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(Voluntary Administrator)

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and

[## Ansett Group Company]

Draft

Deed of Company Arrangement

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THIS DEED OF COMPANY ARRANGEMENT is made the day of
pursuant to the provisions of Clause 5.3A of the Corporations Act.

2002

BETWEEN:

[###] ("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 succeeded the appointment of Messrs. Hall, Hedge and Watson as administrators of the Ansett Group Companies on 12 or 14 September 2001, as the case may be.
- 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 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 aspect of the 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 which reflects the proposed deed as outlined in the statement pursuant to Section 439A(4)(c) of the Act subject to certain amendments set out in the Section 439C Resolution.
- D On 17 April 2002 the Honourable Justice Goldberg in the Court extended the time by which the Voluntary Administrators must execute the deed of company arrangement pursuant to Section 444B(2)(b) to 24 April 2002.

DE 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 preserve, if possible, the Company's interest in the Domestic Terminal Leases and may not to crystallise any rights of the Domestic Terminal Lessors under the Domestic Terminal Leases.

EF 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:

"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/Ansett 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 Letter of Comfort" means the letter of comfort dated 8 August 2001 from Air New Zealand Limited to Ansett Holdings Limited ACN 065 117 535, Ansett International Limited ACN 060 622 460 and Ansett Australia Limited ACN 004 209 410;

"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;

"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 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;

"ATO" means the Commissioner of Taxation;

"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 26 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 24.2 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 19.1;

"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;
- (g) Canberra;
- (h) Darwin;
- (i) Alice Springs;
- (j) Cairns;
- (k) Townsville;
- (l) Coolangatta; and
- (m) Rockhampton

"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 Ansett Group 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 Ansett Group;

"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 nominated by the Deed Administrators to mediate any dispute in relation to a 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 19.5;

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

"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 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;

"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 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 have a Claim 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 15.8;
- (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 is not to exceed the cost price to the Company of Goods supplied by that ROT Creditor which have not been sold and were in the possession of the Company on the Appointment Date (and for the avoidance of doubt the onus of proving the Goods were in the possession of the Company on the Appointment Date resides with each ROT Creditor);



"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 as agent for the Commonwealth of Australia;

"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 a determination made by the Minister for Employment and Workplace Relations under that Act and the SEESA Payments Deed;

"SEESA Payments Deed" means the Deed dated 18 December 2001 between 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;



"Settled List" means a list of Claims to be prepared by the Deed Administrators;

"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 22 of the Deed.

"Top Up Retrenchment Benefit Claim" means 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);

"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 24.1 of the Deed;

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 Clauses 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 Clause 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;

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 Clause 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

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, 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.

1.5 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, do anything inconsistent with the Deed except with the leave of the Court.

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 avoids 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.

4 MORATORIUM CREATED BY THIS DEED

4.1 This Deed Binds All Persons

Subject to the rights of any Secured Creditor or any Owner or Lessor, this Deed binds:

4.1.1 in accordance with Section 444D, all Deed Creditors who have a Claim; and

4.1.2 in accordance with Section 444G, the Company, its officers and members and the Deed Administrators.

Nothing contained in this Deed shall limit the rights in law or equity of the Deed Administrators or the Company:

4.1.3 to make application under Section 444F of the Act; or

4.1.4 to apply for orders or directions pursuant to Section 447A(1) or Section 447D of the Act.

4.2 Restrictions on Persons Bound by this Deed

During the Deed Period without with 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 cannot be 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, at common law or arising under the Act.

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 19.5).

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;
- 5.2.6 may transfer assets or novate liabilities from one Ansett Group Company to another for the purpose of maximising the proceeds of sale of the Company's assets.

6 DEED ADMINISTRATORS ACT AS COMPANY'S AGENT

In 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 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 Deed Administrators shall not adopt, ratify or become liable to the Lessors under any Lease with the Lessors; and

11.1.2 it shall use its best endeavours to mitigate any loss and damage suffered by it as a result of the termination of any Lease.

11.2 Voluntary Administrators and Deed Administrators Not Personally Bound

11.2.1 Neither the Voluntary Administrators nor the Deed Administrators have, or are taken to have, 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~~ 11.2.1.1 any discussions or correspondence with any Lessor; or

~~11.2.2~~ 11.2.1.2 the use, occupation or possession of any Premises or Equipment by the Company during the Voluntary Administration Period and/or the Deed Period; ~~or~~

11.2.2 For the avoidance of doubt, nothing in Clause 11.2.1 is intended to avoid the Voluntary Administrators' or the Deed Administrators' liability under Section 443A of the Act for the payment of rent in respect of a Lease.

~~11.2.3~~ any other act, matter or thing done or omitted to be done by the Voluntary Administrators or the Deed Administrators.

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 Law or otherwise.

12 SALE AND REALISATION OF ASSETS

12.1 Sale at Best Price Reasonably Obtainable

- 12.1.1 The Deed Administrators shall 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 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 POSSIBLE POOLING

All persons bound by the Deed acknowledge that:

13.1 Obligation to take Reasonable Steps to Pool

The Voluntary Administrators are 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 Meeting of Deed Creditors

The Deed Administrators shall convene 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.

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 Right to Reclaim Goods

Each ROT Creditor voting in favour of the Section 439C Resolution relinquishes any right it may have or have had to reclaim possession of Goods.

15.3 Limitation of ROT Claim Amount

Each ROT Creditor agrees that its ROT Claim Amount is limited to the cost price to the Company of Goods supplied by that ROT Creditor that have not been sold and were in the possession of the Company on the Appointment Date and, for the avoidance of doubt the onus of proof in relation thereto remains with the ROT Creditor.

15.4 Advertisement

- 15.4.1 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.

- 15.4.2 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 15.4.1, that person shall forever be barred from asserting a ROT Claim, but without prejudice to the right of that person to have a Claim;
- 15.4.3 Each person bound by this Deed acknowledges and agrees that the Deed Administrators may in their sole and absolute discretion determine that:
- 15.4.3.1 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;
 - 15.4.3.2 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
 - 15.4.3.3 a ROT Creditor has in its dealings with the Company acted inconsistently with retention of ownership or an interest by that ROT Creditor.

15.5 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.

15.6 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.

15.7 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 Voluntary Administrator.

15.8 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 nominated by the Deed Administrators in an endeavour to resolve the dispute.

15.9 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.

15.10 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.

15.11 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 to 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.

15.12 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.

15.13 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. In any such proceeding, the Disputing ROT Creditor's rights shall be limited to a claim for the cost price to the Company of Goods supplied by that ROT Creditor which have not been sold and were in the possession of the Company on the Appointment Date. Any ROT Creditor applying to the Court irrevocably consents to an expeditious hearing and determination of the ROT Claim and Priority ROT Amount by the Court.

15.14 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 15.8, 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.

15.15 Onus on ROT Creditor

Each ROT Creditor agrees and acknowledges that the onus is on it to prove:

- 15.15.1 the validity of its ROT Claim;
- 15.15.2 its ROT Claim Amount;
- 15.15.3 the cost price to the Company of Goods supplied by that ROT Creditor which have not been sold and were in the possession of the Company on the Appointment Date; and
- 15.15.4 the amount owing for Goods supplied by that ROT Creditor prior to the Appointment Date which has not been paid by the Company.

16 EMPLOYEES

Neither the Voluntary Administrators nor the Deed Administrators have, or are taken to have, adopted, ratified or in any other manner become personally liable to any Employee nor shall the Deed Administrators adopt, ratify or in any other manner become personally liable to any Employee, nor shall the Deed Administrators adopt, ratify or in any other manner become personally liable for the continued employment of any Employee by the Company.

17 TOP UP RETRENCHMENT BENEFIT CREDITOR

17.1 No Priority

All Top Up Retrenchment Benefit Claims by trustees of the Superannuation Funds shall be treated as an 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 in priority.

17.2 Deed Administrators' Consent

For the avoidance of doubt, the Deed Administrators consent to the Court determining whether the provisions of Clause 17.1 are oppressive or unfairly prejudicial to, or unfairly discriminatory against, one or more ~~any~~ creditors of the Company (in their capacity as Top Up Retrenchment Benefit Creditors) and should be severed from the Deed in accordance with Clause 30.

18 AIR NEW ZEALAND MOU

18.1 Air New Zealand MOU Releases

For the avoidance of doubt, the following provisions of this Clause 18 are intended merely to record the releases already given pursuant to the Air New Zealand MOU.

