alternatively to resolutions 1 and 2, that the Westsky Trust Deed be varied, in accordance with the above resolution, by inserting a new clause 6.2 as follows: “6.2 Pursuant to a resolution of creditors passed 31 August 2006 pursuant to clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for the proofs of debt and ascertainment of Claims (as defined) and priority of payments to Deed Creditors (as defined) set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002 (as varied at any time up to but excluding 31 August 2006)”

Opinion - For the reasons set out in this report, if resolutions 1, 2 and 3 are not passed, we recommend that Skywest creditors **vote in favour** of resolution 4.

We recommend that you read this report carefully and obtain advice about the report as you see fit.

6 Basis of our estimates, opinions and recommendations

The estimates, opinions and recommendations set out in this report are based on our extensive investigations into the Ansett Group's affairs. Details of our investigations are set out in affidavits which we relied on in the Pooling Application.

As noted in the affidavits (in particular, those of Mark Korda sworn 12 September 2005 and 15 May 2006), we made certain assumptions about the Ansett Group's affairs (including as to the ownership of certain substantial assets) in order to reach the estimates, opinions and conclusions set out in the affidavits.

We have adopted and relied upon the assumptions set out in this report in order to reach estimates, opinions and recommendations set out in this report about:

- a. the financial position of the Ansett Group as a whole;
- b. the financial position of Skywest and the Westsky Trust in particular; and
- c. potential or possible payments to creditors in various scenarios.

Amounts set out in this report are approximate amounts, unless otherwise stated.

The estimates, opinions and recommendations given in this report are given in good faith and in the belief that such statements are not false or misleading. The estimates are based on currently available information. Events or changes in conditions may materially impact the assumptions used in this report.

Where assumptions or amounts set out in this report differ from equivalent assumptions or amounts set out in the affidavits, that is due either to revision of previous estimates or necessary adjustments due to the passage of time since the affidavits were prepared.

This report is a summary only. Further information can be obtained in the affidavits in the Pooling Application, which are over a thousand pages, and which are located on the Ansett websites.

7 Queries

If you have any queries in relation to the above, please contact the Hotline on 1800 151 604, or email employeehotline@ansett.com.au.



MARK KORDA
Joint Deed Administrator



MARK MENTHA
Joint Deed Administrator

As agents of Bodas Pty Ltd (subject to Deed of Company Arrangement), in its capacity as trustee of the Westsky Trust

Appendix 1 - Ansett Group of Companies

501 Swanston Street Pty Ltd (ACN 005 477 618)	Northern Territory Aerial Work Pty Ltd (ACN 009 611 321)
Aeropelican Air Services Pty Ltd (ACN 000 653 083)	Rock-It-Cargo (Aust) Pty Ltd (ACN 003 004 126)
Airport Terminals Pty Ltd (ACN 053 976 444)	ANST Show Pty Ltd (Formerly Show Group Pty Ltd)
Aldong Services Pty Ltd (ACN 000 258 113)	(ACN 002 968 989)
Ansett Aircraft Finance Limited (ACN 008 643 276)	South Centre Maintenance Pty Ltd (ACN 007 286 660)
Ansett Aviation Equipment Pty Ltd (ACN 008 559 733)	Spaca Pty Ltd (ACN 006 773 593)
Ansett Australia Limited (ACN 004 209 410)	Skywest Airlines Pty Ltd (ACN 008 997 662)
Ansett Australia and Air New Zealand Engineering Services Limited (ACN 089 520 696)	ANST Travel Pty Ltd (Formerly Traveland Pty Ltd)
Ansett Australia Holdings Limited (ACN 004 216 291)	(ACN 000 240 746)
Ansett Carts Pty Ltd (ACN 055 181 215)	ANST Travel International Pty Ltd (Formerly Traveland International Pty Ltd)
Ansett Equipment Finance Limited (ACN 006 827 989)	(ACN 000 598 452)
Ansett Finance Limited (ACN 006 555 166)	Traveland International (Aust) Pty Ltd (ACN 000 275 936)
Ansett Holdings Limited (ACN 065 117 535)	Traveland New Staff Pty Ltd (ACN 080 739 037)
Ansett International Limited (ACN 060 622 460)	Walgali Pty Ltd (ACN 055 258 921)
Bodas Pty Ltd (including in its capacity as trustee of the Westsky Trust and the Pelican Trust) (ACN 002 158 741)	Westintech Limited (ACN 009 084 039)
Brazson Pty Ltd (ACN 055 259 008)	Westintech Nominees Pty Ltd (ACN 009 302 158)
Eastwest Airlines (Operations) Limited (ACN 000 259 469)	Whitsunday Affairs Pty Ltd (ACN 009 694 553)
Eastwest Airlines Limited (ACN 000 063 972)	Whitsunday Harbour Pty Ltd (ACN 010 375 470)
ANST Lednek Airlines (Aust) Pty Ltd (Formerly Kendell Airlines (Aust) Pty Ltd) (ACN 000 579 680)	Wridgways (Vic) Pty Ltd (ACN 004 153 413)
Morael Pty Ltd (ACN 003 286 440)	Wridgways Holdings Limited (ACN 004 449 085)
Northern Airlines Limited (ACN 009 607 069)	ANST Westsky Aviation Pty Ltd (Formerly Skywest Aviation Pty Ltd) (ACN 004 444 866)
	ANST Westsky Jet Charter Pty Ltd (Formerly Skywest Jet Charter Pty Ltd) (ACN 008 800 155)
	ANST Westsky Holdings Pty Ltd (Formerly Skywest Holdings Pty Ltd) (ACN 008 905 646)

Note: All subject to Deed Company Arrangement, except Aeropelican Air Services Pty Ltd and Skywest Airlines Pty Ltd

Appendix 2 - Formal Notice of Meeting – Form 509C

**NOTICE OF MEETING OF
CERTAIN CREDITORS OF SKYWEST AIRLINES PTY LTD
(ACN 008 997 662) TO VARY THE DEED OF TRUST DECLARED
7 MARCH 2006 BY BODAS PTY LTD (ACN 002 158 741)
(SUBJECT TO DEED OF COMPANY ARRANGEMENT) IN RELATION
TO THE WESTSKY TRUST**

**Skywest Airlines Pty Ltd (ACN 008 997 662)
(formerly subject to Deed of Company Arrangement) ("Company")**

1. Notice is given that a meeting of the creditors of the Company will be held at the Mercure Hotel Melbourne (Flinders Room), 13 Spring Street, Melbourne, Victoria on **31 August 2006 at 10am**. Registration for all creditors will open at 9:30am.
2. The purpose of the meeting is to consider and vote on the following resolutions:
 - "1 That the creditors are in favour of pooling the assets of the trust ("Westsky Trust") established by deed of trust declared 7 March 2002 ("Westsky Trust Deed") by Bodas Pty Ltd (ACN 002 158 741) (subject to Deed of Company Arrangement) ("Bodas") into Ansett Australia Limited (ACN 004 209 410) (subject to Deed of Company Arrangement) ("AAL") and allowing all persons who wish to be classed as "Admitted Creditors" of the Westsky Trust ("Admitted Creditors") to make their claims against AAL instead of the Westsky Trust"
 - "2 That the Westsky Trust Deed be varied, in accordance with the above resolution, so as to effect the pooling of the assets of the Westsky Trust into AAL and to allow all persons who wish to be classed as Admitted Creditors to make their claims against AAL instead of the Westsky Trust, by inserting a new clause 6.2 as follows: "Pursuant to a resolution of creditors passed 31 August 2006 in accordance with clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for pooling assets and claims set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002, as varied (including, for the avoidance of doubt, as varied as a consequence of the meeting of Bodas' creditors held on or about 31 August 2006 in relation to the proposed pooling of Bodas into AAL) as if the references in the Bodas DOCA to "the Company", "the Distribution Amounts", "the Deed Administrators", "Deed Creditors", "Claim" and "Pooling Resolutions", respectively, were references to the Westsky Trust, the Fund, the Administrators, Admitted Creditors, Admissible Claim and this and the above resolution, respectively."" (A copy of the Westsky Trust Deed, as varied if this resolution is passed, is Appendix Six to this report. A copy of the Bodas DOCA, as varied if Bodas is pooled into AAL, is Appendix Seven to this report.)

- “3 Alternatively to resolutions 1 and 2, that the calculation and determination of Company creditor claims, as required by clause 6.1 of the deed of trust declared 7 March 2002 (“Westsky Trust Deed”) by Bodas Pty Ltd (ACN 001 158 741) (subject to Deed of Company Arrangement) (“Bodas”) in relation to the Westsky Trust (“Westsky Trust”), be undertaken by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for the proofs of debt and ascertainment of Claims (as defined) and priority of payments to Deed Creditors (as defined) set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002 (as varied at any time up to but excluding 31 August 2006)”
- “4 Alternatively to resolutions 1 and 2, that the Westsky Trust Deed be varied, in accordance with the above resolution, by inserting a new clause 6.2 as follows: “6.2 Pursuant to a resolution of creditors passed 31 August 2006 pursuant to clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for the proofs of debt and ascertainment of Claims (as defined) and priority of payments to Deed Creditors (as defined) set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002 (as varied at any time up to but excluding 31 August 2006)”

Dated this 17th day of August 2006

Mark Korda
As agent of Bodas Pty Ltd
(subject to Deed of Company Arrangement)
in its capacity as trustee of the Westsky Trust
C/- KordaMentha
Level 24
333 Collins Street
MELBOURNE VIC 3000

Appendix 3 - Documents available on the Ansett websites

Applications	Federal Court of Australia: Victorian District Registry: VID621 of 2005, 21 June 2005
Orders	Orders - 30 August 2005 Orders - 26 September 2005 Orders - 10 October 2005 Notice of Listing - 11 October 2005 Orders - 22 March 2006 Orders - 26 May 2006
First Korda Affidavit	First Affidavit of Mark Anthony Korda, sworn 21 June 2005
Exhibits to First Korda Affidavit	Exhibit MAK 1 - Historical Company Extracts of Plaintiff Companies (pages 1-617)15MB Exhibit MAK 2 - Copy Deed of Company Arrangement executed by Ansett Australia Holdings Ltd ("AAHL"), dated 2 May 2002 Exhibit MAK 3 - Copy MOU, dated 3 October 2001 Exhibit MAK 4 - Copy SEESA Deed, dated 14 December 2001
Second Korda Affidavit	Second Affidavit of Mark Anthony Korda, sworn 12 September 2005
Exhibits to Second Korda Affidavit	Exhibit MAK 5 - AAE Pooling Deed of Compromise Exhibit MAK 6 - Court's final orders, Justice Goldberg's reasons for judgment and corrigenda in the MOU Application Exhibit MAK 7 - Court's final orders, and Justice Goldberg's reasons for judgment in the SEESA Application Exhibit MAK 8 - Second Meeting resolutions and results of poll Exhibit MAK 9 - First Report to Creditors Exhibit MAK 10 - Second Report to Creditors Exhibit MAK 11 - Third Report to Creditors Exhibit MAK 12 - Fourth Report to Creditors Exhibit MAK 13 - Fifth Report to Creditors Exhibit MAK 14 - The Ansett Group Entities Exhibit MAK 15 - Intranet memorandum dated 10 August 2000 Exhibit MAK 16 - Extract of Kendell loan account with AAL for January 2001 to July 2001 Exhibit MAK 17 - Extract from May 2000 edition of "Panorama" Exhibit MAK 18 - AAL trade-marks Exhibit MAK 19 - Extract of July-August 2000 edition of "Flight Safety Australia" Exhibit MAK 20 - Except from AAL Asset Register Exhibit MAK 21 - Numbered bundle of documents relating to Head Office, 501 Swanston Street and Other Ansett Melbourne CBD Properties matters Exhibit MAK 22 - Schedule of inter-company loan balances Exhibit MAK 23 - Numbered bundle of documents relating to Head Office Proceeds Exhibit MAK 24 - Class A Cross-Guarantee and Revocation Deeds Exhibit MAK 25 - Class B Cross-Guarantee, Revocation Deeds and Assumption Deed

Exhibits to Second Korda Affidavit (cont)	<p>Exhibit MAK 26 - Class C Cross-Guarantee</p> <p>Exhibit MAK 27 - Affidavit of Mark Francis Xavier Mentha sworn 8 October 2001 (excluding exhibits)</p> <p>Exhibit MAK 28 - Affidavit of Mark Francis Xavier Mentha sworn 10 October 2001 (excluding exhibits)</p> <p>Exhibit MAK 29 - Affidavit of the Hazelton Group Administrator sworn 22 October 2001 (excluding exhibits)</p> <p>Exhibit MAK 30 - Affidavit of Mark Anthony Korda sworn 1 November 2001 (excluding exhibits)</p> <p>Exhibit MAK 31 - Affidavit of Leon Zwier sworn 20 September 2002 (excluding exhibits)</p> <p>Exhibit MAK 32 - Affidavit of Mark Anthony Korda sworn 26 September 2002 (excluding exhibits)</p> <p>Exhibit MAK 33 - Affidavit of Bradley Fowler sworn 13 March 2003 (excluding exhibits)</p> <p>Exhibit MAK 34 - Hazelton Deed of Settlement</p> <p>Exhibit MAK 35 - Ansett written contentions dated 5 May 2003 in the Allocation Applications</p> <p>Exhibit MAK 36 - Further Hazelton Terms of Settlement</p> <p>Exhibit MAK 37 - Court's orders in the Hazelton Allocation Application</p> <p>Exhibit MAK 38 - Affidavit of Mark Anthony Korda sworn 3 December 2001(excluding exhibits)</p> <p>Exhibit MAK 39 - Loan Deed</p> <p>Exhibit MAK 40 - AAL DOCA Variation Application terms of settlement</p> <p>Exhibit MAK 41 - AAL DOCA Variation Orders and Justice Goldberg's reasons for judgment</p> <p>Exhibit MAK 42 - Skywest/Aeropelican reports to creditors dated 15 January 2002</p> <p>Exhibit MAK 43 - Skywest/Aeropelican DOCAs</p> <p>Exhibit MAK 44 - Skywest Sale Agreement</p> <p>Exhibit MAK 45 - Aeropelican Sale Agreement and Variation Documents</p> <p>Exhibit MAK 46 - Skywest Transfer Agreement and the Westsky Trust Deed</p> <p>Exhibit MAK 47 - Aeropelican Transfer Agreement and the Pelican Trust Deed</p> <p>Exhibit MAK 48 - Abbreviated Notice Application</p> <p>Exhibit MAK 49 - Affidavit Of Leon Zwier sworn 27 December 2001</p> <p>Exhibit MAK 50 - Affidavit Of Leon Zwier sworn 3 January 2002</p> <p>Exhibit MAK 51 - Final orders of the Court and Justice Goldberg's reasons for judgment in the Abbreviated Notice Application</p>
First King Affidavit	<p>First Affidavit of Alexander William King, affirmed 23 September 2005</p>
Exhibits to First King Affidavit	<p>Exhibit AWK-1 - Letter dated 2 September 2005 regarding proposed affidavit of Mark Anthony Korda</p> <p>Exhibit AWK-2 - Email dated 7 September 2005 regarding proposed affidavit of Mark Anthony Korda</p> <p>Exhibit AWK-3 - Email dated 8 September 2005 enclosing unsworn affidavit of Mark Anthony Korda, without exhibits</p> <p>Exhibit AWK-4 - Letter dated 8 September 2005 enclosing exhibit "MAK-14" to unsworn affidavit of Mark Anthony Korda</p> <p>Exhibit AWK-5 - Email dated 8 September 2005 enclosing exhibit "MAK-14" to unsworn affidavit of Mark Anthony Korda</p>

