

Align Funds Management Limited ACN 105 684 231  
as responsible entity of the  
**Timbercorp Orchard Trust** ARSN 106 557 297  
(Receivers and Managers Appointed)

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## TARGET'S STATEMENT

in response to the off-market takeover offer by  
Hamilton Securities Limited  
to acquire all of the Debentures in the  
Timbercorp Orchard Trust

**THIS IS AN IMPORTANT DOCUMENT THAT REQUIRES YOUR IMMEDIATE ATTENTION.**  
You should read this document in its entirety before making any investment decisions. If you are unsure as to how to deal with the Offer, you should seek independent financial, taxation or other professional advice.

**Legal Adviser**



Maddocks

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## Important Information

This Target's Statement is issued by Align in response to Hamilton Securities' Offer set out in Hamilton Securities' Supplementary Bidder's Statement dated 7 January 2010. You should read this Target's Statement in its entirety.

A number of defined terms are used in this Target's Statement. The first letters of these terms are capitalised and they are explained in Section 7 of this Target's Statement.

This Target's Statement is dated, and a copy of this Target's Statement was lodged with ASIC, on 28 January 2010. Neither ASIC nor any of its officers takes any responsibility for the contents of this Target's Statement.

### No Account of Personal Circumstances

This Target's Statement does not take into account the investment objectives, financial situation or needs of any individual Debenture Holder. Debenture Holders should seek independent financial, taxation or other professional advice before making a decision as to whether or not to accept the Offer.

### Further Information

Please call Align on +61 3 9691 5412 (Attention Andrew Ashbolt) if you have any queries.

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## Corporate Directory

### Directors

Trevor Bruce Moyle  
Anthony Sam Baillieu  
Alan David Fisher

### Secretary

Andrew Ashbolt

### Principal Place of Business and Registered Office

Level 33, 360-374 Collins Street  
Melbourne VIC 3000

### Registry for Debentures

Computershare Investor Services Pty Ltd  
Yarra Falls, 452 Johnston Street  
Abbotsford VIC 3067

### Legal Adviser

Maddocks  
Level 6, 140 William Street  
Melbourne 3000

## Letter from the Board

Dear Debenture Holder

### Hamilton Securities Takeover Offer

You will have recently received an unsolicited off-market takeover offer from Hamilton Securities to acquire all of your Debentures in the Timbercorp Orchard Trust for 30 A Class Shares in Hamilton Securities for each Debenture you hold. An amended bidder's statement dated 7 January 2010 (**Bidder's Statement**) has been issued by Hamilton Securities to you.

As you were notified in October 2009, Receivers and Managers (Paul William Kirk and Stephen Graham Longley of PricewaterhouseCoopers) were appointed to Align in its capacity as the responsible entity of the Timbercorp Orchard Trust on 22 October 2009. The Receivers and Managers were appointed by Permanent Nominees (Aust.) Ltd in its capacity as trustee for the Debenture Holders.

The assets of the Trust are now under the control of the Receivers and Managers, whose objective is to maximise the return for Debenture Holders from the realisation of the Trust assets.

The Directors of Align, acting in its capacity as the responsible entity of the Timbercorp Orchard Trust, have no influence on the outcome of the Receivers and Managers' asset realisation strategy, do not consider it appropriate in the circumstances to express an opinion as to the value of the Trust's assets and, consequently, are unable to say whether the Offer made by Hamilton Securities is fair and reasonable. The Align Directors therefore do not make a recommendation whether you should accept or not accept the Offer.

However, we make the following observations:

- **(non-voting shares)** if you accept the Offer, you will receive A Class Shares in Hamilton Securities. Whilst these shares will be listed and may provide you with an opportunity to realise your investment in the Trust sooner than might otherwise be the case, they are non-voting shares. You will therefore not be able to vote in relation to the appointment or removal of the directors of Hamilton Securities. Your Debentures and any proceeds received by Hamilton Securities from the realisation of the Trust assets will be controlled by the Hamilton Securities Board; and
- **(role of the Receivers)** The Directors of Hamilton Securities have asserted that there is no strong single party with a commercial incentive to represent the interests of all Debenture Holders. However, we note that the Receivers and Managers have been appointed by the trustee of the Debenture Holders to look after the Debenture Holders' interests and are under a duty, when exercising their power of sale in respect of the Trust assets, to take all reasonable care to sell the assets for not less than market value.
- **(status of the asset sale process)** The Receivers and Managers advise that they are well progressed in the asset sale process. A preferred purchaser has been selected for the Costa's Crest and Bella Vista assets, and negotiations are underway on the content of the sale contract. For the Kangara assets, indicative offers have been received from several parties and the Receivers are endeavoring to select a preferred purchaser within the next 7 – 10 days.