18.2 Air New Zealand Letter of Comfort Release

In consideration of the payment made pursuant to and the agreements contained in the Air New Zealand MOU, the Company, the Voluntary Administrators and the Deed Administrators have released the Air New Zealand Group and all of the Air New Zealand/Ansett Directors from all actions, claims and demands arising out of and/or relating directly or indirectly to the Air New Zealand Letter of Comfort, whether or not the Company, the Voluntary Administrators or the Deed Administrators were presently aware of the existence of such action, claim or demand.

18.3 Conditional Release of Air New Zealand Group and Air New Zealand/Ansett Directors

Subject to Clause 22 of the Air New Zealand MOU, in consideration of the payment made pursuant to and the agreements contained in the Air New Zealand MOU, the Company, the Voluntary Administrators and the Deed Administrators release the Air New Zealand Group and all of the Air New Zealand/Ansett Directors from all actions, claims and demands arising out of and/or relating directly or indirectly to:

- 18.3.1 the management or affairs of the Ansett Group;
- 18.3.2 any claims arising at common law, in equity or pursuant to statute including but not limited to the Act, the Corporations Law and the Trade Practices Act;
- 18.3.3 any claims arising in the administration of the Ansett Group;
- 18.3.4 any transactions or dealings between any company in the Ansett Group and any company in the Air New Zealand Group,

in all cases whether or not any company in the Ansett Group or the Voluntary Administrators or the Deed Administrators are presently aware of the existence of such action, claim or demand. This release does not operate to prevent or in any way hinder the return to the owner of aircraft assets or documents as contemplated by the Air New Zealand MOU.

18.4 Transfers in Blank of Shares in Ansett Group

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.

19 SPECIFIC REALISATIONS FOR COMPANY - PAYMENT OF CLAIMS

19.1 Funds for Distribution to Deed Creditors

The Company shall hold for its own benefit:

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

which shall constitute the Distribution Amounts.

19.2 Property Available to Pay Claims

Subject to the rights of any Secured Creditor or any Owner or Lessor referred to in Clause 11, the Distribution Amounts shall be available to pay Claims in accordance with the terms of the Deed.

19.3 Payment out of Distribution ~~Fund~~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:

- 19.3.1 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;
- 19.3.2 secondly, the Secured Creditors of that Ansett Group Company, to the extent that their Security is valid;
- 19.3.3 thirdly, Priority ROT Creditors of the Company in relation to their Priority ROT Amount;

- 19.3.4 fourthly, ~~(other than Top Up Retrenchment Benefit Creditors)~~ in the order of priority set out in section 556:
- 19.3.4.1 Employees of the Company;
- 19.3.4.2 the SEESA Payers in accordance with the terms of the SEESA Deed and the SEESA Payments Deed;
- 19.3.4.3 any trustee of a Superannuation Fund that is a Priority Creditor, to the extent of its Priority Amount (but, for the avoidance of doubt, excluding the amount of any Top Up Retrenchment Benefit Claim that trustee may have); and
- 19.3.4.4 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
- 19.3.5 fifthly (but subject to Clause 19.5), other Participating Creditors of the Company (including Top Up Retrenchment Benefit Creditors in respect 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.

19.4 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.

19.5 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 19 and prior to the distribution of any money to Participating Creditors (other than Priority Creditors) in accordance with Clause 19.3.5, the Deed

Administrators shall convene a meeting of creditors under Section 445F of the Act to consider:

- 19.5.1 any 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
- 19.5.2 in 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 Ansett website:

- 19.5.3 particulars of the proposed variation; and
- 19.5.4 such information which would be sent to Deed Creditors as if the meeting were a Second Meeting of Creditors under Section 439A of the Act.

19.6 Further Meetings of Creditors

- 19.6.1 Without limiting the operation of Clause 19.5, the Deed Administrators shall convene a further meeting of Deed Creditors within six months of the date of the Reconvened Meeting.
- 19.6.2 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.

19.7 Deed Administrators' Discretion

- 19.7.1 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 19.3.
- 19.7.2 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.



19.8 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.

19.9 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.

20 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.

21 POWERS OF ADMINISTRATORS

21.1 General Powers

The Deed Administrators shall be entitled in their capacity as Deed Administrators 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.

21.2 Specific Powers

Without limiting Clause 21.1, the Deed Administrators shall have the following powers:

- 21.2.1 the powers conferred on the shareholders of the Company to the exclusion of those shareholders;
- 21.2.2 the powers conferred on the directors of the Company to the exclusion of the Directors of those companies;
- 21.2.3 all of the powers set out in paragraph 2 of Schedule 8A of the Corporations Regulations;
- 21.2.4 the power to alter share capital;

- 21.2.5 the power to issue shares;
- 21.2.6 the power to vary class rights attaching to shares;
- 21.2.7 the power to change the Company's name;
- 21.2.8 the power to factor the debts of the Company;
- 21.2.9 the power to reduce the Company's capital;
- 21.2.10 the power to alter the Company's constitution;
- 21.2.11 the power to convene meetings of members of the Company;
- 21.2.12 the power to resolve any dispute of any nature commercially;
- 21.2.13 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;
- 21.2.14 the power to assign and transfer property, assets and rights and novate liabilities to another Ansett Group Company for the purposes maximizing the sale of assets;
- 21.2.15 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;
- 21.2.16 the power to control of the Company's business, property and affairs;
- 21.2.17 the power to carry on that business and manage that property and those affairs;
- 21.2.18 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
- 21.2.19 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; and



21.2.20 the power to sell or dispose of shares in the Company.

21.3 Power of Sale

In exercising any power of sale, the Deed Administrators must have regard to Section 442C of the Act and take all reasonable care 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.

21.4 Power to Engage Solicitors and Consultants

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

21.5 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, including (without limitation) any liabilities relating to any amounts payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of the Company.

22 TERMINATION OF DEED

22.1 Termination of the Deed Period

This Deed shall terminate on the Termination Date.

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

This Deed terminates:

22.2.1 upon Deed Creditors passing a resolution at a meeting of Deed Creditors to terminate the Deed;

22.2.2 when a Court makes an order under Section 445D; or

22.2.3 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.

22.3 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:

22.3.1 the Deed Administrators consider (in their sole discretion) that it is no longer practicable or reasonable to continue to implement the Deed; or

22.3.2 an order is made by a Court requiring the Deed Administrators to call a meeting of Deed Creditors.

22.4 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.

23 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.

24 ADMINISTRATORS' REMUNERATION AND COSTS

24.1 Voluntary Administrators' Remuneration

The Voluntary Administrators shall be:

24.1.1 remunerated by the Company 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

24.1.2 reimbursed by the Company 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.

24.2 Deed Administrators' Remuneration

The Deed Administrators shall be:

- 24.2.1 remunerated by the Company 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 as otherwise agreed by the Committee of Creditors and the Deed Administrators; and
- 24.2.2 reimbursed by the Company in respect of all costs, fees and expenses incurred in connection with the performance of their duties, obligations and responsibilities under this Deed.

25 VOLUNTARY AND DEED ADMINISTRATORS' INDEMNITY

25.1 Indemnity

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

- 25.1.1 all loss and damage suffered by them as a consequence of or arising out of the Company failing to comply with its obligations under Clauses 24.1 and 24.2;
- 25.1.2 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
- 25.1.3 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 payable by the Deed Administrators for services rendered, goods bought or property hired, leased, used or occupied by or on behalf of the



Company or by virtue of them agreeing to treat a payment obligation arising during the Deed Period as falling within this indemnity; and

- 25.1.4 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 and the Ansett Group.

25.2 Indemnity Not Affected

The indemnity under Clause 25.1 shall not affect or prejudice any rights that the Voluntary Administrators or Deed Administrators may have against the Company 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.

25.3 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:

- 25.3.1 cessation of the Voluntary Administration Period or the Deed Period;
- 25.3.2 the termination of this Deed for any reason whatsoever; and
- 25.3.3 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, and solely at the request of the Commonwealth, 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.

25.4 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 or the Deed Administrators:

25.4.1 is valid and effectual; and

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

26 COMMITTEE OF CREDITORS

26.1 Composition of Committee

26.1.1 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.

26.1.2 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.