Exhibits to First King Affidavit (cont)	<p>Exhibit AWK-6 - Letter dated 8 September 2005 enclosing proposed exhibits to unsworn affidavit of Mark Anthony Korda</p> <p>Exhibit AWK-7 - Letter dated 9 September 2005 enclosing proposed exhibits to unsworn affidavit of Mark Anthony Korda</p> <p>Exhibit AWK-8 - Extracts from Websites</p> <p>Exhibit AWK-9 - Form of letter dated 15 September 2005 sent to certain Ansett Group creditors</p> <p>Exhibit AWK-10 - Form of letter dated 15 September 2005 sent to certain Skywest creditors</p> <p>Exhibit AWK-11 - Form of letter dated 15 September 2005 sent to certain Aeropelican creditors</p> <p>Exhibit AWK-12 - List of letter recipients (of 15 September 2005 letter)</p> <p>Exhibit AWK-13 - Copy notice to Ansett Group creditors published in "The Australian" on 21 September 2005</p> <p>Exhibit AWK-14 - Email dated 19 September 2005 to Ansett Committees of Creditors</p> <p>Exhibit AWK-15 - Letter dated 19 September 2005 from ASIC to ABL</p>
Third Korda Affidavit	Third Affidavit of Mark Anthony Korda, sworn 30 September 2005
Exhibit to Third Korda Affidavit	Exhibit MAK-52 - ASIC request dated 19 September 2005
Fourth Korda Affidavit	Fourth Affidavit of Mark Anthony Korda, sworn 13 October 2005
Exhibits to Fourth Korda Affidavit	<p>Exhibit MAK-53: Letter from Contradictor dated 29 September 2005</p> <p>Exhibit MAK-54: Letter from ASIC dated 7 October 2005</p> <p>Exhibit MAK-55: Email from Rockwell Collins dated 20 September 2005</p> <p>Exhibit MAK-56: Email from Skippers Aviation dated 22 September 2005</p> <p>Exhibit MAK-57: Minutes of 23 September 2005 meeting between Mark Korda and union representatives (and others)</p> <p>Exhibit MAK-58: Written presentation from 23 September 2005 meeting between Mark Korda and union representatives (and others)</p> <p>Exhibit MAK-59: Email from KordaMentha to ACTU dated 23 September 2005</p> <p>Exhibit MAK-60: Email from AGS to ABL dated 26 September 2005</p> <p>Exhibit MAK-61: Email from ABL to AGS dated 28 September 2005</p> <p>Exhibit MAK-62: Email from AGS to ABL dated 28 September 2005</p> <p>Exhibit MAK-63: Email from Steven Parbery to Mark Korda dated 28 September 2005</p> <p>Exhibit MAK-64: Letter from ABL to various parties dated 29 September 2005</p> <p>Exhibit MAK-65: Email from ABL to ASIC dated 29 September 2005</p> <p>Exhibit MAK-66: Email from ABL to various parties dated 30 September 2005</p> <p>Exhibit MAK-67: Letter from AGS to ABL dated 3 October 2005</p> <p>Exhibit MAK-68: Letter from AGS to ABL dated 5 October 2005</p> <p>Exhibit MAK-69: Letter from Mark Korda to Steven Parbery and Ross McClure (for the Commonwealth) dated 5 October 2005</p>
Second King Affidavit	Second Affidavit of Alexander William King, affirmed 18 October 2005
Third King Affidavit	Third Affidavit of Alexander William King, affirmed 31 March 2006
Exhibit to Third King Affidavit	Exhibit AWK-17: AAE Pooling Compromise Deed (as amended)
Fifth Korda Affidavit	Fifth Affidavit of Mark Anthony Korda, sworn 15 May 2006

Exhibits to Fifth Korda Affidavit	Exhibit MAK-70: Notice as published in "The Australian" Exhibit MAK-71: Special purpose report, proposed form of amended DOCA and notice of meeting Exhibit MAK-72: Update 79 to the members of the Ansett Committees of Creditors dated 27 April 2006
First Hams Affidavit	First Affidavit of Sebastian David Hams sworn 24 May 2006
Second Hams Affidavit	Second Affidavit of Sebastian David Hams sworn 24 July 2006
Submissions	Plaintiffs' Outline of Submissions dated 20 October 2005 Submissions of Commonwealth of Australia dated 20 October 2005 Outline of Submissions to be made on behalf of WTH Pty Ltd in its capacity as Contradictor dated 21 October 2005
Transcripts of Proceedings	Transcript - 23 June 2005 Transcript - 19 July 2005 Transcript - 16 August 2005 Transcript - 30 August 2005 Transcript - 26 September 2005 Transcript - 24 October 2005 Transcript – 22 March 2006 Transcript – 31 March 2006 Transcript - 26 May 2006
Judgment	Judgment - 22 March 2006

Appendix 4 - Appointment of Proxy Form – Form 532

APPOINTMENT OF PROXY	
Skywest Airlines Pty Ltd (ACN 008 997 662) (formerly subject to Deed of Company Arrangement) (“ Company ”)	

A. Insert Full Name and Contact Details (please print)

Given Name	Surname
Company Name	Telephone Number
Address	

B. Appointment of a Proxy (please complete)

I/We, a creditor of the Company appoint:

_____ of

as my/our proxy, or in his/her absence _____, to vote at a meeting of creditors to be held at the Mercure Hotel Melbourne (Flinders Room), 13 Spring Street, Melbourne, Victoria on 31 August 2006 at 10am or at any adjournment of that meeting

C. Voting by Your Proxy

Option 1: If appointed as a general proxy, as he/she determines on my/our behalf. ☐

AND/OR

Option 2: If appointed as a special proxy for some or all resolutions, specifically in the manner set out below (please tick). ☐

	Resolution (<i>please specify the particular resolution</i>)	For	Against	Abstain
(1)	That the creditors are in favour of pooling the assets of the trust (“Westsky Trust”) established by deed of trust declared 7 March 2002 (“Westsky Trust Deed”) by Bodas Pty Ltd (ACN 002 158 741) (subject to Deed of Company Arrangement) (“Bodas”) into Ansett Australia Limited (ACN 004 209 410) (subject to Deed of Company Arrangement) (“AAL”) and allowing all persons who wish to be classed as “Admitted Creditors” of the Westsky Trust (“Admitted Creditors”) to make their claims against AAL instead of the Westsky Trust	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(2)	That the Westsky Trust Deed be varied, in accordance with the above resolution, so as to effect the pooling of the assets of the Westsky Trust into AAL and to allow all persons who wish to be classed as Admitted Creditors to make their claims against AAL instead of the Westsky Trust, by inserting a new clause 6.2 as follows: “Pursuant to a resolution of creditors passed 31 August 2006 in accordance with clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for pooling assets and claims set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002, as varied (including, for the avoidance of doubt, as varied as a consequence of the meeting of Bodas’ creditors held on or about 31 August 2006 in relation to the proposed pooling of Bodas into AAL) as if the references in the Bodas DOCA to “the Company”, “the Distribution Amounts”, “the Deed Administrators”, “Deed Creditors”, “Claim” and “Pooling Resolutions”, respectively, were references to the Westsky Trust, the Fund, the Administrators, Admitted Creditors, Admissible Claim and this and the above resolution, respectively”.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

(3)	Alternatively to resolutions 1 and 2, that the calculation and determination of Company creditor claims, as required by clause 6.1 of the deed of trust declared 7 March 2002 ("Westsky Trust Deed") by Bodas Pty Ltd (ACN 001 158 741) (subject to Deed of Company Arrangement) ("Bodas") in relation to the Westsky Trust ("Westsky Trust"), be undertaken by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for the proofs of debt and ascertainment of Claims (as defined) and priority of payments to Deed Creditors (as defined) set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002 (as varied at any time up to but excluding 31 August 2006)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
(4)	Alternatively to resolutions 1 and 2, that the Westsky Trust Deed be varied, in accordance with the above resolution, by inserting a new clause 6.2 as follows: "6.2 Pursuant to a resolution of creditors passed 31 August 2006 pursuant to clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for the proofs of debt and ascertainment of Claims (as defined) and priority of payments to Deed Creditors (as defined) set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002 (as varied at any time up to but excluding 31 August 2006)"	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

D. Signature Section

Signature of individual or person authorised by corporate resolution to represent corporation

Print Name:

The common seal was affixed hereto in the presence of:

Director

Director/Company Secretary

Dated this _____ day of _____ .

CERTIFICATE OF WITNESS

Please Note: This certificate is to be completed only where the person giving the proxy is blind or incapable of writing. The signature of the creditor is not to be attested by the person nominated as proxy. I, _____ of _____ certify that the above instrument appointing a proxy was completed by me in the presence of and at the request of the person appointing the proxy and read to him before he attached his signature or mark to the instrument.

Signature of witness: _____

Appendix 5 - Formal Proof of Debt Claim – Form 535

Skywest Airlines Pty Ltd (ACN 008 997 662)
(formerly subject to Deed of Company Arrangement) ("Company")

FORMAL PROOF OF DEBT OR CLAIM (GENERAL FORM)

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

1. This is to state that the Company was on 12 September 2001 and still is, justly and truly indebted:

TO:
(name of creditor)

OF:
(address of creditor)

FOR:
(amount owed to creditor)

AND cents.

Particulars of the debt are:

<u>Date</u> (insert date when debt arose)	<u>Consideration</u> (state how the debt arose & <u>attach supporting invoices & statements of account</u>)	<u>Amount (\$)</u>	<u>Remarks</u> (include details of voucher substantiating payment)
--	--	--------------------	---

2. To my knowledge or belief the creditor has not, nor has any person by the creditor's order, had or received any satisfaction or security for the sum or any part of it except for the following: (insert particulars of all securities held. If the securities are on the property of the company, assess the value of those securities. If any bills or other negotiable securities are held, show them in a schedule in the following form).

<u>Date</u>	<u>Drawer</u>	<u>Acceptor</u>	<u>Amount (\$...c)</u>	<u>Due Date</u>
-------------	---------------	-----------------	------------------------	-----------------

- *3. I am employed by the creditor and authorised in writing by the creditor to make this statement. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

- *3. I am the creditor's agent authorised in writing to make this statement in writing. I know that the debt was incurred for the consideration stated and that the debt, to the best of my knowledge and belief, remains unpaid and unsatisfied.

Dated this ____ day of _____ 2006.

Signature.....

Name

Address

* Delete if not applicable.

Appendix 6 - Westsky Trust Deed (with pooling variations)

BODAS PTY LIMITED
(ADMINISTRATORS APPOINTED)

TRUST DEED
"THE WESTSKY TRUST"

ANDERSEN LEGAL
Lawyers
A member firm of Andersen Worldwide SG
Level 23
363 George Street
SYDNEY NSW 2000
Tel: (61+2) 9993 6600
Fax: (61+2) 9993 6650
DX 1085 Sydney
Ref. DE/ANS909/1

THIS DEED OF DECLARATION OF TRUST is made on 7 March 2002 and varied on 31 August 2006

BY:

BODAS PTY LIMITED (Administrators Appointed) (ACN 002 158 741) acting by the Administrator (**Bodas**).

RECITALS

- A Mark Anthony Korda and Mark Francis Xavier Mentha were appointed administrators of Skywest Airlines Pty Limited (ACN 008 997 662) (the **Company**) and Bodas pursuant to an order of the Court on 17 September 2001 (the **Administrators**) which later appointment subsists today. Those appointments succeeded the appointment of Messrs. Hall, Hedge and Watson as administrators of the Company on 12 September 2001 (the **Appointment Date**).
- B Bodas was the sole shareholder of the Company.
- C On 25 January 2002 a meeting of creditors of the Company was held pursuant to Section 439A of the Corporations Act 2001 (the **Meeting**) at which it was resolved that the Company execute a deed of company arrangement (**DOCA**) and details of which were provided by the Administrators to creditors of the Company pursuant to Section 439A(3)(a) of the Corporations Act 2001.
- D The DOCA was executed on 15 February 2002. The DOCA terminated on 21 February 2002.
- E On or before the date of this deed the Assets were transferred by the Company to Bodas.
- F The Trustee has determined to declare a trust (the **Westsky Trust**) concerning the proceeds of sale by it of the issued shares in the Company and the Assets and to hold those proceeds and Assets (the **Fund**) on trust on the terms and conditions of this deed.
- G Pursuant to a resolution of Admitted Creditors passed 31 August 2006 in accordance with clause 10.1(a) of this deed, the Fund will be pooled into Ansett Australia Limited (ACN 004 209 410) (subject to Deed of Company Arrangement) (**AAL**) and Admitted Creditors will be entitled to make Admissible Claims against AAL instead of the Westsky Trust.