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You are encouraged to read the Bidder's Statement and this Target's Statement carefully and to seek your own independent financial, taxation or other professional advice. The purpose of this Target's Statement is to provide you with the information you need to make an informed decision about whether to accept the Offer.

We will keep you informed of any further developments in relation to the Offer.

Yours sincerely  
on behalf of the Board

A handwritten signature in black ink, appearing to read 'A Fisher', written over a faint circular stamp or watermark.

Alan Fisher  
Chairman  
Align Funds Management Limited

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## 1. Frequently Asked Questions

This Section answers some commonly asked questions about the Offer. It is not intended to address all relevant issues and should be read in conjunction with all other parts of this Target's Statement.

### ***Who is Hamilton Securities?***

Hamilton Securities is an investment company which was listed on NSX on 29 October 2009. It was established with the primary purpose of providing investors with exposure to distressed debt, equity and illiquid securities whose value might be expected to improve over time.

### ***What is the Offer for my shares?***

Hamilton Securities is offering to acquire each Debenture held by you.

### ***What is the Offer consideration?***

Hamilton Securities is offering 30 non-voting A Class Shares in Hamilton Securities for each Debenture held by you.

### ***What choices do I have as a Debenture Holder?***

As a Debenture Holder you can:

- accept the Offer in respect of all of your Debentures;
- sell some or all of your Debentures (unless you have previously accepted the Offer in respect of Debentures and you propose to sell and you have not validly withdrawn your acceptance). However, you should be aware the Debentures are still suspended from trading on the ASX and that there is no active market for trading Debentures. It may therefore be difficult to identify a buyer for your Debentures; or
- do nothing.

See Section 5 of this Target's Statement for further details.

### ***What are the Directors of Align recommending?***

The Directors make no recommendation whether you accept or do not accept the Offer.

### ***Why are the Directors of Align not making a recommendation?***

Receivers and Managers were appointed to Align in its capacity as the responsible entity of the Timbercorp Orchard Trust on 22 October 2009. The Receivers and Managers were appointed by Permanent Nominees (Aust.) Ltd in its capacity as trustee for the Debenture Holders.

The assets of the Trust are now under the control of the Receivers and Managers, not the Board of Align. The Board is informed by the Receivers and Managers that they are trying to realise the Trust assets with regard to their responsibilities under the Corporations Act and commercial considerations.

The Board of Align cannot influence the Receivers and Managers' asset realisation strategy, do not consider it is appropriate for them to express an opinion as to the value of the Trust's assets and are unable to say whether the purchase price offered by Hamilton Securities is adequate.

You should be aware that, if you accept the Offer, you will receive A Class Shares in Hamilton Securities. Whilst these shares will be listed and may provide you with an opportunity to realise your investment in the Trust sooner than might otherwise be the case in the course of the receivership, they are non-voting shares. Furthermore, you should be aware that the realisable value of the shares in Hamilton Securities will be dependent upon them identifying and securing willing buyers or alternately proposing a structure to continue with the land owning operations. The intent of Hamilton Securities in this regard is not clear from the Bidder's Statement.

You will therefore not be able to vote in respect of the appointment or removal of the directors of Hamilton Securities or on any other matters. Your Debentures and any proceeds received by Hamilton Securities from the realisation of the Trust assets will be controlled by the Board of Hamilton Securities.

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***Is there a requirement for Align to appoint an independent expert?***

No. The assets of the Trust are under the control of the Receivers and Managers. It is not appropriate in such circumstances to appoint an independent expert when the assets of the Trust are in the process of being sold.

***How do I accept the Offer?***

Details of how to accept the Offer are set out at clause 2.7 of the Bidder's Statement and on the Acceptance Form accompanying the Bidder's Statement.

***How do I reject the Offer?***

Do nothing.

***Will I pay any brokerage or stamp duty if I accept the Offer?***

Hamilton Securities will pay brokerage and stamp duty (if any) on the transfer of your Debentures.

***What are the consequences of accepting the Offer now?***

If you accept the Offer, unless withdrawal rights remain available (see next question and answer), you will give up your right to sell your Debentures while the Offer remains open.

***If I accept the Offer, can I withdraw my acceptance at any time?***

No, you may only withdraw your acceptance if a withdrawal right arises under the Corporations Act - for example, if Hamilton Securities varies the Offer in a way that postpones the time when Hamilton Securities is required to issue the consideration for your Debentures by more than one month and the Offer is still subject to any Conditions.

***When does the Offer Close?***

The Offer is presently due to close at 7:00pm (Sydney time) on 26 February 2010, but the Offer Period can be extended as permitted by the Corporations Act.

***What are the Conditions of the Offer?***

The Offer is subject to the Conditions summarised in paragraph 4.3.3 of this Target's Statement.