26.2 Function

The function of the Committee of Deed Creditors shall be:

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

26.2.2 to receive and consider reports by the Deed Administrators; and

26.2.3 to consider and if appropriate agree with the Voluntary Administrators or the Deed Administrators (as the case may be) to vary the Voluntary Administrators' or the Deed Administrators' remuneration in accordance with Clauses 24.1 and 24.2.

26.3 No Directions to Deed Administrators

The Committee of Deed Creditors cannot give directions to the Deed Administrators.

26.4 Rules

The following rules apply to the Committee:

26.4.1 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;

26.4.2 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;

26.4.3 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;

26.4.4 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;

26.4.5 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

26.4.6 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.

26.5 No remuneration for members of the Committee

26.5.1 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 ~~Deed Administrators Committee~~ Committee in ~~their~~ 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.

26.5.2 For the avoidance of doubt, and solely at the request of the Commonwealth, the Deed Administrators acknowledge Clause 26.5.1, 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.

27 MEETINGS OF DEED CREDITORS

27.1 When Meeting may be Convened

The Deed Administrators:

27.1.1 may at any time convene a meeting of the Deed Creditors; and

27.1.2 shall convene a meeting of Deed Creditors if so requested in writing by creditors the value of whose claims against the Ansett Group as a whole is not less than ten percent (10%) of the value of all claims against the Ansett Group.

27.2 Voting at Meetings

Deed Creditors shall be entitled to vote at these meetings according to their admitted claims in the Company.

27.3 Concurrent Meetings

The Deed Creditors acknowledge that meetings of the creditors of all Ansett Group Companies will be held concurrently.

27.4 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.

27.5 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.

28 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.

29 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 and the parties hereby irrevocably submit to the jurisdiction of the Courts of the said State including any Courts having appellate jurisdiction therefrom.

30 SEVERANCE

Any provision of the Deed which:

30.1 Court order – unfair prejudice

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

30.2 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 30.2 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.



31 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.

32 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.

33 LIQUIDATION

Where:

33.1 Section 445F Meeting

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

33.2 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.

34 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.

~~35 WINDING UP~~

~~If the Company is wound up by the Court, the Deed Creditors irrevocably consent to the Deed Administrators being appointed the Liquidator of the Company.~~

3635 DIRECTORS, OFFICERS AND OTHER PERSONS NOT RELEASED

None of the releases contained in the Deed:



36.135.1 No Release or Waiver of Company's Officers or Other Companies

except as provided in Clause 18, constitutes a release or waiver of a claim that the Company, any Deed Creditor or the Deed Administrators have against any director or officer of the Company or any other company;

36.235.2 No Prejudice of Rights of ATO

applies to or in any way prejudices the rights of the ATO against the directors of the Company or any other company arising under Division Nine of Part VI of the Income Tax Assessment Act 1936 or the Taxation Administration Act 1953;

36.335.3 No Prejudice of Rights of Secured Creditors, Lessors or Deed Creditors

applies to or in any way prejudices the rights of the Secured Creditors, Lessors or Deed Creditors against the directors of the Company or any other company; or

36.435.4 No Effect on Rights of ASIC

affects any of the rights or powers of or causes of action ASIC may have directly or indirectly.

3736 GUARANTEES

The Deed shall not affect or vary any guarantee given by any person to the Deed Creditors other than the Company bound by the Deed.

3837 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.

3938 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.

4039 APPLICATION TO COURT

40.139.1 Directions

The Deed Administrators may at any time apply to the Court for directions in relation to any particular matter arising under this Deed.

40.239.2 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.

4140 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.

4241 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.

4342 NOTICES

All notices, requests, demands, requisitions, approvals, elections, consents or other communications ("notices") required to be given or served or 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:

43.142.1 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

43.242.2 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.

4443 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.

EXECUTED as a Deed.

[INSERT EXECUTION CLAUSE FOR RELEVANT ANSETT GROUP COMPANY]



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)

SCHEDULE 1

ANSETT COMPANIES

	ACN
1. 501 Swanston Street Pty Limited (Administrators Appointed)	005 477 618
2. Aeropelican Air Services Pty Limited (Subject to a Deed of Company Arrangement)	000 653 083
3. Airport Terminals Pty Limited (Administrators Appointed)	053 976 444
4. Aldong Services Pty Limited (Administrators Appointed)	000 258 113
5. Ansett Aircraft Finance Limited (Administrators Appointed)	008 643 276
6. Ansett Australia and Air New Zealand Engineering Services Limited (Administrators Appointed)	089 520 696
7. Ansett Australia Holdings Limited (Administrators Appointed)	004 216 291
8. Ansett Australia Limited (Administrators Appointed)	004 209 410
9. Ansett Aviation Equipment Pty Limited (Administrators Appointed)	008 559 733
10. Ansett Carts Pty Limited (Administrators Appointed)	005 181 215
11. Ansett Equipment Finance Limited (Administrators Appointed)	006 827 989
12. Ansett Finance Limited (Administrators Appointed)	006 555 166
13. Ansett Holdings Limited (Administrators Appointed)	065 117 535
14. Ansett International Limited (Administrators Appointed)	060 622 460
15. Bodas Pty Limited (Administrators Appointed)	002 158 741
16. Brazson Pty Limited (Administrators Appointed)	055 259 008
17. Eastwest Airlines (Operations) Limited (Administrators Appointed)	000 259 469
18. Eastwest Airlines Limited (Administrators Appointed)	000 063 972
19. Kendell Airlines (Aust) Pty Limited (Administrators Appointed)	000 579 680
20. Morael Pty Limited (Administrators Appointed)	003 286 440

ACN

21. Northern Airlines Limited (Administrators Appointed)	009 607 069
22. Northern Territory Aerial Work Pty Limited (Administrators Appointed)	009 611 321
23. Rock-It-Cargo (Aust) Pty Limited (Administrators Appointed)	003 004 126
24. ANST Show Pty Limited (formerly Show Group Pty Limited) (Administrators Appointed)	002 968 989
25. ANST Westsky Aviation Limited (formerly Skywest Aviation Limited) (Subject to Deed of Company Arrangement)	004 444 866
26. ANST Westsky Holdings Pty Ltd (formerly Skywest Holdings Pty Limited) (Subject to Deed of Company Arrangement)	008 905 646
27. ANST Westsky Jet Charter Pty Ltd (formerly Skywest Jet Charter Pty Limited) (Subject to Deed of Company Arrangement)	008 800 155
28. South Centre Maintenance Pty Limited (Administrators Appointed)	007 286 660
29. Spaca Pty Limited (Administrators Appointed)	006 773 593
30. Traveland International (Aust) Pty Limited (Administrators Appointed)	000 275 936
31. ANST Travel International Pty Limited (formerly Traveland International Pty Limited) (Administrators Appointed)	000 598 452
32. Traveland New Staff Pty Limited (Administrators Appointed)	080 739 037
33. ANST Travel Pty Limited (formerly Traveland Pty Limited) (Administrators Appointed)	000 240 746
34. Walgali Pty Limited (Administrators Appointed)	055 258 921
35. Westintech Limited (Administrators Appointed)	009 084 039
36. Westintech Nominees Pty Limited (Administrators Appointed)	009 302 158
37. Whitsundays Affairs Pty Limited (Administrators Appointed)	009 694 553
38. Whitsunday Harbour Pty Limited (Administrators Appointed)	010 375 470
39. Wridgways Holdings Limited (Administrators Appointed)	004 449 085
40. Wridgways (Vic) Pty Limited (Administrators Appointed)	004 153 413

EXHIBIT 1

SEESA DEED

EXHIBIT 12

SEESA DEED

|

14/12/2001 17:05
14-DEC-2001 14:37

ANSETT NETWORK/SCHEDULE PLANNING → 00262767859
FROM ABL

NO. 222

Commonwealth of Australia

eligible companies

Mark Mentha and Mark Kott

The SEESA De

Arnold Bloch Leib
[Ref: LZIRAP 01-12064
#1172

THIS DEED is made the 14th day of DECEMBER 2001

BETWEEN:

COMMONWEALTH OF AUSTRALIA ("the Commonwealth")

ANSETT HOLDINGS LIMITED (ADMINISTRATORS APPOINTED) (ACN 068 117 535) and each of the other Ansett Group companies listed in the determination made pursuant to s.22 of the *Air Passenger Ticket Levy (Collection) Act 2001* ("the Determination") other than Hazelton Airlines Limited, Hazelton Air Charter Pty Ltd and Hazelton Air Services Pty Ltd, C/- Andersen, Level 17, 360 Elizabeth Street, Melbourne, Victoria (collectively "the eligible companies")