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

Admissible Claim means a Claim that is determined as contemplated by clause 6;

Admitted Creditor means any person who has an Admissible Claim;

Ansett Group means the companies listed in Schedule 2 and **Member of the Ansett Group** means any of them;

Assets means those items listed in Schedule 1;

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

Cash Amount has the meaning given to that term under the Share Sale Agreement;

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;

Committee has the meaning in clause 7.1;

Completion has the meaning given to that term under the Share Sale Agreement;

Court means any court having jurisdiction to hear and determine matters under the Corporations Act 2001;

Corporations Regulations means the regulations under the Corporations Act 2001 (Cth);

First Trustee means Bodas;

GST has the meaning given to that term in section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth);

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;

Meeting has the meaning in Recital C;

Related Body Corporate has the meaning given to that term in the Corporations Act 2001 (Cth);

Resolution means a resolution passed at a meeting of Admitted Creditors convened in accordance with clause 9 and **Resolve** has a corresponding meaning;

Share Sale Agreement means the agreement between Bodas and Airline Investments Lamented ACN 098 904 262 concerning the sale by Bodas to Airline Investments Limited of the issued shares in the Company;

State means Victoria;

Termination Date has the meaning in clause 8.2;

Trustee means each person or entity which is, and while it is, a trustee of this trust and as at the date of this deed is the First Trustee;

Trustee's Demands has the meaning in clause 4 1(c), and

Trustee's Liabilities has the meaning in clause 4.1(b).

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 deed, 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 deed;
- (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 deed;
- (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 regulation or instrument;
- (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, SETTLEMENT AND NAME

2.1 Commencement Date

This trust shall take effect on the date hereof.

2.2 Settlement

Bodas hereby declares that it holds the proceeds of sale by it of the issued shares in the Company and the Assets upon trust on the terms and conditions of this deed, that at the

time of this declaration those proceeds of sale are cash in a bank account in the State and that it will hold the Fund on trust on the terms and conditions of this deed.

2.3 **Name**

This trust is called the ~~Westsky~~~~WestSky~~ Trust.

3 **TRUSTEE AND ADMINISTRATORS**

3.1 **Role**

This trust shall be administered by the Trustee who shall have the powers, functions and duties conferred on him by this trust.

3.2 **Agency**

In exercising any of the powers conferred by this trust and carrying out duties or functions arising under or by reason of or in connection with this trust, the Administrators shall act as agent for and on behalf of the Trustee.

3.3 **Limitation of the Administrators' liability**

In the performance of the Administrators' functions and duties and the exercise of any powers under this trust the Administrators shall not be personally liable for:

- (a) any debt, liability or other obligation which the Administrators may incur as agent for or on behalf of the Trustee or as administrators of Bodas; or
- (b) any loss or damage caused by any act, default or omission by the Administrators as agent for or on behalf of the Trustee or as administrators of Bodas in the performance or attempted performance of the Trustees powers, functions and duties under this trust.

3.4 **Powers**

The Trustee shall have the following powers:

- (a) the power conferred by the laws of the State upon trustees;
- (b) the powers set out in paragraph 2 of Schedule 8A to the Corporations Regulations as if references in that paragraph to "this deed", "the company" and "the administrator" were references to this trust, the Fund and the Trustee respectively;
- (c) the power to appoint agents (including but not limited to appointing the Administrators as agents of the Trustee);
- (d) the power to delegate any and all functions and powers of the Trustee under this deed;
- (e) the power to appoint any person or company as a replacement trustee of this trust for it.

3.5 **Remuneration**

The Administrators shall be:

- (a) remunerated out of the Fund in respect of any work done by the Administrators, and any partners or employee of the Administrators, in connection with this trust at the scale of rates charged from time to time by Arthur Andersen for the provision of services during the period of the Company's administration, whilst the Company was subject to deed of company arrangement or as otherwise agreed by the Committee; and
- (b) reimbursed out of the Fund in respect of all costs, fees and expenses incurred in connection with the performance and attempted performance of their actions, duties, obligations and responsibilities under or in respect of this trust.

4 ADMINISTRATOR

4.1 Nature of indemnity

The Administrators and the Trustee are entitled to be indemnified out of the Fund for:

- (a) the remuneration, costs, fees and expenses payable pursuant to sub-clause 3.5;
- (b) all liabilities incurred by the Trustee in the course of the trust (the Trustee's Liabilities); and
- (c) all actions, suits, proceedings, accounts, claims and demands arising out of the trust which may be commenced, incurred by or made on the Fund by any person and against all costs, charges and expenses incurred by the Trustee in respect thereof (the **Trustee's Demands**),

PROVIDED ALWAYS that the Trustee shall not be entitled to an indemnity in respect of any Trustee's Liabilities or Trustee's Demands to the extent to which such Trustee's Liabilities or Trustees Demands are incurred by or arise due to the Trustee, or any partner, employee, authorised agent or delegate of the Trustee having acted dishonestly, in breach of duty, or breach of trust in relation to this trust.

4.2 Continuing indemnity

This indemnity shall take effect on and from the date hereof and be without limitation as to time and shall inure for the benefit of the Trustee's and the Administrators' respective legal personal representatives notwithstanding the resignation or removal of the Trustee or any of them and the appointment of a new Trustee or the termination of this trust for any reason whatsoever.

5 NATURE AND DURATION OF TRUST

5.1 All persons bound

This trust binds all persons having a Claim to the extent of such Claim.

5.2 Property available

The Fund shall be available to pay Admissible Claims in accordance with clause 6.

6 CALCULATION AND DETERMINATION OF CLAIMS

- 6.1 A meeting of creditors of the Company will be called by the Administrators at such time and place as is determined by the Administrators. Unless otherwise determined by the Administrators, the meeting shall be held on or about the date to which the second

meeting of creditors of the Ansett Group has been adjourned. Subject to any order of the Court to the contrary, that meeting of creditors of the Company will determine:

- (a) Admissible Claims and persons entitled to Admissible Claims;
- (b) the method of calculation of and/or value of and the method of payment of Admissible Claims; and
- (c) the distribution (including the method, of distribution) of the Fund to Admitted Creditors or as otherwise resolved at the meeting.

6.2 Pursuant to a resolution of creditors passed 31 August 2006 in accordance with clause 10.1(a) of this deed, the matters to be determined under clause 6.1 of this deed are to be determined by Mark Anthony Korda and Mark Francis Xavier Mentha, as agents of Bodas as trustee for the Westsky Trust, substantially in accordance with the process for pooling assets and claims set out in the Bodas Deed of Company Arrangement made on or about 2 May 2002, as varied (including, for the avoidance of doubt, as varied as a consequence of the meeting of Bodas' creditors held on or about 31 August 2006 in relation to the proposed pooling of Bodas into AAL) as if the references in the Bodas DOCA to "the Company", "the Distribution Amounts", "the Deed Administrators", "Deed Creditors" and "Claim", respectively, were references to the Westsky Trust, the Fund, the Administrators, Admitted Creditors and Admissible Claim, respectively.

7 COMMITTEE OF CREDITORS

7.1 Operations of this part

The Committee will be comprised of those persons who were members of the committee whilst the Company was under administration and whilst the Company was subject to deed of company arrangement.

7.2 Functions of the Committee

The functions of the Committee are:

- (a) to consult with the Trustee about matters relating to this trust;
- (b) to receive and consider reports by the Trustee, and
- (c) to approve the Administrator's remuneration

7.3 The Committee

The following rules apply to the Committee:

- (a) each member of the Committee must be an Admitted Creditor, an attorney of an Admitted Creditor or a person otherwise authorised in writing by an Admitted Creditor to be a member of the Committee;
- (b) no Admitted Creditor 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 Trustee;

- (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;
- (h) sections 549, 550 and 551 of the Corporations Act 2002 apply, with such modifications as are necessary, to the Committee as if the references in those sections to the liquidator were references to the Trustee and the references to contributories and the option of seeking leave of a Court were deleted; and
- (i) the Committee cannot give directions to the Administrators or the Trustee.

7.4 No remuneration for members of the Committee

Each member of the Committee shall be entitled to be reimbursed by the Trustee 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 Trustee in his absolute discretion, but shall not otherwise be entitled to claim or receive from the Trustee or the Fund or the Admitted Creditors (other than, where applicable, the members appointor) any remuneration for acting as a member of the Committee.

8 CONTINUATION OF ARRANGEMENT PERIOD AND TERMINATION

8.1 Continuation

This trust shall remain in force for the period commencing on the date hereof and ending on the Termination Date (the Trust Period).

8.2 Termination

This trust shall terminate on the first of the following:

- (a) when the Admitted Creditors pass a Resolution terminating this trust at a meeting of the Admitted Creditors;
- (b) the Trustee has applied all of the Fund in accordance with clause 6 and the Trustee has notified all Admitted Creditors accordingly; and
- (c) the day preceding the 80th anniversary of the date of this deed,

whereupon the Termination Date shall become the date this trust is so terminated.

8.3 Previous operation preserved

The termination or avoidance, in whole or in part, of this trust does not affect the previous operation of this trust.

9 MEETINGS OF ADMITTED CREDITORS

9.1 Convening meetings

Meetings of Admitted Creditors may be convened by the Trustee from time to time.

9.2 Corporations Regulations

Except to the extent (if any) they are excluded or modified by any resolution of the Company's creditors or the Admitted Creditors or are inconsistent with the terms of this deed, regulations 5.6.12 to 5.6.36A of the Corporations Regulations apply, with such modifications as are necessary, to meetings of the Admitted Creditors or of the Committee as if the references to "the liquidator", "the liquidator or provisional liquidator", "the chairperson", or "trustee for debenture holders", as the case may be, were references to the Trustee.

10 GENERAL

10.1 Variation of this Trust by creditors

- (a) Subject to clause 10.1(b), this deed (and any one or more or all parts of it) may be varied by a simple majority Resolution passed at a meeting of those Admitted Creditors who attend the meeting (whether personally or by proxy or attorney) but only if the variation is not materially different from a proposed variation set out in the notice of meeting.
- (b) This deed may not be varied if the effect of the variation is to give a power of appointment or removal of a trustee of this trust to one or more persons or entities other than the trustee of this trust or if the effect of the variation is to remove the trustee as trustee of the trust or appoint another person or entity as a trustee of this trust

10.2 Governing law

This deed 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 deed must be instituted or brought in a Court.

10.3 Severance

Notwithstanding anything contained in any provision of this deed, 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 deed to the extent only that it is void, invalid or unenforceable but the remainder of any such provision and this deed shall remain in full force and effect.

11 RETIREMENT OF TRUSTEE AND RELEASE

11.1 Resignation

A trustee of this trust may at any time resign as trustee of this trust by giving notice of such resignation to the then Admitted Creditors.

11.2 **Appointment of substitute trustee**

A trustee of this trust that intends to resign as trustee of this trust may appoint another person or entity to act in its place as trustee of this trust. Any such appointment shall take effect from the date on which the resignation as trustee of this trust of the appointor takes effect.

11.3 **Release**

A trustee of this trust is discharged and released from its obligations under this deed and in relation to this trust from the date on which the trustee's resignation or other cessation as trustee of this trust takes effect.

SCHEDULE 1 - ASSETS

1 Shares

All of the shares issued to the Company in:

ANST Westsky Aviation Limited ACN 004 444 866 (Subject to Deed of Company Arrangement);

ANST Westsky Jet Charter Pty Limited ACN 008 800 155 (Subject to Deed of Company Arrangement);

Westralian Aviation Pty Limited ACN 000 924 621; and

Trans West Airlines Pty Limited ACN 008 694 157.

2 Unit Trust

All of the units in the Wittenoom Unit Trust.

3 Inter Company Receivables

All monies owing by any Member of the Ansett Group to the Company.

4 Cash

All cash at bank of the Company other than the Cash Amount.

5 Receivables

All receivables as at Completion other than amounts payable by the Company in respect of unavailed flights as at Completion less related credit card merchant fees, booking fees, processing costs, GST, and government and passenger levies and any other applicable fees, costs, taxes and levies.

6 Choses in Action

All rights, claims and actions the Company may have against any persons who were Related Bodies Corporate or officers of the Company prior to Completion.

7 Excluded Fund

All rights, claims and actions existing immediately prior to Completion which the Company may have in respect of the Ansett Australia Ground Staff Superannuation Plan.

SCHEDULE 2 - ANSETT GROUP

Company	ACN
Ansett Australia Holdings Limited (Administrators Appointed)	004 276 291
501 Swanston Street Pty Limited (Administrators Appointed)	005 477 618
Aeropelican Air Services Pty Limited (Subject to Deed of Company Arrangement)	000 653 083
Airport Terminals Pty Limited (Administrators Appointed)	053 976 444
Aldong Services Pty Limited (Administrators Appointed)	000 258 113
Ansett Aircraft Finance Limited (Administrators Appointed)	000 643 276
Ansett Australia and Air New Zealand Engineering Services Limited (Administrators Appointed)	089 520 696
Ansett Australia Limited (Administrators Appointed)	004 409 410
Ansett Aviation Equipment Pty Limited (Administrators Appointed)	008 559 733
Ansett Carts Pty Limited (Administrators Appointed)	005 181 215
Ansett Equipment Finance Limited (Administrators Appointed)	006 827 989
Ansett Finance Limited (Administrators Appointed)	006 555 166
Ansett Holdings Limited (Administrators Appointed)	065 117 535
Ansett International Limited (Administrators Appointed)	060 622 460
Badas Pty Limited (Administrators Appointed)	002 158 741
Brazson Pty Limited (Administrators Appointed)	055 259 008
Eastwest Airlines (Operations) Limited (Administrators Appointed)	000 259 469
Eastwest Airlines Limited (Administrators Appointed)	000 063 972
Kendell Airlines (Aust) Pty Limited (Administrators Appointed)	000 579 680
Morael Pty Limited (Administrators Appointed)	003 286 440
Northern Airlines Limited (Administrators Appointed)	009 607 069
Northern Territory Aerial Work Pty Limited (Administrators Appointed)	009 611 321

Appendix 7 - Bodas Deed of Company Arrangement (with pooling variations)

THIS DEED OF COMPANY ARRANGEMENT is made the 2nd day of May 2002 and varied the 31st day of August 2006 pursuant to the provisions of Part 5.3A of the Corporations Act.