***What happens if the Conditions of the Offer are not satisfied or waived?***

If the Conditions of the Offer are not satisfied or waived before the Offer closes, the Offer will lapse.

If the Offer were to lapse and you had accepted the Offer, your acceptance is void, you will not be issued the Offer consideration and you will continue to be a Debenture Holder and would then be free to deal with your Debentures.

If you had not previously accepted the Offer you will continue to be a Debenture Holder and will be free to deal with your Debentures.

***When will I be sent my consideration if I accept the Offer?***

If you accept the Offer, Hamilton Securities has stated that you will be issued A Class Shares in Hamilton Securities on or before the earlier of:

- one month after the later of:
  - the date the Offer is validly accepted by you; and
  - the date on which the Offer becomes unconditional; and
- 21 days after the end of the Offer Period,  
subject to all relevant documents being received by Hamilton Securities.

***What are Hamilton Securities' intentions regarding the Debentures?***

In their Bidder's Statement Hamilton Securities has expressed their intention to maximise the returns from the Debentures.

***What are the tax implications of accepting the Offer?***

General information about the Australian income tax implications of accepting the Offer is set out in Section 9 of the Bidder's Statement.

Debenture Holders are advised to seek taxation advice in respect of the Offer from their accountants, financial or other professional advisers.

***What happens if I do nothing?***

You will remain a Debenture Holder unless Hamilton Securities can compulsorily acquire your Debentures. Hamilton Securities has stated that it intends to compulsorily acquire your Debentures on the same terms as the Offer if it becomes entitled to do so. See section 6 of the Bidder's Statement.

If you do nothing and Hamilton Securities does not reach the level of acceptance required for compulsory acquisition but the Conditions are satisfied or the Offer is declared unconditional or the Conditions are waived before the end of the Offer Period, you will remain a Debenture Holder but it is likely that Hamilton Securities will have become a substantial or majority Debenture Holder. As such, Hamilton Securities is likely to seek to exert its influence over the Receivers and Managers' assets realisation strategy. See section 6 of the Bidder's Statement.

If you do nothing and the Conditions of the Offer are not satisfied or the Offer is not declared unconditional or the Conditions are not waived before the Offer closes (other than the statutory condition referred to in paragraph 4.4 of this Target's Statement which must be satisfied no later than 7 days after the end of the Offer Period), the Offer will lapse. In that circumstance you will remain a Debenture Holder.

***Can I be forced to sell my Debentures?***

You cannot be forced to sell your Debentures unless Hamilton Securities proceeds to compulsory acquisition of your Debentures. Hamilton Securities will need at least 90% of Debentures (acquired under the Offer or otherwise) to exercise compulsory acquisition rights. If Hamilton Securities proceeds to compulsory acquisition, you will receive the same consideration as is payable by Hamilton Securities under the Offer, however you will receive the consideration later than Debenture Holders who accept the Offer.

***Can Hamilton Securities vary the Offer?***

Yes, Hamilton Securities may vary the Offer by waiving any of the Conditions, extending the Offer Period or increasing the amount offered under the Offer. The Corporations Act requires that all accepting Debenture Holders be paid any increased amount, regardless of when they accept the Offer.

***Is there a number that I can call if I have further queries in relation to the Offer?***

Please call Align on +61 3 9691 5412 (Attention Andrew Ashbolt) if you have any queries in relation to the Offer.

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## **2. Important Matters to Consider**

### **2.1 No recommendation**

For the reasons set out under the heading "Frequently Asked Questions" in this Target's Statement the Directors of Align make no recommendation whether you should accept or not accept the Offer.

### **2.2 Reasons for accepting the Offer**

The Board recognises that some Debenture Holders may wish to accept the Offer. Reasons for doing so may include the fact that the Offer will provide Debenture Holders with listed securities and a means of realising their investment in the Timbercorp Orchard Trust sooner than might otherwise be the case in the course of the receivership of the Trust. However, as set out in the Bidder's Statement, there is no guarantee that Debenture Holders will be able to trade A Class shares in Hamilton Securities at or above their \$1.00 issue price.

Other reasons why you may wish to accept the Offer are set out in section 8 of the Bidder's Statement.