MARK MENTHA and MARK KORDA as voluntary administrators of each company in the eligible companies C/- Andersen, Level 17, 360 Elizabeth Street, Melbourne, Victoria ("the Administrators")

WHEREAS:

- A On 17 September 2001 the Administrators were appointed the voluntary administrators of the eligible companies by order of Justice Goldberg in the Federal Court of Australia.
- B The Administrators are under a duty pursuant to Section 435A of the *Corporations Act 2001* ("the Act") to maximise the chances of the Ansett business remaining in existence or to maximise the return to creditors of the eligible companies, including its employees.
- C The Commonwealth has, under the *Air Passenger Ticket Levy (Collection) Act 2001*, established a Special Employee Entitlement Scheme for eligible companies employees ("the Scheme").
- D On or about 17 October 2001, the Administrators invited eligible companies employees to apply for redundancy, and the Administrators have and will continue to selectively accept applications from employees who wish to take a redundancy.
- E This Deed sets out an agreed basis on which the Commonwealth, or any party contracted by the Commonwealth for the purpose of making payments under the Scheme (hereafter, where the context permits, a reference to the Commonwealth will include a reference to such a party) will make payments under the Scheme to the Administrators.
- F It is intended that anything required to be done under this Deed will be done consistently with the Scheme.

NOW THIS DEED PROVIDES AS FOLLOWS:**1 INTERPRETATION****1.1 Interpretation**

In this Deed, except to the extent that the subject or the context otherwise requires:

- 1.1.1 when used in this Deed, any term defined or referred to in the *Air Passenger Ticket Levy (Collection) Act 2001*, or in the Determination, shall, unless the contrary intention appears, have the same meaning as provided under that Act or instrument as the case may be;
- 1.1.2 "Entitlement Payments" means those payments referred to in Part 4 of the Determination;
- 1.1.3 reference to any legislation or to any provision of any legislation shall include any modification or re-enactment of, or any legislative provision substituted for, and all legislation and statutory instruments issued under, such legislation or such provision and shall include the corresponding legislation in such other State or Territory of the Commonwealth of Australia as may be relevant from time to time;
- 1.1.4 words (including words defined in this Deed) denoting the singular number shall include the plural and vice versa;
- 1.1.5 words importing natural persons will (where appropriate) include corporations, firms, unincorporated associations, partnerships, trusts and any other entities recognised by law and vice versa;
- 1.1.6 words denoting any gender shall include all genders;
- 1.1.7 words "written" and "in writing" include any means of visible reproduction of words in a tangible and permanently viable form;
- 1.1.8 references to Clauses, Schedules and Recitals are references to the clauses, schedules and recitals of this Deed;
- 1.1.9 references to parties are references to the parties to this Deed;
- 1.1.10 references to any document or agreement shall be deemed to include references to such document or agreement as novated, supplemented, varied or replaced from time to time.

14/12/2001 17:05
14-DEC-2001 14:37

ANSETT NETWORK/SCHEDULE PLANNING → 00262767859
FROM ABL

NO. 222

3

1.2 Headings

The headings in this Deed are for the purpose of more convenient reference only and shall not form part of this Deed or affect its construction or interpretation.

1.3 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.

1.4 Payments to or by Administrators

A payment made to or by the Administrators pursuant to this Deed is a payment made to or by the Administrators acting on behalf of the eligible company.

2

CONDITION PRECEDENT

2.1 This Deed (other than the provisions of Clauses 2.1 and 2.2) is conditional upon the Federal Court of Australia making an order or direction to the effect that :

2.1.1 the Administrators may properly and justifiably execute this Deed or the terms of this Deed are approved; and

2.1.2 Part 5.3A of the Act is to operate as if it provided that the Entitlement Payments are debts incurred by the Administrators in the performance or exercise of their functions and powers as Administrators and for which the Administrators will not be personally liable to repay unless and to the extent that the Administrators have assets available to them to do so and on the basis that such repayments are to have the priority equal to the priority the Commonwealth would have received, under s.560 of the Act, in any winding up of a company, had it advanced a payment of the kind contemplated by s.560 of the Act.

on or before 10 December 2001 (or such other date as the Administrators and the Commonwealth may agree in writing).

2.2 The parties will use their best endeavours to satisfy the condition precedent in Clause 2.1 including:

2.2.1 the Administrators making prompt application to the Federal Court of Australia; and

2.2.2 making and filing in support of the application any affidavit material reasonably required by any party to this Deed.

2.3 For the avoidance of doubt the Administrators will not be personally liable to repay any amounts to the Commonwealth.

2.4 If the Administrators make a payment to an eligible employee of his or her entitlements where the payment is sourced from a Scheme Payment, the Administrators, the eligible companies and the Commonwealth agree that:

2.4.1 In the administration or liquidation of the eligible company or, subject to Clause 2.6, under any Deed of Company Arrangement entered into by that eligible company, the Commonwealth will have a priority equal to the priority the Commonwealth would have received, under s.560 of the Act, in any winding up, had it advanced a payment of the kind contemplated by s.560 of the Act.

2.5 If the Administrators decide to recommend that each eligible company enter into a Deed of Company Arrangement, the Deed of Company Arrangement which the Administrators recommend will:

2.5.1 seek to "pool" all of the assets and liabilities of the eligible companies, so that for the purposes of the Deed all eligible companies are treated as one company; and

2.5.2 otherwise be consistent with the provisions of this Deed (and in particular the incorporation of the priority regime contemplated under sections 556 and 560 of the Corporations Act in the manner provided for in this Deed).

2.6 If any eligible companies enters into a Deed of Company Arrangement which incorporates a priority regime other than as contemplated by Clause 2.5.2, then the parties agree that Entitlement Payments received by the Administrators will constitute an expense properly incurred by the Administrators in the administration of the eligible company, and will be afforded a priority equal to the priority the Commonwealth would have received, under s.560 of the Act, in any winding up of a company, had it advanced a payment of the kind contemplated by s.560 of the Act.

2.7 The Administrators undertake that they will not recommend to eligible company creditors pursuant to Section 439A(4) of the Corporations Act that it would be in the creditors' interests for the company to execute a Deed of Company Arrangement other than one which contains a payment for the Commonwealth consistent with the terms of this Deed.

2.8 The Administrators acknowledge that if a Deed of Company Arrangement is approved that subordinates the Commonwealth's priority to repayment other than in accordance with the terms of this Deed that the Commonwealth will have suffered substantial injustice.

3 PAYMENT IN LIEU OF NOTICE

3.1 The Administrators have already paid, and will continue to pay, eligible employees certain payments in lieu of notice in accordance with arrangements agreed to by the Commonwealth on or around 14 October 2001.

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3.2 The parties acknowledge that the payments referred to in Clause 3.1 have been made, and will continue to be made in accordance with that agreement.

4 NOTICES

All notices, requests, demands, requisitions, approvals, elections, consents or other communications ("notices") authorised or required to be made to or by a party under or in connection with this Deed shall be in writing and may be given by facsimile or hand to or upon the recipient at the address of such party as follows:

If to the Commonwealth -

Address: Department of Employment, Workplace Relations and Small Business, Canberra

Facsimile: (02) 6276 8889

Attention: Leslie M Riggs

If to the Administrators or the eligible companies -

Address: C/- Anderson, 360 Elizabeth Street, Melbourne

Facsimile: (03) 9286 8400

Attention: Mark Mentha and Mark Korda

cc: Leon Zwier, Arnold Bloch Leibler

Address: Level 21, 333 Collins Street, Melbourne

Facsimile: (03) 9229 8800

or to or at any other address or facsimile number as the recipient may have notified the sender and may be signed by an Authorised Officer of the sender. Any notice is deemed to have been given and received:

4.1 if delivered by hand at or before 4.30 p.m. to a party's address on a Business Day on that day, otherwise at 9.30 a.m. on the next Business Day following the day of delivery;

4.2 if given by facsimile at or before 4.30 p.m. on a Business Day on the day of transmission, otherwise at 9.30 a.m. on the next Business Day following the day of transmission, in both circumstances only if a complete transmission report is received by the sender.

5 WAIVER

The waiver by any party of a breach or default by any other party of any of the provisions of this Deed shall not be construed as a waiver of any succeeding breach or default of the same or any other provisions of this Deed and shall not impair the exercise of any rights accruing to it under this Deed after that waiver; nor shall any delay or omission on the part of any of the parties to exercise or avail itself of any rights accruing to it under this Deed operate as a waiver of any breach or default by any of the other parties of any of the provisions of this Deed.