BETWEEN:

[EACH ANSETT GROUP COMPANY (EACH SUBJECT TO A DEED OF COMPANY ARRANGEMENT) OTHER THAN ANSETT AUSTRALIA LIMITED (ACN 004 209 410) (SUBJECT TO DEED OF COMPANY ARRANGEMENT)] ("Company")

EACH ACKNOWLEDGING ANSETT GROUP COMPANY

MARK FRANCIS XAVIER MENTHA and **MARK ANTHONY KORDA** in their capacity as Voluntary Administrators of the Company

AND

MARK FRANCIS XAVIER MENTHA and **MARK ANTHONY KORDA** in their capacity as Deed Administrators of the Company

RECITALS:

- A Mark Anthony Korda and Mark Francis Xavier Mentha were appointed administrators of the Ansett Group Companies pursuant to an order of the Court on either 17 September or 3 October 2001, as the case may be, ~~which appointment subsists today~~. This appointment followed the resignation of Messrs. Hall, Hedge and Watson as administrators of the Ansett Group Companies.
- B A meeting of creditors of the Company was convened pursuant to Section 439A of the Act and held on 29 January 2002 ("**Meeting**"). At the Meeting, the creditors of the Company resolved inter alia to adjourn the Meeting to a later date on which they would consider whether it would be in the creditors' interests for the Company to execute a deed of company arrangement, for the administration to end or for the Company to be wound up.

- C The adjourned Meeting was held on 27 March 2002 (“**Reconvened Meeting**”). The creditors of the Company voting at the Reconvened Meeting resolved (“**Section 439C Resolution**”) that the Company execute a deed of company arrangement in accordance with the outline contained in the statement pursuant to Section 439A(4)(c) of the Act subject to certain amendments.
- D On 17 April 2002, in Federal Court proceeding no. V3062 of 2002, the Court ordered that the time by which the Voluntary Administrators must execute the deed of company arrangement pursuant to Section 444B(2)(b) be extended to 24 April 2002. (A copy of this order is Exhibit 5).
- E On 24 April 2002, in Federal Court proceeding no. V3065 of 2002, the Court reserved its judgment on an application for a further extension of the time by which the Voluntary Administrators must execute the deed of company arrangement pursuant to Sections 444B(2)(b) and 447A of the Act. As a result of the orders made by the Court on 24 and 29 April 2002 (copies of which are Exhibit 6), the deed of company arrangement ~~must~~ had to be executed by midnight on 2 May 2002.
- F A primary objective of the deed of company arrangement as outlined to creditors in the Section 439A(4)(c) statement dated 15 March 2002 and approved by the Company’s creditors at the Reconvened Meeting is to provide for a better return for the Company’s creditors than would result from a winding up of the Company.
- G On 2 May 2002 this deed of company arrangement was entered into, as a result of which the Voluntary Administrators became the Deed Administrators.
- H At meetings of the creditors of each Ansett Group Company, Aeropelican Air Services Pty Ltd and Skywest Airlines Pty Ltd (“**Pooling Meetings**”) the creditors of those companies voted on and carried resolutions (“**Pooling Resolutions**”), thereby amending this Deed and all other Ansett Group Company DOCAs so as to effect the “pooling” into Ansett Australia Limited (subject to deed of company arrangement) (“**AAL**”) of the assets of, and creditor/beneficiary claims against:
- (a) the Ansett Group Companies other than AAL;
- (b) the Pelican Trust; and
- (c) the Westsky Trust,
- in the manner set out in this Deed, the other Ansett Group Company DOCAs, the Pelican Trust Deed and the Westsky Trust Deed, each as varied (“**Pooling**”).
- I The Deed Administrators will do all such acts and things to effect Pooling.

GJ Subject to the rights of any Secured Creditor, Owner or Lessor, this Deed binds all creditors of the Company in accordance with Section 444D of the Act and also binds the Company, its Officers and Members in accordance with Section 444G of the Act.

NOW THIS DEED PROVIDES AS FOLLOWS:

1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Deed unless the subject or context otherwise requires:

“AAL” has the meaning given in Recital H;

“Acknowledging Ansett Group Company” means each of the companies named in Part 1 of Schedule 1 other than the Company;

“Act” means the *Corporations Act* 2001 (Cth);

“Administrators’ Website” means collectively the websites maintained at the following URLs:

- (a) <http://www.ansett.com.au/administrator/>; and
- (b) <http://www.abl.com.au/administrator/>;

“Air New Zealand Director” means each person who is, or was at any time since Air New Zealand Limited acquired full ownership of the Ansett Group a director or secretary of any company in the Air New Zealand Group or the Ansett Group, as set out in a schedule to the Air New Zealand MOU;

“Air New Zealand Group” means Air New Zealand Limited and its subsidiaries, other than the Ansett Group, as set out in a schedule to the Air New Zealand MOU;

“Air New Zealand MOU” means the Memorandum of Understanding dated 3 October 2001 between, amongst others, the Ansett Group, the Voluntary Administrators, the Air New Zealand Group and directors of both the Air New Zealand Group and the Ansett Group, approved by an order of the Court in proceeding no. V3045 of 2001 (a copy of both the Air New Zealand MOU and the relevant order are attached as Exhibit 4);

“Aircraft Lessor” means any person other than the Company who is the legal or beneficial owner of an aircraft that is used or occupied by or in the possession of the Company or in relation to which the Company is liable as at the Appointment Date;

“Ansett Group Company” means each of the companies named in Parts 1 and 2 of Schedule 1;

“Ansett Group” means collectively the Company and each other Ansett Group Company;

“Appointment Date” means, in respect of:

- (a) Ansett Australia and Air New Zealand Engineering Services Limited, the date Messrs. Mentha and Korda were appointed its administrators, being 3 October 2001; and
- (b) each other Ansett Group Company, the date that Messrs. Hall, Hedge and Watson were appointed as administrators of that company, being either 12 or 14 September 2001, as the case may be;

“ASIC” means the Australian Securities and Investments Commission;

“Asset” includes a mere cause of action or chose in action;

“Business Day” means any day other than a Saturday, Sunday or public holiday in Melbourne;

“Claim” means a debt payable by, and all claims against, the Company (present or future, certain or contingent, ascertained or sounding only in damages), being debts or claims the circumstances giving rise to which occurred on or before the Appointment Date;

“Committee” means a committee of Deed Creditors formed in accordance with Clause 25 of the Deed;

“Coupon Creditor” means a person who on the Appointment Date was the holder of a ticket for air travel to be provided by the Company on or after the Appointment Date and which has not been honoured by the relevant carrier;

“Court” means the Federal Court of Australia at its Melbourne Registry;

“Deed” means this Deed of Company Arrangement as amended from time to time;

“Deed Administrators” means Mark Francis Xavier Mentha and Mark Anthony Korda in their capacity as administrators of the Deed;

“Deed Administrators’ Remuneration, Costs and Indemnity” means the amount which the Deed Administrators are entitled to be remunerated, reimbursed and indemnified against under Clause 23.2 of the Deed;

“Deed Creditor” means any person who has a Claim, including (to the extent applicable):

- (a) Employees;
- (b) SEESA Payer;
- (c) Suppliers;
- (d) Non Cost Effective Dividend Recipients;
- (e) Aircraft Lessors;
- (f) Domestic Terminal Lessors;
- (g) Other Lessors;
- (h) Secured Finance Lease Creditors;
- (i) Coupon Creditors;
- (j) Global Rewards Creditors;
- (k) Golden Wing Creditors;
- (l) Superannuation Fund trustees;

“Deed Period” means the period commencing on the Effective Date and ending on the Termination Date;

“Distribution Amounts” means the amounts described in Clause 18.1;

“DOCA” means Deed of Company Arrangement (as amended):

“Domestic Terminal Leases” means the leases for any of the airport terminals located at the following Australian airports which are used by, occupied or in the possession of the Company or in relation to which the Company is liable as at the Appointment Date, namely:

- (a) Melbourne Airport;
- (b) Sydney Airport;
- (c) Brisbane Airport;

- (d) Adelaide Airport;
- (e) Perth Airport;
- (f) Hobart Airport;
- (g) Darwin Airport;
- (h) Alice Springs Airport;
- (i) Townsville Airport;
- (j) Coolangatta Airport; and
- (k) Rockhampton Airport;

“Duplicated Claim” means any debt payable by, and any claim against any Ansett Group Company (present or future, certain or contingent, ascertained or sounding only in damages), being debts or claims the circumstances giving rise to which occurred on or before the Appointment Date, in respect of which the relevant creditor would have been entitled, immediately prior to the passing of the Pooling Resolutions, to have lodged a proof of debt in relation to the entirety or any part thereof in more than one of the administrations of the Ansett Group Companies or against the Pelican or Westsky Trusts, whether that entitlement arose by way of guarantee, indemnity or otherwise;

“Domestic Terminal Lessors” means the lessors under Domestic Terminal Leases;

“Effective Date” means the date this Deed is executed by all parties;

“Employee” means each past and present employee of the Company who has a Claim;

“Employee Amounts” means in relation to an Employee all amounts owing (if any) to that Employee in respect of their employment including (but without limitation) entitlements to payment of wages or salary in lieu of notice, long service leave, annual and sick leave;

“Enforcement Process” in relation to property means:

- (a) execution against the property; or
- (b) any other enforcement process in relation to that property that involves a court or sheriff;

“Entitlement” means the amount of a Claim that a Participating Creditor is entitled to be paid as a distribution in accordance with the provisions of the Deed;

“Equipment” means aircraft, motor vehicles, plant and equipment and fixtures and fittings of whatever description but for the avoidance of doubt does not include Real Property;

“Excluded Creditors” means any Deed Creditor to the extent they have been paid during or after the Voluntary Administration Period or the Deed Period;

“Finance Lease” means a lease constituting, or accounted for in a similar way to, a finance lease or capitalised lease under Australian Accounting Standards;

“Finance Lease Creditors” means Participating Creditors whose Claim arises under a valid Finance Lease for Equipment;

“Fixed Charge Assets” means the assets, property and undertaking of the Company over which a Secured Creditor has a fixed charge as at the Appointment Date under the terms of a Security granted by the Company to the Secured Creditor;

“Floating Charge Assets” means the assets, property and undertaking of the Company over which a Secured Creditor has a floating charge as at the Appointment Date under the terms of a Security granted by the Company to the Secured Creditor;

“Goods” means any trading stock, packaging or other goods or materials supplied to the Company on or before the Appointment Date;

“Global Reward Creditor” means a person who is a member of the frequent flyer scheme operated by the Company known as Global Rewards as at the Appointment Date;

“Golden Wing Creditor” means a person who was a member of the Golden Wing Club or would be a member of the Golden Wing Club but for the administration of the Company;

“Lease” means any lease, licence or other agreement to which a Lessor is a party, including (without limitation) the Domestic Terminal Leases;

“Legal Personal Representative” means a trustee or executor appointed to the Voluntary Administrators or Deed Administrators upon death, incapacity, insanity or any combination of them.

“Lessor” means any person other than the Company who is the legal or beneficial owner of Real Property or other property that is occupied or used or in the possession of the Company or in relation to which the Company is liable as at the Appointment Date, comprising any or all of the Property Lessors, Aircraft Lessors and Other Lessors;

“Mediation Agreement” means an agreement reached between the Deed Administrators and a ROT Creditor in respect of a ROT Claim during or after the process of mediation under Clause 15 of the Deed;

“Mediator” means a mediator agreed by the Deed Administrators and a ROT Creditor to mediate any dispute in relation to that ROT Creditor’s ROT Claim pursuant to Clause 15;

“Members” means shareholders of the Company;

“Non Cost Effective Claim” means the Claim of a Deed Creditor whose Claim in the bona fide assessment of the Deed Administrators would receive a dividend for an amount less than \$AUD25 after an accurate estimation of the dividend is made ~~in accordance with Clause 18.4;~~

“Non Cost Effective Dividend Recipients” means a person with a Claim which is a Non Cost Effective Claim;

“Officer” has the meaning given in paragraphs (a) and (b) of that term as defined in Section 9 of the Act;

“Other Lessor” means any person other than the Company who is the legal or beneficial owner of an asset (other than Real Property or an aircraft) that is used or occupied by or in the possession of the Company or in relation to which the Company is liable as at the Appointment Date;

“Owner” means any person other than the Company who is the legal or beneficial owner of property used or occupied by or on behalf of or in the possession of the Company at the Appointment Date;

“Participating Creditors” means Deed Creditors other than Non Cost Effective Dividend Recipients and Excluded Creditors;

“Pelican Trust” means the trust established for the benefit of creditors of Aeropelican Air Services Pty Ltd pursuant to the Pelican Trust Deed, declared 11 June 2002;

“Pooling”, “Pooling Meetings”, “Pooling Orders” and “Pooling Resolutions” have the meanings given in Recital H.

“Premises” means any Real Property used, occupied by or in the possession of the Company or in relation to which the Company is liable as at the Appointment Date and which is not owned by the Company;

“Priority Creditors” means:

- (a) the Voluntary Administrators and the Deed Administrators in relation to any amounts due and payable to the Voluntary Administrators or the Deed Administrators pursuant to the Act or the terms of the Deed;
- (b) Secured Creditors in relation to the amounts they are entitled to be paid in priority to Participating Creditors who are not Priority Creditors pursuant to the terms of their Security;
- (c) Priority ROT Creditors to the extent of their Priority ROT Amount;
- (d) Employees who would have priority pursuant to Section 556 of the Act to the extent of their Employee Amounts and the SEESA Payer in relation to SEESA Payments;
- (e) trustees of Superannuation Funds to the extent of their Priority Creditor Amounts,

but does not include Top Up Retrenchment Benefit Creditors;

“Priority Creditor Amounts” means:

- (a) in the case of Priority ROT Creditors, their respective Priority ROT Amounts;
- (b) in the case of Employees, the amount to which they would be afforded priority under Section 556 of the Act if the Company were wound up;
- (c) in the case of the Voluntary Administrators or the Deed Administrators, the Voluntary Administrators Remuneration Costs and Indemnity and the Deed Administrators Remuneration Costs and Indemnity respectively;
- (d) in the case of a trustee of a Superannuation Fund, the amount of any unpaid employer superannuation contributions and/or any unpaid member

superannuation contributions, relating to the relevant Superannuation Fund, but not including the amount of any Top Up Retrenchment Benefit Claim; and

- (e) in the case of Secured Creditors, the amount which they are entitled to be paid in priority to Participating Creditors who are not Priority Creditors pursuant to the terms of the Security granted in favour of that Secured Creditor by the Company;

“Priority ROT Creditor” means a ROT Creditor in relation to its respective Priority ROT Amount;

“Priority ROT Amount” means that part of a ROT Claim that is determined to be valid:

- (a) by the Deed Administrators (whose determination is not disputed by the ROT Creditor pursuant to Clause 15.6);
- (b) pursuant to a Mediation Agreement; or
- (c) as required by the Court;

“Property Lessor” means any person other than the Company who is the legal or beneficial owner of Real Property that is used or occupied by or in the possession of the Company or in relation to which the Company is liable as at the Appointment Date, including (without limitation) the Domestic Terminal Lessors;

“Real Property” means a legal or equitable estate or interest in real property of any description;

“Regulations” means the *Corporations Regulations*;

“Reconvened Meeting” has the meaning given in Recital C;

“Related Body Corporate” has the meaning given in the Act and **“Related”** bears a corresponding meaning;

“Resolution” means a resolution passed at a meeting of Deed Creditors convened in accordance with this Deed;

“ROT Claim” means a claim by a Supplier that pursuant to the terms of trade by which the Supplier traded with the Company, the Supplier retained an interest in or ownership of Goods and in respect of which there is no provision or act undertaken by that Supplier inconsistent with those retention of ownership or interest provisions and, in respect of which such Goods remained in the possession of the Voluntary Administrators as at the Appointment

Date and for which payment of such Goods have not previously been made by the Company;

“ROT Claim Amount” means in the case of each ROT Creditor the monetary extent of a ROT Claim asserted by that ROT Creditor which have not been sold and were in the possession of the Company on the Appointment Date;

“ROT Creditor” means a person who has a ROT Claim;

“Secured Creditor” means any Deed Creditor who had the benefit of a Security which was valid at the Appointment Date or which is validated within 14 Business Days of the execution of the Deed, over all or any assets of the Company securing all or any part of its Claim but only to the extent of that Security at the Appointment Date;

“Secured Finance Lease Creditor” means any Secured Creditor who has entered into a Finance Lease with the Company and holds, as security for the payment of any debt or liability or the performance of any obligation under that Finance Lease, a Security over an aircraft that is used or occupied by or in the possession of the Company or in relation to which the Company is liable as at the Appointment Date but only to the extent of that Security as at the Appointment Date;

“Security” means any mortgage, chattel mortgage, pledge, charge, agreement, encumbrance, lien, any right of set-off (arising otherwise than by operation of law or as a result of a banker's right to combine accounts), assignment which provides for and secures the payment of any debt or monetary liability or the performance of any obligation;

“SEESA Deed” means the deed between the Commonwealth of Australia, Ansett Holdings Ltd (Administrators Appointed) (ACN 065 117 535), various other Ansett companies and the Voluntary Administrators dated 14 December 2001 and attached as Exhibit 1;

“SEESA Payer” means SEES Pty Ltd ABN 35 098 586 308;

“SEESA Payments” means payments made by the SEESA Payer pursuant to the Special Employee Entitlement Scheme for Ansett Group employees established under the *Air Passenger Ticket Levy (Collection) Act* 2001 and paid to the Voluntary Administrators or the Deed Administrators in accordance with the SEESA Deed and the SEESA Payments Deed, and in accordance with the order of the Court in proceeding no. V3083 of 2001 (a copy of which is Exhibit 7) and a determination made by the Minister for Employment and Workplace Relations under that Act;

“SEESA Payments Deed” means the Deed dated 18 December 2001 between the SEESA Payer, the Ansett Group and the Voluntary Administrators setting out the terms on which SEESA Payments are to be paid to the Voluntary Administrators or the Deed Administrators and the priority in which such payments shall be repaid, a copy of which is attached as Exhibit 2;

“Superannuation Funds” means the Ansett Australia Ground Staff Superannuation Plan (*trustee - Ansett Australia Ground Staff Superannuation Plan Pty Ltd*); the Ansett Transport Industries Limited Pilots/Management Superannuation Plan (*trustee - Ansett Australia Pilots/Management Superannuation Plan Pty Ltd*); the Ansett Transport Industries Limited Flight Engineers’ Superannuation Plan (*trustee - Ansett Australia Flight Engineers’ Superannuation Plan Pty Ltd*); the Ansett Transport Industries Limited Flight Attendants Superannuation Plan (*trustee - Ansett Australia Flight Attendants Superannuation Plan Pty Ltd*); and Ansett Accumulation Plan (*trustee - Ansett Australia Pilots Accumulation Plan Pty Ltd*);

“Supplier” means a Deed Creditor whose Claim arises from, or in consequence of, the supply of Goods;

“Termination Date” means the date upon which the Deed is terminated pursuant to Clause 21 of the Deed.

“Top Up Retrenchment Benefit Claim” means the amount of any claim for payment or contribution to a Superannuation Fund in respect of any shortfall in the Superannuation Fund in meeting or paying retrenchment benefits, being a claim of the type raised in Victorian Supreme Court proceeding no. 2115/01 (a copy of the statement of claim in that proceeding is attached as Exhibit 3), as so determined in that proceeding (if any);

“Top Up Retrenchment Benefit Creditor” means a person that is or was a trustee of a Superannuation Fund or a Superannuation Fund with a Top Up Retrenchment Benefit Claim;

“Voluntary Administration Period” means the period of time commencing on the Appointment Date and concluding on the Effective Date;

“Voluntary Administrators” means Mark Francis Xavier Mentha and Mark Anthony Korda in their capacity as administrators of the Company; ~~and~~

“Voluntary Administrators’ Remuneration, Costs and Indemnity” means the amount which the Voluntary Administrators

are entitled to be remunerated, reimbursed and indemnified against under Clause 23.1 of the Deed: and

“Westsky Trust” means the trust established for the benefit of creditors of Skywest Airlines Pty Ltd pursuant to the Westsky Trust Deed, declared 7 March 2002.

1.2 Interpretation

In the Deed, unless the subject or context otherwise requires:

- 1.2.1 words importing the singular include the plural and vice versa;
- 1.2.2 words importing any one gender include the other gender and vice versa;
- 1.2.3 words importing natural persons include corporations, firms, unincorporated associations, partnerships, trusts and any other entities recognised by law and vice versa;
- 1.2.4 words “written “ and “in writing” include any means of visible reproduction of words in a tangible and permanently viable form;
- 1.2.5 if a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- 1.2.6 reference to Clauses and Schedules are references to clauses and schedules of the Deed;
- 1.2.7 references in the Deed to any statutory enactment or law shall be construed as references to that enactment or law as amended or modified or re-enacted from time to time and to the corresponding provisions of any similar enactment or law of any other relevant jurisdiction; and
- 1.2.8 references in the Deed to Sections shall be construed as references to Sections of the Act;
- 1.2.9 references to (or to any specified provision of) the Deed or to any other agreement or document shall be construed as references to (that provision of) the Deed or that other agreement or document as amended, substituted, novated, supplemented, varied or replaced with the agreement of the relevant parties and in force at any relevant time;

- 1.2.10 unless otherwise provided in the Deed, the provisions of Schedule 8A of the Regulations shall not apply to or be incorporated in this Deed;
- 1.2.11 a construction that would promote the purpose or object underlying the Deed (whether or not stated in this Deed) is to be preferred to a construction that would not promote that purpose or object;
- 1.2.12 headings in the Deed are for the purpose of more convenient reference only and do not form part of the Deed or affect its construction or interpretation;
- 1.2.13 a reference to “a Form” means a reference to the applicable form as set out in Schedule One of the Regulations, with such modification as the Voluntary Administrators or the Deed Administrators (as the case may be) considers appropriate to adapt the Form to the circumstances for which the Form is to be used under the Deed;
- 1.2.14 a term or expression not otherwise defined in this Deed shall have the same meaning, if any, as provided for in the Act provided that meaning is not inconsistent with the purpose or object of the Deed; and
- 1.2.15 no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of the Deed or any part of it.

1.3 Inconsistency with Act or Regulations

If there is any inconsistency between the provisions of the Deed and the Act or Regulations, the Deed shall prevail to the extent permitted by law.

1.4 Other Inconsistencies

- 1.4.1 If there is any inconsistency between the provisions of the Deed and the Constitution of the Company or any other obligation binding on the Company other than the SEESA Deed and the SEESA Payments Deed, the provisions of the Deed shall prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which shall be borne by the Company.

- 1.4.2 For the avoidance of doubt, all of the parties bound by the Deed acknowledge that the Top Up Retrenchment Benefit Claims are not intended to rank in priority above ordinary unsecured claims in a winding up of the Company, even if a court should so determine and notwithstanding the provisions of the SEESA Deed, the SEESA Payments Deed and the terms of the Court's order in proceeding no. V3083 of 2001 (a copy of which is Exhibit 7).

1.5 Business Days

Except where otherwise expressly provided, if the day on or by which any act, matter or thing is to be done as required by this Deed is a day other than a Business Day, such act, matter or thing shall be done on the immediately succeeding Business Day.

1.6 Successors and Assigns

The obligations and liabilities imposed and rights and benefits conferred on the parties under the Deed shall be binding upon and enure in favour of the respective parties and each of their respective successors in title, legal personal representatives and permitted assigns.

2 COMMENCEMENT OF THIS DEED

2.1 Operative Date

Subject to Clause 2.2, this Deed shall take effect on the Effective Date.

2.2 Interim Effect

Insofar as a person would be bound by the Deed if it had already been executed, the person must not, at any time on or after the Section 439C Resolution, but before the Deed is executed:

2.2.1 do anything inconsistent with the Deed except with the leave of the Court; or

2.2.2 do any of the following:

2.2.2.1 make an application for an order to wind up the Company;

2.2.2.2 proceed with such an application made before the Deed became binding on the person;

2.2.2.3 begin or proceed with a proceeding against the Company or in relation to any of its property except with the leave of the Court and in accordance with such terms (if any) as the Court imposes; or

2.2.2.4 begin or proceed with enforcement process in relation to property of the Company except with the leave of the Court and in accordance with such terms (if any) as the Court imposes.

3 PURPOSE AND OBJECTS

The purposes and objects underlying this Deed are to provide for the business, property and affairs of the Company to be administered in a way that:

3.1 Maximum Return

provides the maximum possible return for the Deed Creditors from the orderly sale and realisation of assets of the Company;

3.2 No Compromise

does not compromise any Deed Creditor's debts;

3.3 No Crystallisation of Domestic Terminal Lessors' Rights

may avoid crystallisation of Domestic Terminal Lessors' rights to terminate Domestic Terminal Leases;

3.4 Moratorium

provides for a moratorium on all Deed Creditors taking action against the Company;

3.5 Variations

provides for subsequent meetings of Deed Creditors to consider variations to the provisions of the Deed;

3.6 Better Return than Winding-up

results in a better return for the Deed Creditors of the Company than would result from an immediate winding-up of the Company;

3.7 Commercial Resolution

facilitates a commercial resolution to the financial difficulties of the Company without unnecessary impediment or legal dispute; ~~and~~

3.8 Due Regard to Court Orders and Directions

has due regard to any orders or directions made by the Court as to how Part 5.3A of the Act is to operate in relation to the Company, save that the parties bound by the Deed acknowledge that the Top Up Retrenchment Benefit Claims are not intended to rank in priority above ordinary unsecured claims in a winding up of the Company, even if a court should so determine and notwithstanding the provisions of the SEESA Deed, the SEESA Payments Deed and the terms of the Court's order in proceeding no. V3083 of 2001 (a copy of which is Exhibit 7); ~~and~~

3.9 Pooling

as a result of the carriage of the Pooling Resolutions, provides for Pooling.

4 MORATORIUM CREATED BY THIS DEED

4.1 This Deed Binds All Persons

Subject to the rights of any Secured Creditor pursuant to Section 444D(2) of the Act or any Owner or Lessor pursuant to Section 444D(3) of the Act, this Deed binds:

- 4.1.1 in accordance with Section 444D(1) of the Act, all Deed Creditors; and
- 4.1.2 in accordance with Section 444G of the Act, the Company, its Officers and Members and the Deed Administrators.

4.2 Restrictions on Persons Bound by this Deed

During the Deed Period, without the Deed Administrators' prior written consent, a Deed Creditor shall not in relation to its Claim:

- 4.2.1 make an application for an order to wind up the Company;
- 4.2.2 proceed with any such application made before this Deed became binding on the Deed Creditor;

- 4.2.3 begin or continue any proceeding against the Company or in relation to any of its property except with the leave of the Court and in accordance with such terms (if any) as the Court imposes;
- 4.2.4 begin or continue with any Enforcement Process in relation to the property of the Company except with leave of the Court and in accordance with such terms (if any) as the Court imposes;
- 4.2.5 take any action whatsoever to seek to recover any part of its Claim other than pursuant to the Deed; or
- 4.2.6 commence or take any further step in any arbitration against the Company or to which the Company is a party.

4.3 Deed Administrators Not Liable

The Deed Administrators are not liable to an action or other proceeding for damages in respect of a refusal to give an approval or consent for the purposes of this moratorium.

4.4 No Effect on Rights of Secured Creditors

Nothing in the Deed shall affect in any way and at any time the rights of the Secured Creditors in relation to the enforcement of their Securities during the Deed Period or their interests in the assets of the Company over which they have Security.

4.5 No Effect on Rights of Deed Administrators to Limit Secured Creditors

Nothing in the Deed shall affect in any way the Deed Administrators' rights to limit the Secured Creditors in relation to the enforcement of their Securities or their interests in the assets of the Company over which they have Security.

4.6 ~~No Release~~

~~The Deed does not release the Company from any Claims, except to the extent (if any) provided for in any subsequent variation to the Deed which may be approved by Deed Creditors at a meeting of creditors convened under Section 445F of the Act (as contemplated by Clause 18.4).~~

5 DEED ADMINISTRATORS

5.1 Acceptance of Appointment

The Deed Administrators:

- 5.1.1 accept the appointment as administrators of the Deed; and
- 5.1.2 agree to act as administrators of the Deed during the Deed Period or until the Deed Administrators retire or are removed from office in accordance with the Deed or the Act.

5.2 Role of Deed Administrators

The Deed shall be administered by the Deed Administrators who shall have the powers, functions and duties conferred on them by this Deed and the Act. Without limiting the foregoing, during the Deed Period, the Deed Administrators:

- 5.2.1 have control of the Company's business, property and affairs;
- 5.2.2 may carry on that business and manage that property and those affairs;
- 5.2.3 may terminate or dispose of all or part of that business and may dispose of any of that property or any other; and
- 5.2.4 may perform any function and exercise any power that the Company or any of its Officers could perform or exercise if the Company were not subject to the Deed;
- 5.2.5 may sell or dispose of shares in the Company; ~~and~~
- 5.2.6 may transfer assets or novate liabilities from the Company to another Ansett Group Company (or vice versa) for the purpose of maximising the proceeds of sale of the Company's assets or for maximising the return to Deed Creditors; ~~and~~

5.2.7 will effect Pooling.