14/12/2001 17:05
14-DEC-2001 14:38

ANSETT NETWORK/SCHEDULE PLANNING → 00262767859
FROM ABL TO 0962335304442

NO. 222
P. 008

6 GOVERNING LAW

This Deed shall be governed by and construed in accordance with the laws for the time being in force in the State of Victoria and the parties irrevocably submit to the jurisdiction of the Courts of that State including any Courts having appellate jurisdiction from those Courts.

7 SUCCESSORS

The Parties agree that:

- 7.1 any person contracted by the Commonwealth for the purpose of making payments under the Scheme;
- 7.2 any other administrator appointed to any eligible companies company;
- 7.3 any liquidator appointed to any eligible companies company;
- 7.4 any administrator of a Deed of Company Arrangement entered into by any eligible companies company.

will enjoy the rights and be subject to the obligations under this Deed.

8 FURTHER ASSURANCES

8.1 Each party must exercise all such powers as are available to it, do all such acts, matters and things and sign, execute and deliver all such documents and instruments as may be necessary or reasonably required to give full force and effect to the provisions of this Deed.

EXECUTED as a Deed.

SIGNED SEALED AND DELIVERED by
~~MARK MENTHA and MARK KORDA~~ for and
on behalf of each of the eligible companies in
the presence of:

[Handwritten Signature]

Signature of Witness

LEON ZWIER

Name of Witness (BLOCK LETTERS)

[Handwritten Signature]

SIGNED SEALED AND DELIVERED by
MARK MENTHA in the presence of:

[Handwritten Signature]

Signature of Witness

[Handwritten Signature]

14/12/2001 17:05
14-DEC-2001 14:39

ANSETT NETWORK/SCHEDULE PLANNING → 00262767859
FROM ABL TO 096233590#442

NO. 222 6
P. 09

DANIEL JON POIND.
Name of Witness (BLOCK LETTERS)

SIGNED SEALED AND DELIVERED by
MARK KORDA in the presence of:
by his attorney Mark Korda under power.

John
Signature of Witness

[Handwritten signature]

LEON ZWIER
Name of Witness (BLOCK LETTERS)

SIGNED SEALED AND DELIVERED on
behalf of the Commonwealth by
DR PETER SHERGOLD AM, SECRETARY
OF THE DEPARTMENT OF EMPLOYMENT
AND WORKPLACE RELATIONS in the
presence of:

[Handwritten signature]
Signature of Witness

[Handwritten signature]

MICHAEL STAYWARD
Name of Witness (BLOCK LETTERS)

EXHIBIT 2

SEESA PAYMENTS DEED

- 8 -

SEES PTY LIMITED

AND

**MARK KORDA AND MARK MENTHA
ADMINISTRATORS OF ANSETT GROUP**

SEES ADMINISTRATION AND LOAN AGREEMENT

GDR1218101



solicitors

Level 34
St. Martins Tower
31 Market Street
Sydney NSW 2000
DX 1069 Sydney
Telephone (02) 9265 3000
Facsimile (02) 9261 5910

ADMINISTRATION AND LOAN DEED OF AGREEMENT

THIS Administration and Loan Deed is made the 18th day of December 2001

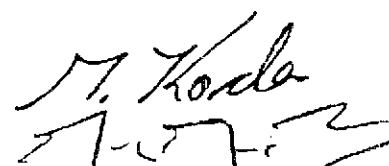
BETWEEN: SEES PTY LTD of Level 3, 31 Market Street, Sydney NSW (ABN 35 098 586 308) ("SEES")

ANSETT HOLDINGS LIMITED (ADMINISTRATORS APPOINTED) (ACN 065 117 535) and each of the other Ansett Group companies listed in the determination made 4 December 2001 pursuant to s.22 of the *Air Passenger Ticket Levy (Collection Act 2001* ("the Determination") other than Hazelton Airlines Limited, Hazelton Air Charter Pty Ltd and Hazelton Air Services Pty Ltd, C/- Andersen, Level 17, 360 Elizabeth Street, Melbourne, Victoria (collectively "the eligible companies" and separately, "the eligible company")

MARK MENTHA and **MARK KORDA** as voluntary administrators of each company in the eligible companies C/- Andersen, Level 17, 360 Elizabeth Street, Melbourne, Victoria ("the Administrators")

BACKGROUND

- A. On 17 September 2001 the Administrators were appointed the voluntary administrators of the eligible companies by order of Justice Goldberg in the Federal Court of Australia.
- B. Pursuant to Section 435A of the *Corporations Act 2001*, the Administrators are required to maximise the chances of the Ansett Group businesses remaining in existence or to maximise the return to creditors of the eligible companies, including its employees.
- C. The Commonwealth has, under the Act, established a Special Employee Scheme for eligible companies employees ("the Scheme") and engaged SEES under the DEWR Agreement, as service provider to the Commonwealth, to arrange and manage the provision of funds to the Administrators and eligible companies pursuant to and for the purposes of the Scheme consistently with the Determination and ss 556 and 560 of the *Corporations Act 2001*.
- D. On or about 17 October 2001, the Administrators invited eligible companies' employees to apply for redundancy, and the Administrators have accepted and will continue selectively to accept applications from employees who wish to take a redundancy and may need to terminate employment of others from time to time.
- E. By Application made 3 December 2001 to the Federal Court of Australia in proceeding no 3083 of 2001, the Administrators sought orders and directions from the Court as to the nature of and priority to be accorded to the entitlement payments to be made to eligible employees pursuant to the Scheme. On 14 December 2001,



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the Honourable Justice Goldberg made orders in proceeding no V3083 of 2001, a copy of which is attached to this Deed as Annexure "A" ("the Court Orders").

- F. This Deed sets out an agreed basis on which the SEES, as service provider to the Commonwealth, will lend money to the Administrators under and for the purposes of the Scheme and pursuant to the Court Orders.
- G. It is intended that anything required to be done under this Deed will be done consistently with the Scheme and the Court Orders.

1 Definitions and Interpretation

- 1.1 In this Deed, unless the subject or context requires otherwise, any term used but not defined in this Deed which is defined or referred to in the Act or in the Determination shall have the same meaning as provided under the Act or the Determination. Otherwise,:

"Act" means the Air Passenger Ticket Levy (Collection) Act 2001;

"Advance" means the advance or advances by way of loan made or to be made under this Deed for the purposes of the Scheme consistently with the Court Orders ;

"Ansett Group" means the group of companies referred to in the Determination as "eligible companies" and **Ansett Company** refers to a company within the Ansett Group;

"Commonwealth" means the Commonwealth of Australia;

"DEWR" the Commonwealth Department of Employment and Workplace Relations or such other government agency or department as may, from time to time, administer this Deed on behalf of the Commonwealth

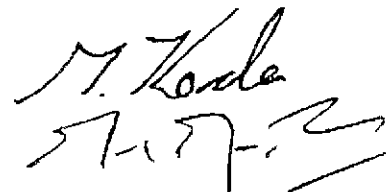
"DEWR Agreement" means the agreement dated about 17 December 2001 between the SEES and the Commonwealth under which DEWR on behalf of the Commonwealth engaged SEES to lend monies to the Administrators for the purpose of the Scheme as part of SEES providing services to the Commonwealth;

"Eligible Employee Payment" means those payments referred to in Part 4 of the Determination

"Minister" means the Minister of the Commonwealth from time to time administering the Scheme;

"Determination" means the determination relating to the Scheme, made by the Minister for Employment, Workplace Relations on 4 December 2001 in accordance with section 22 of the Act or as later altered from time to time;

"Scheme" means the special Employee Entitlements Scheme for Ansett Group's Eligible Employees as is the subject of the Determination;



1.2 In this Deed, unless the contrary intention appears:

- (a) words in the singular number include the plural and words in the plural number include the singular; and
- (b) words importing a gender include any other gender; and
- (c) words importing persons include a partnership and a body whether corporate or otherwise; and
- (d) clause headings, words capitalised or in bold format and notes in square brackets ("[]") are inserted for convenience only, and have no effect in limiting or extending the language of provisions, except for the purpose of rectifying any erroneous cross-reference; and
- (e) all references to clauses are clauses in this Deed; and
- (f) all references to dollars are to Australian dollars and this Deed uses Australian currency; and
- (g) reference to any statute or other legislation (whether primary or subordinate) is to a statute or other legislation of the Commonwealth and, if it has been or is amended, is a reference to that statute or other legislation as amended; and
- (h) 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.