6 DEED ADMINISTRATORS ACT AS COMPANY'S AGENT

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



7 POWERS OF OTHER OFFICERS SUSPENDED

7.1 No Exercise of Power as Officer of Company Without Consent

While the Company is subject to the Deed, a person (other than the Deed Administrators) cannot perform or exercise and must not purport to perform or exercise a function or power as an Officer of the Company except with the Deed Administrators' prior written approval.

7.2 No Resolutions by Company's Directors Without Consent

For the avoidance of doubt, the directors of the Company shall not pass a resolution to place the Company into voluntary administration or take any step to wind it up except with the Deed Administrators' prior written approval.

8 DEED ADMINISTRATORS MAY INVESTIGATE AFFAIRS

The Deed Administrators may investigate the Company's business, property, affairs and financial circumstances and may report the results of their investigations to ASIC and the Deed Creditors.

9 DEED ADMINISTRATORS' RIGHT TO COMPANY'S BOOKS

9.1 Deed Administrators' Rights to Company's Books

A person is not entitled as against the Deed Administrators:

9.1.1 to obtain possession of books of the Company; or

9.1.2 to claim or enforce a lien on such books, but such a lien is not otherwise prejudiced.

9.2 Secured Creditors' and Secured Finance Lease Creditors' Rights to Records

Notwithstanding the effect of Clause 9.1, a Secured Creditor or a Secured Finance Lease Creditor is entitled as against the Deed Administrators to possession of all the technical records for an aircraft, engine or part that is the subject of such Secured Creditor's or Secured Finance Lease Creditor's Security upon enforcement of that Security.

10 TRANSFER OF SHARES

During the Deed Period, a Member shall not transfer any shares owned by it in the Company except with the Deed Administrators' prior written approval.



11 ACKNOWLEDGMENTS AND AGREEMENTS OF OWNERS AND LESSORS

11.1 Acknowledgements

Each Owner and Lessor bound by the Deed acknowledges and agrees that:

- 11.1.1 the Voluntary Administrators have not, during the Voluntary Administration Period or prior to or as at the Effective Date, adopted, ratified or become liable to the Lessors under any Lease with the Lessors;
- 11.1.2 the Deed Administrators shall not adopt, ratify or become liable to the Lessors under any Lease with the Lessors; and
- 11.1.3 it shall use its best endeavours to mitigate any loss and damage suffered by it.

11.2 Voluntary Administrators Not Personally Bound

- 11.2.1 The Voluntary Administrators have not ratified, adopted or in any other manner become bound under, or become liable to any Lessor under, any Lease by virtue of:
 - 11.2.1.1 any discussions or correspondence they may have had or entered into with any Lessor; or
 - 11.2.1.2 the use, occupation or possession of any Premises or Equipment by the Company,
 during the Voluntary Administration Period or prior to or as at the Effective Date.
- 11.2.2 For the avoidance of doubt, nothing in Clause 11.2.1 is intended to avoid the Voluntary Administrators' liability under Sections 443A or 443B of the Act for the payment of rent or other amounts payable in respect of a Lease.

11.3 Owners and Lessors

The Deed does not affect a possessory right that an Owner or Lessor of Real Property has in relation to that Real Property except so far as:

- 11.3.1 the Court grants any equitable relief;



- 11.3.2 the Deed so provides in relation to that Owner or Lessor who voted in favour of the Section 439C Resolution; or
- 11.3.3 a Court orders under Section 444F(4) of the Act or otherwise.

11.4 Deed Administrators Rights Not Limited

Nothing in the Deed affects or limits in any way or at any time the rights of the Deed Administrators to:

- 11.4.1 oppose any attempt by a Secured Creditor, Owner or Lessor to enforce, realise or otherwise deal with its Security, Real Property or property as the case may be, at common law or under the Act; or
- 11.4.2 to seek relief from the Court pursuant to Section 444F of the Act or otherwise.

12 SALE AND REALISATION OF ASSETS

12.1 Sale at Best Price Reasonably Obtainable

The Deed Administrators shall take reasonable care and endeavour to sell or otherwise realise all property, assets and rights of the Company for the best price that is reasonably obtainable having regard to Section 442C of the Act and the circumstances existing when those assets are sold and having regard to the diminution of the Company's liabilities in general and a reduction of payments to Participating Creditors in particular.

12.2 Further Assurances

The Company and each person bound by the Deed shall do all things and sign all documents required by the Deed Administrators to effect, ratify and perfect any transfer of assets and liabilities of the Company.

12.3 No Disposal of Fixed Charge Assets or Floating Charge Assets Without Prior Consent

The Deed Administrators and the Company shall not sell or dispose of:

- 12.3.1 Fixed Charge Assets without the prior consent of the Secured Creditor who holds the relevant fixed charge; or

- 12.3.2 Floating Charge Assets without the prior consent of the Secured Creditor who holds the relevant floating charge other than in the ordinary course of business.

For the purposes of the Deed, the Deed Administrators and the Company acknowledge that a sale of any part of the business of the Company to a third party purchaser is not a sale in the ordinary course of the Company's business.

13 **POOLING ~~POSSIBLE~~ ~~POOLING~~**

All persons bound by the Deed acknowledge that:

13.1 **Obligation to take Reasonable Steps to Pool**

The Voluntary Administrators ~~are~~were required, pursuant to the terms of the Air New Zealand MOU and the SEESA Deed, to take all reasonable steps to propose and recommend that each Ansett Group Company shall seek to pool all of the assets and liabilities of the Ansett Group, so that all Ansett Group Companies are treated as one company; and

13.2 **Pooling ~~Meetings~~ ~~of Deed Creditors~~**

The Deed Administrators ~~shall convene~~convened the Pooling Meetings, at which the Pooling Resolutions were carried.~~a further meeting of Deed Creditors to consider a variation to the Deed which shall include a regime for the pooling of all assets and liabilities.~~

13.3 **Deed Administrators will effect Pooling**

As a result of the carriage of the Pooling Resolutions the Deed Administrators will effect Pooling.

14 **~~PROOFS OF DEBT~~ ~~ASCERTAINMENT OF CLAIMS~~**

~~The rules and mechanisms to be applied to proofs of debt and the ascertainment of Claims shall be similar to the rules and mechanisms for such things prescribed by the Act in the context of the liquidation of a company, amended or adjusted as appropriate to make the process as cost effective as possible.~~

15 **RETENTION OF TITLE CLAIMS**

15.1 **Provisions of this Clause to Apply**

- 15.1.1 The provisions of this Clause apply to the determination of ROT Claims and ROT Claim Amounts.
- 15.1.2 Notwithstanding any other provisions in this Clause 15, the Deed Administrators may in their sole and absolute discretions resolve any ROT Claims as they see fit provided that it is in the commercial interest of the Company for the Deed Administrators to do so.
- 15.1.3 Nothing in the Deed affects or limits in anyway the right or rights of the Deed Administrators to oppose any attempt by a ROT Creditor to enforce, realise or otherwise deal with its property at common law or under the Act or to seek relief from the Court pursuant to Section 444F of the Act.

15.2 Advertisement

- 15.2.1 After the Effective Date the Deed Administrators may, if they deem it necessary to do so, advertise once in newspapers circulating generally in each State and Territory of Australia and on the Administrators' Website requiring each person claiming to have a ROT Claim to deliver to the Deed Administrators within seven days of the date of the advertisement a notice in writing of that person's ROT Claim (the "ROT Notice"). The ROT Notice shall contain particulars of the ROT Claim and the estimated ROT Claim Amount, including a statement of account and shall specify the documents by which that statement can be substantiated, and the person shall bear all costs and expenses incurred by it in relation to the ROT Notice.
- 15.2.2 If a person does not deliver to the Deed Administrators a ROT Notice prior to the expiration of the period specified in the advertisement referred to in Clause 15.2.1, that person shall forever be barred from asserting a ROT Claim, but without prejudice to the right of that person to have a Claim;
- 15.2.3 Each person bound by this Deed acknowledges and agrees that the Deed Administrators may in their sole and absolute discretion determine that:
 - 15.2.3.1 the terms and conditions of a ROT Creditor's terms of trade are inconsistent with retention of ownership or an interest in Goods by that ROT Creditor;

- 15.2.3.2 the terms and conditions of a ROT Creditor's terms of trade do not retain ownership or an interest in Goods by that ROT Creditor; or
- 15.2.3.3 a ROT Creditor has in its dealings with the Company acted inconsistently with retention of ownership or an interest by that ROT Creditor.

15.3 Evidence

Each ROT Creditor shall provide the Deed Administrators with such evidence or information in support of its ROT Claim and its ROT Claim Amount as the Deed Administrators may reasonably require, and each ROT Creditor shall be responsible for obtaining all such evidence and information and shall bear all costs and expenses incurred by it in doing so. The Deed Administrators may provide each ROT Creditor with such information as the ROT Creditor may reasonably require in relation to its ROT Claim and ROT Claim Amount, provided such information is readily available to the Deed Administrators.

15.4 Opinion on Validity

The Deed Administrators shall form an opinion on the admissibility and validity of the ROT Claim and the extent of the Priority ROT Amount of each ROT Creditor to the extent they are able to do so, and in seeking to form that opinion the Deed Administrators shall have regard to the appropriate principles of law.

15.5 Notification of ROT Claim Amount

The Deed Administrators shall (without prejudice to the Voluntary Administrators' and Deed Administrators' rights) notify each ROT Creditor in writing of the Deed Administrators' opinion on the ROT Claim and the Priority ROT Amount. The Deed Administrators' opinion on the validity of a ROT Claim and a Priority ROT Amount pursuant to this Clause is without prejudice to any rights of the Voluntary Administrators and Deed Administrators.

15.6 Dispute and Mediation

If a ROT Creditor disputes the Deed Administrators' opinion on the Priority ROT Amount, the ROT Creditor may, within fourteen days of being advised of the Deed Administrators' opinion on the Priority ROT Amount, give a notice in writing of dispute ("a ROT Dispute Notice") to the Deed Administrators, in which case the Deed Administrators and the ROT Creditor shall have the ROT Claim and

the Priority ROT Amount referred to mediation by a mediator agreed by the Deed Administrators and the ROT Creditor in an endeavour to resolve the dispute.

15.7 Mediation Conduct Agreement

Each ROT Creditor giving a ROT Dispute Notice (“a Disputing ROT Creditor”) shall execute an agreement governing the conduct of the mediation process in the form provided by the Deed Administrators, and each Disputing ROT Creditor shall perform all obligations under and be bound by the provisions of that agreement. The Deed Administrators shall also execute an agreement in the form provided to Disputing ROT Creditors by the Deed Administrators in respect of each Disputing ROT Creditor and shall perform all obligations under and be bound by the provisions of those agreements.

15.8 Professional privilege

The principles of legal professional privilege shall apply to any mediation and be preserved for the benefit of the parties to the mediation, and no act or other conduct on the part of a party in the course of the mediation shall be taken as, or be asserted or relied upon by the other party to the mediation as being, a waiver of any legal professional privilege that would otherwise be available to the first party.

15.9 Mediation on without prejudice basis

All discussion and negotiation during the mediation shall be on a “without prejudice” basis unless such privilege is waived by the parties by agreement, either generally or in relation to any aspect, or agreement is reached. Neither of the parties to the mediation may refer in any subsequent proceedings to any such privileged discussions and negotiations or require the mediator to do so and no party may have access to any of the Mediator’s notes or call the Mediator as a witness in any proceedings.

15.10 Mediation Resolving Dispute

If mediation results in an agreement being reached between the Deed Administrators and a Disputing ROT Creditor in respect of the ROT Claim and the Priority ROT Amount of the Disputing ROT Creditor, all persons bound by this Deed are bound by that agreement. If the agreement provides that the whole or any part of the ROT Claim is or is deemed to be valid in respect of a ROT Claim Amount, the valid portion shall constitute a Priority ROT Amount to be included as a Priority Creditor Amount. If the agreement provides that the whole or any part of the ROT Claim is

or is deemed to be invalid, the invalid part of the ROT Claim Amount shall rank as an ordinary unsecured Claim.

15.11 Mediation not resolving Dispute

If the Mediator declares that the mediation has not resolved the dispute the Deed Administrator shall be deemed to have not admitted the Disputing ROT Creditor's ROT Claim, and the Disputing ROT Creditor may apply to the Court for relief.

15.12 Distribution where no notice of dispute

If a ROT Creditor does not give a Dispute Notice to the Deed Administrator within the time provided in Clause 15.6, that ROT Creditor shall be bound by the Deed Administrators' opinion on the Priority ROT Amount of that ROT Creditor, and the balance owing to each ROT Creditor in respect of their ROT Claim shall rank as an ordinary unsecured Claim.

16 TOP UP RETRENCHMENT BENEFIT CLAIMS

16.1 No Priority

16.1.1 All Top Up Retrenchment Benefit Claims by trustees of the Superannuation Funds shall be treated as ordinary unsecured Claims, and shall not constitute Priority Creditor Amounts for the purposes of this Deed, even if a court determines that all or any of such claims rank to priority in a liquidation of the Company.

16.1.2 For the avoidance of doubt, all persons bound by the Deed acknowledge that the provisions of Clauses 16.1.1 and 18.3 are intended to govern the treatment of Top Up Retrenchment Benefit Claims under the Deed, notwithstanding:

16.1.2.1 the provisions of the SEESA Deed, the SEESA Payments Deed and the terms of the Court's order in proceeding no. V3083 of 2001 (a copy of which is Exhibit 7); and

16.1.2.2 that a court may determine that Top Up Retrenchment Benefit Claims rank to priority in a winding up of the Company as referred to in Clause 16.1.1.

16.2 Deed Administrators' Consent

For the avoidance of doubt, the Deed Administrators consent to the Supreme Court of Victoria determining whether the provisions of Clause 16.1 are oppressive or unfairly prejudicial to, or unfairly discriminatory against, one or more creditors of the Company (in their capacity as Top Up Retrenchment Benefit Creditors) and should be severed from the Deed in accordance with Clause 29 or pursuant to Section 447A of the Act.

17 AIR NEW ZEALAND MOU

17.1 All parties bound by the Deed acknowledge that pursuant to the terms of Clause 18 of the Air New Zealand MOU, the Voluntary Administrators agreed as follows:

“18 The Voluntary Administrators will take all reasonable steps to propose and recommend (as the case may be) that each company in the Ansett Group enters into a Deed of Company Arrangement which will:

18.1 acknowledge and incorporate the terms of the Memorandum of Understanding or if in existence the Proposed Agreement; ...”

17.2 All parties bound by the Deed acknowledge that:

17.2.1 the Deed incorporates by reference the releases of Air New Zealand and the Air New Zealand Directors in the same terms as the Air New Zealand MOU; and

17.2.2 in accordance with the Air New Zealand MOU, the Deed Administrators may, after the Deed is entered into, request the Air New Zealand Group to sign and deliver to the Deed Administrators a transfer in blank of all shares held by the Air New Zealand Group in the Ansett Group for nominal value together with the share scrip for those shares.

18 **SPECIFIC REALISATIONS FOR THE COMPANY—PAYMENT OF CLAIMS AND POOLING OF THE COMPANY'S ASSETS AND CREDITOR CLAIMS INTO AAL**

18.1 Funds for Distribution ~~to Deed Creditors~~

Until such time as the transfers referred to in Clause 18.1A have been completed, the ~~The~~ Company shall hold for its own benefit:

- 18.1.1 the proceeds from the sale of any assets owned by it;
- 18.1.2 the refunds of stamp duty received on termination or surrender of any lease held by it; and
- 18.1.3 the proceeds from the realisation of any of its other Assets, including proceedings,

which shall constitute the **Distribution Amounts**.

18.1A Transfer of Distribution Amounts and all other Company Assets to AAL

The Deed Administrators will cause the Company to transfer all of its assets (including the Distribution Amounts) to AAL.

18.1B Consent to transfer of Assets

Each person bound by this Deed, in particular the Deed Creditors and AAL, consents to and will do all such things and execute all such documents required by the Deed Administrators to effect, ratify or perfect the transfer of assets to AAL referred to in Clause 18.1A.

18.1C Deed Creditors entitled to prove in administration of AAL

Each person bound by this Deed acknowledges the provisions of the AAL DOCA permitting each Deed Creditor (other than Excluded Creditors) to lodge in the administration of AAL a proof of debt in respect of their Claim for the same amount and with the same priority that the Claim would have enjoyed in the administration of the Company immediately prior to the passing of the Pooling Resolutions, subject only to the provisions of the AAL DOCA concerning Duplicated Claims.

18.1D Release and discharge of Claims

Each person bound by this Deed, upon completion of the transfers referred to in Clause 18.1A, irrevocably releases and discharges the Company and the Deed Administrators in their capacities as deed administrators of the Company from any and all liability whatsoever in relation to any Claim, including any liability arising in connection with the Company having provided a guarantee or indemnity or otherwise having become jointly or severally liable in relation to the obligations of any other Ansett Group Company.

18.1E Plea in bar

This Deed may be pleaded by the Company and the Deed Administrators in their capacities as deed administrators of the

Company in absolute bar to any demand, action, suit, claim or proceeding (including set offs, counterclaims, cross-claims and the like) in relation to any Claim.

18.2 ~~Payment of Distribution Amounts~~

~~The Distribution Amounts shall be applied in payment of the Voluntary Administrators, the Deed Administrators and the Participating Creditors of the Company as follows:~~

~~18.2.1 firstly, the Voluntary Administrators and the Deed Administrators in relation to any amounts owing to them and unpaid pursuant to the terms of the Deed, to the extent they would be afforded priority in a winding-up of the Company;~~

~~18.2.1 secondly, the Secured Creditors of the Company, to the extent that their Security is valid;~~

~~18.2.1 thirdly, Priority ROT Creditors of the Company in relation to their Priority ROT Amount;~~

~~18.2.1 fourthly, in the order of priority set out in section 556:~~

~~18.2.1.1 Employees of the Company;~~

~~18.2.1.1 the SEESA Payer in accordance with the terms of the SEESA Deed and the SEESA Payments Deed;~~

~~18.2.1.1 any trustee of a Superannuation Fund that is a Priority Creditor, to the extent of its Priority Creditor Amount (but, for the avoidance of doubt, excluding the amount of any Top Up Retrenchment Benefit Claim that trustee may have); and~~

~~18.2.1.1 any other Participating Creditors of the Company entitled to a priority under section 556 of the Act as if the Company were to be wound up; and~~

~~18.2.1 fifthly (but subject to Clause 18.12), other Participating Creditors of the Company (including Top Up Retrenchment Benefit Creditors to the extent of their Top Up Retrenchment Benefit Claims) on a pro rata basis,~~

~~in the amounts and on the dates determined by the Deed Administrators in their absolute discretion.~~

18.3 Inconsistency with SEESA Deed or SEESA Payments Deed

For the avoidance of doubt, if there is any apparent inconsistency between the Deed and the SEESA Deed or the SEESA Payments Deed concerning the priority of repayment to the SEESA Payer, the terms of the SEESA Deed and the SEESA Payments Deed shall prevail to the extent of the inconsistency, and all persons bound by this Deed agree to sign all documents and do all things necessary to remove such inconsistency, the costs of which shall be borne by the Company, save that the SEESA Deed and the SEESA Payments Deed did not and were not intended to deal with any matter or thing other than the SEESA Payments in general and were not intended to and did not deal with the priority of the Top Up Retrenchment Benefit Claims.

18.4 ~~Meeting of Creditors~~

~~When the Deed Administrators have sold or otherwise realised sufficient assets so that they are able to make an accurate estimation of the amounts to be paid to Participating Creditors in accordance with the priority regime set out in Clause 18 and prior to the distribution of any money to Participating Creditors (other than Priority Creditors) in accordance with Clause 18.2.5, the Deed Administrators shall convene a meeting of creditors under Section 445F of the Act to consider:~~

~~18.4.1any proposed variation to the Deed, including the incorporation in the Deed of provisions for releasing Claims of Deed Creditors less their Entitlements and the pooling of assets and liabilities; or~~

~~18.4.1in the alternative, a resolution to terminate this Deed and wind up the Company.~~

~~For the purposes of such a meeting, the Deed Administrators shall advertise nationally and make available to the Deed Creditors on the Administrators' Website:~~

~~18.4.1particulars of the proposed variation; and~~

~~18.4.1such information which would be sent to Deed Creditors as if the meeting were a Second Meeting of Creditors under Section 439A of the Act.~~

18.5 ~~Further Meetings of Creditors~~

~~18.5.1Without limiting the operation of Clause 18.4, the Deed Administrators shall convene a further meeting of Deed~~

~~Creditors within six months of the date of the Reconvened Meeting.~~

~~18.5.2 At such meeting, and each and any subsequent meetings of creditors convened pursuant to Section 445F, the relevant notice of meeting shall (as an alternative to any other resolutions set out in the notice involving the continuation and/or variation of this Deed) set out a resolution requiring the termination of this Deed and the winding up of the Company.~~

18.6 ~~Deed Administrators' Discretion~~

~~18.6.1 The Entitlement of a Deed Creditor shall be to payment of the portion of that Deed Creditor's Claim as the Deed Administrators in their absolute discretion determine that they are able to pay in accordance with Clauses 18.2.~~

~~18.6.2 No Deed Creditor shall be entitled to receive more than its Entitlement. If it does, it must repay any amount paid to it in excess of its Entitlement ("Excess") to the Deed Administrators as soon as practicable (but no later than 7 days) after becoming aware that the Excess has been paid to it.~~

18.7 ~~Certificate Final and Binding~~

~~A certificate signed by the Deed Administrators that an amount paid by it to a Deed Creditor constitutes an Entitlement for the purposes of the Deed shall, in the absence of manifest error, be final and conclusive and binding on the Deed Creditor.~~

18.8 ~~Unclaimed Distributions~~

~~The Entitlement of any Deed Creditor which remains unclaimed after a reasonable period of time (to be determined by the Deed Administrators), may be cancelled by the Deed Administrators and remitted to ASIC to be dealt with under Part 9.7 of the Act.~~

19 MANAGEMENT OF COMPANY

The Deed Administrators shall retain day-to-day management and control of the Company until the Termination Date to the exclusion of the Company's directors.

20 POWERS OF ADMINISTRATORS

20.1 General Powers

The Deed Administrators shall be entitled in their capacity as Deed Administrators or any other capacity to exercise all the rights, powers, privileges, authorities and discretions which are ordinarily exercised by or vest in a trustee of a fixed trust and which are conferred by the Company's constitution or otherwise by law on the Company's directors to the exclusion of the Company's directors, provided that the Deed Administrators shall not be responsible for such statutory obligations as may continue to be imposed on the directors of the Company during the Deed Period.

20.2 Specific Powers

Without limiting Clause 20.1, the Deed Administrators shall have the following powers:

- 20.2.1 the powers conferred on the Members of the Company to the exclusion of those Members;
- 20.2.2 the powers conferred on the directors of the Company to the exclusion of the directors of the Company;
- 20.2.3 all of the powers set out in paragraph 2 of Schedule 8A of the Regulations;
- 20.2.4 the power to alter share capital;
- 20.2.5 the power to issue shares;
- 20.2.6 the power to vary class rights attaching to shares;
- 20.2.7 the power to change the Company's name;
- 20.2.8 the power to factor the debts of the Company;
- 20.2.9 the power to reduce the Company's capital;
- 20.2.10 the power to alter the Company's constitution;
- 20.2.11 the power to convene meetings of Members of the Company;
- 20.2.12 the power to resolve any dispute of any nature commercially;
- 20.2.13 in relation to the property, assets and rights of the Company, all the powers of a natural person who is the

absolute and beneficial owner of such property, assets and rights, including (without limitation) the power to sell or otherwise realise any such property, assets or rights pursuant to a sale process conducted by the Deed Administrators;

- 20.2.14 the power to assign and transfer property, assets and rights, and novate liabilities, of the Company to another Ansett Group Company for the purpose of maximising the sale of assets or for maximising the return to Deed Creditors;
- 20.2.15 the power to accept and take an assignment or transfer of property, assets and rights and to accept novation of liabilities from another Ansett Group Company;
- 20.2.16 the power to control the Company's business, property and affairs;
- 20.2.17 the power to carry on that business and manage that property and those affairs;
- 20.2.18 the power to terminate or dispose of all or part of that business and may dispose of any of that property or any other; and
- 20.2.19 the power to perform any function and exercise any power that the Company or any of its Officers could perform or exercise if the Company were not subject to the Deed;
- 20.2.20 the power to sell or dispose of shares in the Company; and
- 20.2.21 the power to agree to incur and treat a payment obligation arising during the Deed Period in relation to the administration of the Deed, or the Deed Administrators acting as Deed Administrators, including for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of, or in the possession of, the Company, as falling within the indemnity contained in Clause 24.1.

20.3 Power of Sale

In exercising any power of sale, the Deed Administrators must have regard to Section 442C of the Act and take reasonable care and endeavour to sell the relevant asset for the best price that is reasonably obtainable, having regard to the circumstances existing

when the asset is sold and having regard to the diminution of the Company's liabilities in general and any reduction in payments to Participating Creditors in particular.

20.4 Power to Engage Solicitors and Consultants

The Deed Administrators shall have power to engage solicitors and consultants, and the Company or AAL shall pay all costs of any solicitors and consultants engaged by the Deed Administrators.

20.5 Deed Administrators Acting as Company's Agent

During the Deed Period the Deed Administrators are acting as the agents of the Company and accept no personal liability for any acts, matters or omissions relating to things done or not done in that capacity.

21 TERMINATION OF DEED

21.1 Termination of the Deed Period

This Deed shall terminate on the Termination Date.

21.2 Termination of this Deed by Court Order and Creditors' Resolution

This Deed terminates:

- 21.2.1 upon Deed Creditors passing a resolution at a meeting of Deed Creditors to terminate the Deed;
- 21.2.2 when a Court makes an order under Section 445D of the Act; or
- 21.2.3 if the Company has paid all of the Deed Creditors' Entitlements, on the 14th day after the Deed Administrators have advertised notices of that fact once in newspapers circulating generally in each State and Territory of Australia and on the Administrators' Website,

whichever happens first.

21.3 Deed Administrators to call meeting of Deed Creditors

The Deed Administrators shall call a meeting of Deed Creditors (by advertising nationally and by posting on the Administrators' Websites) to consider termination of the Deed if:

- 21.3.1 the Deed Administrators consider (in their sole discretion) that it is no longer practicable or reasonable to continue to implement the Deed; or
- 21.3.2 an order is made by a Court requiring the Deed Administrators to call a meeting of Deed Creditors.

21.4 Previous operation of this Deed preserved

In accordance with Section 445H of the Act, the termination or avoidance, in whole or in part, of this Deed does not affect the previous operation of this Deed.

21.5 Deregistration

Each person bound by this Deed acknowledges that following Pooling the Deed Administrators intend to apply to ASIC to deregister the Company.

22 MEMBERS BOUND BY DEED

Members consent to the Deed and appoint the Deed Administrators as their proxies or attorneys to vote and pass resolutions to give effect to the terms of the Deed.

23 ADMINISTRATORS' REMUNERATION AND COSTS

23.1 Voluntary Administrators' Remuneration

The Voluntary Administrators shall be:

- 23.1.1 remunerated by the Company or AAL in respect of any work done by the Voluntary Administrators, and any partner or employee of the Voluntary Administrators acting on behalf of the Voluntary Administrators, in connection with the performance of their duties, obligations and responsibilities as administrators of the Company at the scale of rates charged from time to time for the provision of services during the period of the Company's administration or as otherwise agreed by the Committee of Creditors and the Voluntary Administrators; and
- 23.1.2 reimbursed by the Company or AAL in respect of all costs, fees and expenses incurred in connection with the performance of their duties, obligations and responsibilities as administrator of the Company.

23.2 Deed Administrators' Remuneration

The Deed Administrators shall be:

- 23.2.1 remunerated by the Company or AAL in respect of any work done by the Deed Administrators, and any partner or employee of the Deed Administrators acting on behalf of the Deed Administrators, in connection with the performance of their duties, obligations and responsibilities under the Deed at the scale of rates charged from time to time for the provision of services during the period of the Company's administration or such greater sum as agreed by the Committee of Creditors and the Deed Administrators pursuant to Clause 25.2.4; and
- 23.2.2 reimbursed by the Company or AAL in respect of all costs, fees and expenses incurred in connection with the performance of their duties, obligations and responsibilities under this Deed.