1.3 In the event of any conflict or inconsistency between the terms of this Deed and the Court Orders, the Court Orders take precedence.

2 MAKING OF ADVANCE

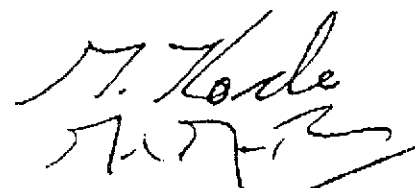
2.1 Subject to this Deed upon request in a form and substance acceptable to the Commonwealth SEES will immediately upon the Commonwealth approving the advance of monies lend money to the Administrators to allow payment of Eligible Employee Payments in respect of the Eligible Employees the subject of the request.

4 PROVISION OF INFORMATION

4.1 The Administrators acknowledge that they must provide SEES with access and information reasonably required by SEES, as service provider to the Commonwealth, to satisfy its obligations to the Commonwealth and will use their best endeavours to provide the Commonwealth, as a creditor of the Ansett Group, such information as it may from time to time require for the Commonwealth to approve payment / advance of funds under this Deed.

5 INTEREST AND RECOURSE

5.1 Interest shall not be payable by the Administrators in respect of the Advance pursuant to this Deed in implementation of the Scheme.



6 REPAYMENT AND PRIORITY

- 6.1 Subject to clause 3 (b) (1) of the Court Orders the Administrators will not be personally liable to repay any amounts to SEES.
- 6.2 The Administrators may from time to time repay to SEES into the account for payment nominated by SEES and approved by its banker all or part of the Advance in accordance with the priority afforded pursuant to the Court Orders .
- 6.3 To the extent the Administrators make a payment to an Eligible Employee of his or her entitlements pursuant to this Deed and the Court Orders, the Administrators and the eligible companies acknowledge that those funds are lent for the purposes of the Scheme and agree with SEES that in the administration or liquidation of any member of the Ansett Group or, subject to Clause 6.5, under any deed of company arrangement entered into by that member of the Ansett Group, SEES will have a priority equal to the priority available under ss.556 and 560 of the *Corporations Act 2001*, in any winding up;
- 6.4 If the Administrators decide to recommend that each member of the Ansett Group enter into a deed of company arrangement, the deed of company arrangement which the Administrators recommend;
- (a) May seek to "pool" all of the assets and liabilities of the eligible companies, so that for the purposes of the deed all eligible companies are treated as one company; and
 - (b) Will otherwise be consistent with the provisions of this Deed (and in particular the incorporation of the priority regime contemplated under sections 556 and 560 of the *Corporations Act* in the manner provided for in arrangements between the Commonwealth and the Administrators and consistently with the Court Orders).
- 6.5 If any eligible companies enters into a Deed of Company Arrangement which incorporates a priority regime other than as contemplated by Clause 6.3 and the Court Orders, then the parties agree that advances for Eligible Entitlement Employee Payments received by the Administrators will constitute an expense properly incurred by the Administrators in the administration of any member of the Ansett Group, and will be afforded a priority equal to the priority SEES would have received, under ss. 566 and 560 of the *Corporations Act 2001*, in any winding up of a company.
- 6.6 The Administrators will not recommend to any Ansett Group company creditors pursuant to Section 439A(4) of the *Corporations Act 2001* that it would be in the creditors' interests for the company to execute a deed of company arrangement other than one which contains provision for payment consistent with the terms of this Deed and the Court Orders.
- 6.7 The Administrators acknowledge that, if a deed of company arrangement is approved that subordinates the SEES' priority to repayment other than in accordance with the terms of this Deed and the Court Orders, SEES will have suffered substantial injustice.

M. Loda
21/5/02

7. NOTICES

All notices, requests, demands, consents, approvals, agreements or other communications to or by a party to this Deed shall be in writing addressed to the address of the recipient shown in this Deed or to any other address it may have notified the sender and be deemed to be duly given or made when delivered (by mail, facsimile transmission or hand delivery) at that address.

8. GOVERNING LAW AND JURISDICTION

This Deed is governed by the laws of Victoria and the parties irrevocably submit to the non-exclusive jurisdiction of its courts.

9. FURTHER ASSURANCES

Each party must exercise all such powers as are available to it, do all such acts, matters and things and sign, execute and deliver all such documents and instruments as may be necessary or reasonably required to give full force and effect to the provisions of this Deed.

IN WITNESS the parties have executed this Deed of Agreement

EXECUTED as a Deed.

SIGNED SEALED AND DELIVERED by)
MARK MENTHA and **MARK KORDA** for)
and on behalf of each of the eligible)
companies in the presence of:

[Handwritten signature]

Signature of Witness

LEON ZWIER.

Name of Witness (BLOCK LETTERS)

[Handwritten signatures of Mark Mentha and Mark Korda]

SIGNED SEALED AND DELIVERED by)
MARK MENTHA in the presence of:)

[Handwritten signature]

Signature of Witness

LEON ZWIER

Name of Witness (BLOCK LETTERS)

[Handwritten signature of Mark Mentha]

SIGNED SEALED AND DELIVERED by)
MARK KORDA in the presence of:)
)

[Handwritten signature]

[Handwritten signature: M. Korda]

Signature of Witness

LEON ZWIET.

Name of Witness (BLOCK LETTERS)

EXECUTED for and on behalf of)
SEES PTY LIMITED)
in accordance with its Constitution)
and section 127 of the Corporations)
Act 2001)

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Annexure A

Court Orders

IN THE FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY

V 3083 of 2001

IN THE MATTER OF:

ANSETT AUSTRALIA LIMITED
(ACN 004 209 410) & ORS
(All Administrators Appointed)
(see attached Schedule)

AND

MARK FRANCIS XAVIER MENTHA and
MARK ANTHONY KORDA
(As Administrators)

Plaintiffs

ORDER

JUDGE: GOLDBERG J
DATE: 14 DECEMBER 2001
PLACE: MELBOURNE

THE COURT ORDERS THAT:

1. Pursuant to s 447A of the *Corporations Act* 2001 (Cth) ("the Act"), Pt 5.3A of the Act is to operate in relation to each of the companies set out in the schedule to this order as if s 443A(1)(a) provided that:
 - (a) entitlement payments made to the plaintiff administrators ("the administrators") pursuant to a Determination dated 4 December 2001 by the Minister for Employment and Workplace Relations under s 22(1) of the *Air Passenger Ticket Levy (Collection) Act* 2001 (Cth), which is Exhibit "LZ-2" to the Affidavit of Leon Zwier sworn 10 December 2001, are debts incurred by the administrators in the performance and exercise of their functions and powers as administrators of each of the said companies for services rendered;
 - (b) Notwithstanding sub-par (a):
 - (i) if the administrators' indemnity under s 443D of the Act is insufficient to meet any such debt, the administrators will not be personally liable to repay such debt to the extent of that insufficiency;
 - (ii) to the repayment of such debts to the Commonwealth of Australia by the entity making the entitlement payments, the debts are given the same priority in the payment of any debts of the applicable company during the administration of the applicable company as if the applicable company had been in liquidation and the debts had the priority governed and provided for under ss 556 and 560 of the Act.



2. Pursuant to s 447A of the Act, s 447D(1) of the Act is to operate in relation to the said companies so that in an application by the administrators for directions pursuant to s 447D(1) in relation to a deed proposed to be executed by the administrators and the Commonwealth of Australia ("the Deed"), the Court may give a direction that the administrators may properly and justifiably execute and give effect to the Deed insofar as it includes provisions substantially in the form of the provisions set out in par 3 hereof.
3. Pursuant to s 447D(1) of the Act, as it operates in accordance with par 2 of this order, the Court directs that the administrators may properly and justifiably execute and give effect to the Deed insofar as it includes provisions substantially in the form of the following provisions:
- (a) entitlement payments made pursuant to the Determination dated 4 December 2001 under s 22(1) of the *Air Passenger Ticket Levy (Collection) Act 2001* (Cth), which is Exhibit "LZ-2" to the Affidavit of Leon Zwier sworn 10 December 2001, are debts incurred by the administrators in the performance and exercise of their functions and powers as administrators of each of the said companies for services rendered;
- (b) Notwithstanding sub-par (a):
- (i) if the administrators' indemnity under s 443D of the Act is insufficient to meet any such debt, the administrators will not be personally liable to repay such debt to the extent of that insufficiency;
- (ii) as to the repayment of such debts to the Commonwealth of Australia or the entity making the entitlement payments, the debts are given the same priority in the payment of any debts of the applicable company during the administration of the applicable company as if the applicable company had been in liquidation and the priority had been governed and provided for under ss 556 and 560 of the Act.
- (c) If the administrators decide to recommend that each of the said companies enter into a deed of company arrangement, the deed of company arrangement which the administrators recommend will be consistent with the incorporation of the priority regime provided for under ss 556 and 560 of the Act;
- (d) If any of the said companies enters into a deed of company arrangement which incorporates a priority regime other than as provided by sub-par (c), then entitlement payments received by the administrators will constitute an expense properly incurred by the administrators in the administration of such company for services rendered and will be afforded nonetheless by force of the order of the Federal Court of Australia on 14 December 2001 a priority equal to the priority the Commonwealth of Australia or the entity making the entitlement payments would have received under s 560 of the Act in any winding up of the company had it advanced a payment of the kind contemplated by s 560 of the



(e) The administrators will not express the opinion to the creditors of the said companies pursuant to s 439A(4) of the Act or recommend to them that it would be in the creditors' interests for the company to execute a deed of company arrangement other than one which provides for repayment to the Commonwealth of Australia or the said entity consistently with sub-pars (a)-(d).

4. The costs of the administrators, the Commonwealth of Australia, the ACTU and other relevant Unions and the Trustees of the Ansett Australia Ground Staff Superannuation Plan Pty Ltd, Ansett Australia Pilots/Management Superannuation Plan Pty Ltd, Ansett Australia Accumulation Payment Pty Ltd and Ansett Flight Attendants Superannuation Plan Pty Ltd be costs in the administration of the said companies.

Date entered: 14 December 2001



SCHEDULE

Ansett Australia Limited (ACN 004 209 410)
501 Swanston Street Pty Ltd (ACN 005 477 618)
Aeropelican Air Services Pty Ltd (ACN 000 653 083)
Airport Terminals Pty Ltd (ACN 053 976 444)
Aldong Services Pty Limited (ACN 000 258 113)
Ansett Aircraft Finance Limited (ACN 008 643 276)
Ansett Australia Holdings Limited (ACN 004 216 291)
Ansett Aviation Equipment Pty Ltd (ACN 008 559 733)
Ansett Carts Pty Limited (ACN 055 181 215)
Ansett Equipment Finance Limited (ACN 006 827 989)
Ansett Finance Limited (ACN 006 555 166)
Ansett Holdings Limited (ACN 065 117 535)
Ansett International Limited (ACN 060 622 460)
Ansett Australia and Air New Zealand Engineering Services Ltd (ACN 089 520 696)
Bodas Pty Ltd (ACN 002 158 741)
Brazson Pty Limited (ACN 055 259 008)
Eastwest Airlines (Operations) Ltd (ACN 000 259 469)
Eastwest Airlines Limited (ACN 000 063 972)
Kendell Airlines (Aust) Pty Ltd (ACN 000 579 680)
Moraal Pty Ltd (ACN 003 286 440)
Northern Airlines Limited (ACN 009 607 069)
Northern Territory Aerial Work Pty Limited (ACN 009 611 321)
Rock-it-Cargo (Aust) Pty Ltd (ACN 003 004 126)
Show Group Pty Ltd (ACN 002 968 989)
Skywest Airlines Pty Ltd (ACN 008 997 662)
Skywest Aviation Limited (ACN 004 444 866)
Skywest Holdings Pty Ltd (ACN 008 905 646)
Skywest Jet Charter Pty Ltd (ACN 008 800 155)
South Centre Maintenance Pty Ltd (ACN 007 286 660)
Spaca Pty Ltd (ACN 006 773 593)
Traveland International (Aust) Pty Limited (ACN 000 275 936)
Traveland International Pty Limited (ACN 002 275 936)



Traveland New Staff Pty Ltd (ACN 080 739 037)
Traveland Pty Limited (ACN 000 240 746)
Walgali Pty Ltd (ACN 005 258 921)
Westintech Limited (ACN 009 084 039)
Westintech Nominees Pty Ltd (ACN 009 302 158)
Whitsunday Affairs Pty Ltd (ACN 009 694 553)
Whitsunday Harbour Pty Limited (ACN 010 375 470)
Wridgway Holdings Limited (ACN 004 449 085)
Wridgways (Vic) Pty Ltd (ACN 004 153 413)
(All Administrators Appointed)



EXHIBIT 3

**STATEMENT OF CLAIM IN VICTORIAN SUPREME COURT
PROCEEDING NO. 2115/01**

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

F. 5382
BETWEEN:

No. 2115 of 2001

ANSETT AUSTRALIA GROUND STAFF SUPERANNUATION PLAN PTY LTD
(ACN 065 590 178) (as trustee of the Ansett Australia Ground Staff Superannuation Plan) and **ANSETT AUSTRALIA PILOTS/MANAGEMENT SUPERANNUATION PLAN PTY LTD** (ACN 065 590 043) (as trustee of the Ansett Transport Industries Limited Pilots/Management Superannuation Plan)

Plaintiffs

and

ANSETT AUSTRALIA LIMITED (Administrators Appointed) (ACN 004 209 410) AND OTHERS ACCORDING TO THE SCHEDULE ATTACHED

Defendants

SECOND AMENDED ORIGINATING MOTION BETWEEN
PARTIES
Amended pursuant to the order of the Honourable Justice
Warren made on 15 March 2002

Date of document:
Filed on behalf of:

21 March 2002
The plaintiffs

Prepared by:
DEACONS
Lawyers
385 Bourke Street
MELBOURNE VIC 3000

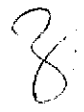
Solicitors code: 370
DX 445
Tel: (03) 8686 6000
Ref: P E Cash

TO THE DEFENDANTS:

TAKE NOTICE that this proceeding by originating motion has been brought against you by the plaintiffs for the relief or remedy set out below.

IF YOU INTEND TO DEFEND the proceeding you must attend before the Court at the time and place named in the summons served with this originating motion.

FILED

A handwritten signature in black ink, appearing to be a stylized 'Z' or 'S' followed by a flourish.

Prothonotary

THIS ORIGINATING MOTION is to be served within 1 year from the date it is filed or within such further period as the Court orders.

The plaintiffs' claim is annexed to this originating motion

REMEDIES AND RELIEF SOUGHT BY THE PLAINTIFFS

The plaintiffs seek the following remedies and relief:

Answers to the following questions, declarations and orders.

1.

- (a) Have there been retrenchments of members for the purposes of the Ansett Australia Ground Staff Superannuation Plan so as to entitle them to retrenchment benefits under Rule 1.13 of the First Schedule to the said Plan's Trust Deed dated 17 August 1999 made between the first defendant ("**Ansett**") and Ansett Ground Staff Superannuation Plan Pty Ltd, pursuant to letters dated 17 October 2001 and 9 November 2001 sent by the second defendants ("**Administrators**") to employees of Ansett who are members of the said Plan?
- (b) Have there similarly been retrenchments mutatis mutandis of all other members of the said Plan who have ceased service with Ansett on account of redundancy at all other times since 13 September 2001, other than pursuant to the said letters?

2.

- (a) Have there been retrenchments of members for the purposes of the Ansett Transport Industries Limited Pilots/ Management Superannuation Plan so as to entitle them to retrenchment benefits under Rule 1.11(a) of Schedule 1 or Rule 2.12(1) of Schedule 2 to the said Plan's Trust Deed Dated 10 April 1991 made by Ansett (as amended), pursuant to letters dated 17 October 2001 and 9 November 2001 sent by the Administrators to employees of Ansett who are members of the said Plan?
- (b) Have there similarly been retrenchments mutatis mutandis of all other members of the said Plan who have ceased service with Ansett on account of redundancy at all other times since 13 September 2001, other than pursuant to the said letters?