24 VOLUNTARY AND DEED ADMINISTRATORS' INDEMNITY

24.1 Indemnity

The Voluntary Administrators and the Deed Administrators shall be indemnified out of the assets of the Company and AAL for:

- 24.1.1 all loss and damage suffered by them as a consequence of or arising out of the Company or AAL failing to comply with its obligations under Clauses 23.1 and 23.2;
- 24.1.2 all debts payable, liabilities incurred by and claims against the Voluntary Administrators (present or future, certain or contingent, ascertained or sounding only in damages) in relation to the administration of the Company, including any amounts payable by the Voluntary Administrators by virtue of Section 443A of the Act or by virtue of them having agreed to treat a payment obligation as if it were a debt arising under Section 443A of the Act; and
- 24.1.3 all debts payable, liabilities incurred by and claims against the Deed Administrators (present or future, certain or contingent, ascertained or sounding only in damages) in relation to the administration of the Deed or their acting as Deed Administrators, including any amounts held by a court to be or agreed or accepted by

the Deed Administrators as being payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of, or in the possession of, the Company; and

- 24.1.4 all other costs, expenses, losses and liabilities incurred or suffered by them in performing any of their functions, duties or obligations, or exercising any of their powers, under or in accordance the Act, any other applicable law, or the Deed in connection with their administration of the Company.

24.2 Indemnity Not Affected

The indemnity under Clause 24.1 shall not affect or prejudice any rights that the Voluntary Administrators or Deed Administrators may have against the Company, AAL or any other person to be indemnified against the costs, charges, expenses and liabilities incurred by the Voluntary Administrators or the Deed Administrators of or incidental to the exercise or performance of any of the powers or authorities conferred on the Voluntary Administrators or the Deed Administrators at law, by this Deed or otherwise.

24.3 Continuing Indemnity

Each indemnity in this Clause is a continuing indemnity and shall enure for the benefit of the Voluntary Administrators and the Deed Administrators' Legal Personal Representatives notwithstanding:

- 24.3.1 cessation of the Voluntary Administration Period or the Deed Period;
- 24.3.2 the termination of this Deed for any reason whatsoever; and
- 24.3.3 removal of the Deed Administrators and appointment of a new administrator of the Deed,

and shall not be affected or limited in any way by any defect or invalidity in the appointment of either the Voluntary Administrators or the Deed Administrators. The indemnity shall extend to cover all actions, suits, proceedings, accounts, liabilities, claims and demands arising out of any defect in the appointment of the Voluntary Administrators or the Deed Administrators or any defect in the approval or execution of this Deed or otherwise.

For the avoidance of doubt, the Voluntary Administrators and the Deed Administrators acknowledge that this Deed and any drafts of



it published on the Administrators' Website does not and never did contain any provision indemnifying the solicitors for the Voluntary Administrators or the Deed Administrators.

24.4 Section 451C

All persons bound by this Deed acknowledge and agree that a payment made, transaction entered into or any other act or thing done in good faith by, or with the consent of, the Voluntary Administrators:

24.4.1 is valid and effectual for the purposes of the Act; and

24.4.2 is not liable to be set aside in a winding up of the Company.

25 COMMITTEE OF CREDITORS

25.1 Composition of Committee

25.1.1 There shall be a Committee of Deed Creditors comprising those persons elected to the committee of creditors at the meeting of creditors of the Company convened by the Voluntary Administrators pursuant to Section 436E save for the Air New Zealand and Qantas representatives and any other persons who have resigned or shall resign from the committee.

25.1.2 The representatives shall otherwise be selected from amongst the creditor groups by the Deed Administrators from those presently appointed to the committee of creditors who nominate themselves for such purpose.

25.2 Function

The function of the Committee shall be:

25.2.1 to consult with the Deed Administrators about matters relating to the administration;

25.2.2 to receive and consider reports by the Deed Administrators;

25.2.3 to fix and approve the Voluntary Administrators' remuneration in accordance with the order of the Court in proceeding no. V3065 of 2001 (a copy of which is attached as Exhibit 8); and

- 25.2.4 to consider and if appropriate agree with the Deed Administrators (as the case may be) to increase the Deed Administrators' remuneration.

25.3 No Directions to Deed Administrators

The Committee cannot give directions to the Deed Administrators.

25.4 Rules

The following rules apply to the Committee:

- 25.4.1 each member of the Committee must be a Deed Creditor, an attorney of a Deed Creditor or a person otherwise authorised in writing by a Deed Creditor to be a member of the Committee;
- 25.4.2 a Deed Creditor is not entitled to have more than one representative (including the Deed Creditor himself or herself, if a natural person) on the Committee;
- 25.4.3 minutes of all resolutions and proceedings of each meeting of the Committee shall be made and entered in books to be provided from time to time for that purpose by the Deed Administrators;
- 25.4.4 if the minutes of a meeting purport to be signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Committee, the minutes are prima facie evidence of the matter contained in them;
- 25.4.5 unless the contrary is proved, the meeting is taken to have been properly convened and all proceedings taken at the meeting are taken to have been duly passed and taken; and
- 25.4.6 a corporation (being otherwise qualified for membership of the Committee) is entitled to be a member and may appoint a person to represent it on the Committee.

25.5 No remuneration for members of the Committee

- 25.5.1 A member of the Committee may 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 Committee in its absolute discretion, but shall not otherwise be entitled to claim or receive from the Company, the Deed Administrators or the Deed Creditors (other than, where applicable, the member's

appointer) any remuneration for acting as a member of the Committee and such reimbursement shall form part of the Deed Administrators' costs and expenses.

- 25.5.2 For the avoidance of doubt, the Deed Administrators acknowledge Clause 25.5.1, is intended to be and is an amplification of the outline of this Deed contained in the Section 439A(4) statement dated 15 March 2002, and expressly authorises the Deed Administrators if requested by the Committee to do so to reimburse to Committee members the cost of telephone calls into the conference facilities to be established in holding meetings of the Committee.

26 MEETINGS OF DEED CREDITORS

26.1 When Meeting may be Convened

The Deed Administrators:

- 26.1.1 may at any time convene a meeting of the Deed Creditors; and
- 26.1.2 shall convene a meeting of Deed Creditors if so requested in writing by creditors the value of whose claims against the Company is not less than ten percent (10%) of the value of all creditors' claims against the Company.

26.2 Voting at Meetings

Deed Creditors shall be entitled to vote at these meetings on the same basis as if the meeting were a second meeting of creditors under Section 439A of the Act.

26.3 Concurrent Meetings

The Deed Creditors acknowledge that meetings of the creditors of the Company may be held concurrently with meetings of creditors of other Ansett Group Companies.

26.4 Notice of Meeting

Written notice shall not be sent by post to Deed Creditors of any further meetings. The Notice of Meeting shall be advertised in newspapers nationally and on the Administrators' Website.

26.5 Conduct of Meetings

Regulations 5.6.12 to 5.6.36A of the Regulations apply to meetings of Deed Creditors held under this Deed, as if 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 Deed Administrators, and with such other modifications as are necessary to comply with the provisions of this Deed.

27 FORUM SHOPPING

All persons bound by the Deed agree that any application or proceedings concerning the Deed or a Claim shall only be made to or brought in the Court, unless otherwise agreed in writing by the Deed Administrators or unless the Court does not have jurisdiction to deal with such applications or proceedings.

28 JURISDICTION

This Deed shall be governed by and construed in accordance with the laws for the time being in force in the State of Victoria.

29 SEVERANCE

Any provision of the Deed which:

29.1 Court order – unfair prejudice

the Court determines to be oppressive or unfairly prejudicial, or unfairly discriminatory against, one or more creditors of the Company; or

29.2 General

is otherwise prohibited by or unlawful or unenforceable under any applicable law actually applied by any court of competent jurisdiction,

shall, to the extent permitted by the Court or such law, be severed from the Deed and rendered ineffective so far as is possible without modifying the remaining provisions of this Deed. Where, however, the provisions of any such applicable law referred to in Clause 29.2 may be waived, they are hereby waived by persons bound by the Deed to the full extent permitted by such law to enable the Deed to constitute a valid and binding obligation enforceable according to its terms.



30 REPORTING

Except as required by law, the Deed Administrators shall not be required to report to Deed Creditors. However, the Deed Administrators may, in their absolute discretion, report to Deed Creditors during the Deed Period at such times as the Deed Administrators consider appropriate and on matters which the Deed Administrators consider ought to be brought to the attention of Deed Creditors.

31 FURTHER ASSURANCES

All persons bound by this Deed shall exercise all such powers as are available to them do all such acts and things, sign execute and deliver all such documents and instruments and provide assistance and co-operation as may be reasonably required to give full effect to the provisions of the Deed.

32 LIQUIDATION

Where:

32.1 Section 445F Meeting

at a meeting convened under Section 445F of the Act the Deed Creditors pass a resolution terminating the Deed; and

32.2 No Proposed Resolution to Wind-up Required

whether or not the notice of that meeting set out a proposed resolution that the Company be wound up,

the Deed Creditors may also resolve at the meeting that the Company be wound-up.

33 SECTION 513C DAY

For the avoidance of doubt, if the Deed Creditors resolve to wind-up the Company, the winding up will be deemed to have begun or commenced on the date on which the administration of the Company began.

34 POWER OF ATTORNEY

The Company hereby irrevocably appoints the Deed Administrators its attorney to the exclusion of any Ansett Group Company to exercise or refrain from exercising (in the Deed Administrators' absolute discretion) any and all of the Company's rights or powers in relation to or in connection with its right, title and interest in all the property of the Company and the



Company shall make, do and provide all things and documents reasonably necessary to give proper effect to this Clause.

35 COMPANY NOT TO PROSECUTE

The Company agrees not to make any demand, issue any proceedings or otherwise prosecute any action or cause of action which any way relates directly or indirectly in relation to the property of the Company without the prior consent of the Deed Administrators.

36 APPLICATION TO COURT

36.1 Directions

The Deed Administrators may at any time apply to the Court for directions in relation to any particular matter arising under this Deed or about how Part 5.3A of the Act is to operate in relation to the Company.

36.2 Unforeseen Circumstances

If any circumstances arise for which this Deed does not either expressly or by necessary implication make provision for, the Deed Administrators may in their sole and absolute discretion make such provision as they think fit for the purpose of effectuating this Deed, and they may if they think fit apply to the Court for directions.

37 VARIATION

The provisions of this Deed may be varied by Resolution passed at a meeting of Deed Creditors convened under Section 445F of the Act, but only if the variation is not materially different from a proposed variation set out in the notice of meeting.

38 WAIVER

The waiver by any of the persons bound by the Deed in respect of any breach by another person bound by the Deed of any of the provisions of the Deed shall not be deemed to be a waiver in respect of any other breach or of any subsequent similar breach by a person bound by the Deed and no delay or omission on the part of a person to exercise or avail itself of any rights accruing to it under the Deed shall operate as a waiver in respect of any default by another person under the Deed.

39 NOTICES

All notices, requests, demands, requisitions, approvals, elections, consents or other communications ("notices") required to be given or served to or upon any of the parties pursuant to or in connection with the Deed shall be in writing in the English language and shall be deemed to be duly given or made when delivered (in the case of facsimile provided confirmation of transmission has been received) to the party to which such notice is given or served at the address of such party as follows:

39.1 If to the Voluntary Administrators or the Deed Administrators:

Address: C/- Arnold Bloch Leibler

333 Collins Street, Melbourne, Victoria, Australia

Attention: Mr Leon Zwier

Facsimile: (03) 9229 9603

39.2 If to the Company:

Address: C/- Arnold Bloch Leibler

333 Collins Street, Melbourne, Victoria, Australia

Attention: Mr Leon Zwier

Facsimile: (03) 9229 9603

or at such other address as the relevant party may hereafter specify for such purpose to the other parties by notice in writing. A written notice includes a notice by facsimile. Any notice given by facsimile on a day which is not a business day shall be deemed despatched on the next succeeding Business Day. Any such notice may be given or signed on behalf of the party giving or serving the same by a director, secretary or other duly authorised person thereof.

40 COUNTERPARTS

This Deed may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and such counterparts together shall constitute one and the same instruction.



41 ACKNOWLEDGEMENT

Each Acknowledging Ansett Group Company acknowledges and agrees in favour of each other party that it will execute a deed of company arrangement in respect of itself in the same form (*mutatis mutandis*) as this Deed.



EXECUTED as a Deed.

SIGNED SEALED AND DELIVERED by)
MARK FRANCIS XAVIER MENTHA)
(Voluntary Administrator) in the presence)
of:)

Witness

Name of Witness
(Print)

SIGNED SEALED AND DELIVERED by)
MARK ANTHONY KORDA (Voluntary)
Administrator) in the presence of:)

Witness

Name of Witness
(Print)

SIGNED SEALED AND DELIVERED by)
MARK FRANCIS XAVIER MENTHA)
(Deed Administrator) in the presence of:)

Witness

Name of Witness
(Print)



SIGNED SEALED AND DELIVERED by)
MARK ANTHONY KORDA (Deed)
 Administrator) in the presence of:)
)

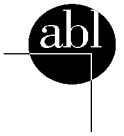
Witness

Name of Witness
 (Print)

EXECUTED for and on behalf of each)
 company named in Part 1 of Schedule 1).....
 by its administrators **MARK ANTHONY**) **Mark Anthony Korda**
KORDA and **MARK FRANCIS XAVIER**)
MENTHA in accordance with the)
 Corporations Act in the presence of:).....
) **Mark Francis Xavier Mentha**
)

Signature of Witness

Print name of Witness



Mark Francis Xavier Mentha
(Voluntary Administrator)

and

Mark Anthony Korda
(Voluntary Administrator)

and

Mark Francis Xavier Mentha
(Deed Administrator)

and

Mark Anthony Korda
(Deed Administrator)

and

Each Acknowledging Ansett Group Company

and

[Each Ansett Group Company
(each subject to a Deed of Company Arrangement)
other than Ansett Australia Limited
(subject to Deed of Company Arrangement)]
(Company)

Deed of Company Arrangement

Arnold Bloch Leibler
Ref: LZ:FEH: 01-1201846
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