~~3. Have there been retrenchments of members for the purposes of the Ansett Transport Industries Limited Flight Engineers Superannuation Plan so as to entitle them to retrenchment benefits under Rule 1.12(1)(a) of Schedule 1 to the said Plan's Trust Deed dated 15 September 1992 made between Ansett and Ansett Flight Engineers Superannuation Plan Pty Ltd (as amended), pursuant to letters dated 17 October 2001 and 9~~

~~November 2001 sent by the Administrators to employees of Ansett who are members of the said Plan?~~

4. Are the Administrators:

(a) entitled; or

(b) obliged

- (i) to give any necessary declaration under the Ansett Australia Ground Staff Superannuation Plan so as to entitle members to retrenchment benefits under Rule 1.13 of the First Schedule to the Plan's Trust Deed dated 17 August 1999, pursuant to letters dated 17 October 2001 and 9 November 2001 sent by the Administrators to employees of Ansett who are members of the said Plan?
- (ii) to give any necessary declaration as aforesaid in respect of all other members of the said Plan who have ceased service with Ansett on account of redundancy at all other times since 13 September 2001, other than pursuant to the said letters?

5. Are the Administrators:

(a) entitled; or

(b) obliged

- (i) to give any necessary declarations under the Ansett Transport Industries Limited Pilots/Management Superannuation Plan so as to entitle members to retrenchment benefits under Rule 1.11(a) of Schedule 1 or Rule 2.12(1) of Schedule 2 to the Plan's Trust Deed dated 10 April 1991 pursuant to letters dated 17 October 2001 and 9 November 2001 sent by the Administrators to employees of Ansett who are members of the said Plan?
- (ii) to give any necessary declarations as aforesaid in respect of all other members of the said Plan who have ceased service with Ansett on account of redundancy at all other times since 13 September 2001, other than pursuant to the said letters?

~~6. Are the Administrators:~~

~~(a) entitled; or~~

~~(b) obliged~~

~~to give any necessary declaration under the Ansett Transport Industries Limited Flight Engineers Superannuation Plan so as to entitle members to retrenchment benefits under Rule 1.12(1)(a) of Schedule 1 to the Plan's Trust Deed dated 15 September 1992, pursuant to letters dated 17 October 2001 and 9 November 2001 sent by the Administrators to employees of Ansett who are members of the said Plan?~~

7.

(a) Are the plaintiffs each entitled to determine as Trustee under their respective said Plans that the said members who received the said letters are entitled to receive retrenchment benefits as described above?

(b) Are the plaintiffs each entitled to determine as Trustee under their respective said Plans that the said members who ceased service with Ansett on account of redundancy at all other times since 13 September 2001, other than pursuant to the said letters, are entitled to receive retrenchment benefits as described above?

8.

(a) A declaration by the Court itself of a reduction of staff for the purposes of the Rules of the Ansett Australia Ground Staff Superannuation Plan so as to entitle those members of the Defined Benefit Section whose service ceased pursuant to the said letters of 17 October 2001 and 9 November 2001 to retrenchment benefits under Rule 1.13 of the First Schedule.

(b) A declaration as aforesaid in respect of all other members of the Defined Benefit Section who ceased service with Ansett on account of redundancy at all other times since 13 September 2001, other than pursuant to the said letters.

9.

(a) A declaration by the Court itself for the purposes of the Rules of the Defined Benefit Section for Pilots in the Ansett Australia Transport Industries Limited Pilots/Management Superannuation Plan, in relation to members who ceased service pursuant to the said letters of 17 October 2001 and 9 November 2001, as follows:

(i) a declaration by the Court of a reduction of staff for the purposes of the said Rules;

- (ii) a declaration by the Court for the purposes of the said Rules that the members ceased to be in their Employer's Service on account of retrenchment as the result of a re-organization or re-arrangement of staff for business policy reasons.
- (b) Declarations as aforesaid in respect of all other members of the Defined Benefit Section for Pilots who ceased service with Ansett on account of redundancy at all other times since 13 September 2001, other than pursuant to the said letters.

10.

- (a) A declaration by the Court itself of a reduction of staff for the purposes of the Rules of the Defined Benefit Section of the Ansett Australia Transport Industries Limited Pilots/Management Superannuation Plan for Executive Managers, in relation to members who ceased service pursuant to the said letters of 17 October 2001 and 9 November 2001.
- (b) A declaration as aforesaid in respect of all other members of the Defined Benefit Section for Executive Managers who ceased service with Ansett on account of redundancy at all other times since 13 September 2001, other than pursuant to the said letters.

~~11. A declaration by the Court itself of a reduction of staff as a result of a re-organization or re-arrangement of staff for business policy reasons for the purposes of the Rules of the Defined Benefit Section of the Ansett Transport Industries Limited Flight Engineers Superannuation Plan, in relation to members who ceased service pursuant to the said letters of 17 October 2001 and 9 November 2001.~~

11A) Regulation 7(c) of the Regulations for the Ansett Transport Industries Ltd Pilots' Superannuation Plan comprised in the Deed made 9 July 1973 by Ansett Transport Industries (Operations) Proprietary Limited now valid and in force for the purposes of the Defined Benefit Section for Pilots of the Ansett Transport Industries Limited Pilots/Management Superannuation Plan?

12. Declarations as to whether Ansett is obliged to make further contributions, and if so what further contributions, to:

- (a) the Ansett Australia Ground Staff Superannuation Plan;

- (b) the Ansett Australia Transport Industries Limited Pilots/Management Superannuation Plan.

13. In the event that Ansett is not under any obligation to make further contributions to the said Plans:

- (a) does it have a power to make further contributions?
- (b) is that power exercisable by the Administrators?
- (c) can the Court compel any such power under (a) or (b) to be exercised?
- (d) can the Court compel the power to be exercised in a particular way?
- (e) can the Court exercise such a power itself?
- (f) if the answer to (c) and (d) is yes, an order compelling the exercise of such power so as adequately to fund the payment of benefit entitlements under the said Plans, as required.
- (g) if the answer to (e) is yes, an order exercising the power so as adequately to fund the payment of benefit entitlements under the said Plans, as required.

14. Declarations as to whether any such further contribution is a superannuation contribution within the meaning of section 556(1)(e) of the Corporations Act 2001, in relation to:

- (a) the Ansett Australia Ground Staff Superannuation Plan;
- (b) the Ansett Australia Transport Industries Limited Pilots/Management Superannuation Plan.


~~15. Leave to bring this proceeding under section 440D of the Corporations Act 2001.~~

~~16. An order appointing a person as the third defendant to represent all members of the said Plans who received letters dated 17 October and 9 November 2001 from the Administrators.~~

~~17. An order appointing a person as the fourth defendant to represent all members of the said Plan who did not receive letters dated 17 October and 9 November 2001 from the Administrators.~~

18. Orders as to costs and any other necessary or further orders.

Dated: 21 March 2002


.....

Solicitors for the plaintiffs

1. Place of trial: Melbourne
2. This originating motion was filed for the plaintiffs by Deacons, solicitors, of 385 Bourke Street, Melbourne, Victoria.
3. The address of the plaintiffs is ~~Level 17, 501 Swanston Street~~, 333 Collins Street, Melbourne, Victoria.
4. The address for service of the plaintiffs is c/- their solicitors, Deacons of 385 Bourke Street, Melbourne, Victoria.
5. The addresses of the defendants are:
First defendant: 501 Swanston Street, Melbourne, Victoria.
Second defendants: Level 35, The Tower, Melbourne Central, 360 Elizabeth Street, Melbourne, Victoria.
Third defendant: 40 Trethowan Avenue, West Melton, Victoria.
Fourth defendant: 4 Fortescue Avenue, Seaford, Victoria.

SCHEDULE OF PARTIES

Ansett Australia Ground Staff Superannuation Plan Pty Ltd
(ACN 065 590 178) (as trustee of the Ansett Australia Ground Staff
Superannuation Plan) First plaintiff

Ansett Australia Pilots/Management Superannuation Plan
Pty Ltd (ACN 065 590 043) (as trustee of the Ansett Transport Industries
Limited Pilots/Management Superannuation Plan) Second plaintiff

~~Ansett Australia Flight Engineers' Superannuation Plan
Pty Ltd (ACN 065 589 979) (as trustee of the Ansett Transport Industries
Limited Pilots/Management Superannuation Plan) Third plaintiff~~

Ansett Australia Limited (Administrators Appointed) (ACN 004 209 410) First defendant

Mark Francis Xavier Mentha and Mark Anthony Korda Second defendants

Russell Thomas Booth Third defendant

James Herbert Hennessy Fourth defendant

DATED 21 March 2002



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Solicitors for the plaintiffs