### **2.3 Reasons for not accepting the Offer**

The Directors recognise that some Debenture Holders may wish to reject the Offer. Reasons for doing so may include:

- 2.3.1 There are risks associated with holding Hamilton Securities Shares. See the Bidder's Statement for further details of such risks. In particular, the Hamilton Securities' shares that you will receive under the Offer are non-voting shares. Debenture Holders who accept the Offer will not be able to vote in relation to the appointment or removal of the directors of Hamilton Securities, therefore they will not be able to influence the Board's strategy relating to the realisation of the Trust assets or the Debentures or its distribution policy once the Trust assets have been distributed.
- 2.3.2 If Debenture Holders accept the Offer, they will continue to be exposed to the risks arising from their current holding of Debentures, although this exposure will be indirect through their holding of shares in Hamilton Securities.
- 2.3.3 The Debenture Holders' interest in the Trust assets will be diluted as a result of the Offer. If all Debenture Holders accept the Offer, Debenture Holders will hold approximately 96 % of Hamilton Securities' shares. The remaining shares will be held by the current shareholders of Hamilton Securities.
- 2.3.4 Hamilton Securities has stated that, if the Offer is successful, it is its present intention to work closely with the Receivers and Managers to preserve and enhance the value of the assets of the Trust. As the Receivers and Managers act as the agents of the entities holding the assets and not as agents of the Debenture Holders, the extent to which Hamilton Securities may be able to influence the asset realisation strategy adopted by the Receivers is limited.
- 2.3.5 The Directors of Hamilton Securities have asserted that there is no strong single party with a commercial incentive to represent the interests of all Debenture Holders. However, the Receivers and Managers have been appointed by the trustee of the Debenture Holders and are under a duty, when exercising their power of sale in respect of the Trust assets, to take all reasonable care to sell the assets for not less than market value.
- 2.3.6 The Offer is subject to a number of Conditions which are summarised in paragraph 4.3.3 of this Target's Statement.
- 2.3.7 If Debenture Holders accept the Offer they will be precluded (except in limited circumstances provided in the Corporations Act) from accepting a higher offer from a third party should one emerge during the Offer Period.

### **2.4 Personal circumstances**

This Target's Statement does not take into account the individual investment objectives, financial situation or needs of any particular Debenture Holder or any other person. When making a decision whether or not to accept the Offer, you should give careful consideration to the matters set out in this Target's Statement, read both this Target's Statement and the Bidder's Statement in their entirety and consider seeking independent financial, taxation or other professional advice in relation to your specific circumstances before making a decision as to whether or not to accept the Offer.

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### 3. Information about the Timbercorp Orchard Trust

#### 3.1 Overview of the Trust

- 3.1.1 The Timbercorp Orchard Trust was established by a trust deed dated 15 September 2003.
- 3.1.2 The responsible entity of the Trust raised funds to acquire the following properties (the **Properties**):
- (a) Kangara Estate – a citrus orchard and wine grape vineyard property located near Renmark in South Australia; and
  - (b) Costa's Crest and Bella Vista – table grape vineyards located near Euston in New South Wales.
- 3.1.3 The Properties are leased to Timbercorp Limited (in liquidation) (**Timbercorp**) which then subleased all or part of the properties to Timbercorp Securities Limited (in liquidation) (**TSL**). All of the Trust's revenue is derived from the leases to Timbercorp.
- 3.1.4 TSL acts as the responsible entity of various agri-business managed investment schemes conducted on the sub-leased land (**Schemes**) with each Scheme being governed by its own constitution. Investors in the Schemes (**Growers**) enter into licences with TSL over portions of the land used in the Scheme and pay licence fees to TSL.
- 3.1.5 Align had engaged Timbercorp Asset Management Pty Ltd (in liquidation) (**TAM**) as the manager of the Trust's assets. TAM's role was to undertake improvements to the assets of the Trust and manage the assets of the Trust on a day-to-day basis on behalf of Align. Subsequent to the appointment of the Administrators and then Liquidators to TAM, Align assumed responsibilities for the management of assets until the appointment of the Receivers and Managers.

#### 3.2 Receivers and Managers appointed

- 3.2.1 Timbercorp and TAM went into voluntary administration on 23 April 2009, and then into liquidation on 29 June 2009.
- 3.2.2 Timbercorp has been unable to pay rent or property outgoings due and payable under the lease of each Property since 23 April 2009, and is unlikely to be in a position to pay rent or property outgoings under the leases in the future.
- 3.2.3 The entry into voluntary administration by Timbercorp caused the Trust to cease paying interest to the Debenture Holders. Align subsequently suspended ASX trading in the Debentures voluntarily. As a result of the insolvency, Align sought and obtained an interest moratorium from Debenture Holders and a 6 month principal and interest moratorium from the annuity bond holders until 31 December 2009 at meetings held on 29 June 2009.
- 3.2.4 Align took over the function of managing the Trust and subsequently entered into an agreement under which CostaExchange Group agreed to manage the Trust's Kangara citrus orchards and Grape Exchange Management Euston Pty Limited agreed to manage the Trust's Bella Vista table grape vineyards for the term of the agreement. The Bella Vista agreement expired on 30 October 2009. The Kangara agreement (extended by one month) expired on 30 November 2009.
- 3.2.5 From 31 October 2009, Grape Exchange Management Euston Pty Limited was engaged by the Receivers and Managers to manage the property until 21 December 2009. From 21 December 2009, the preferred purchaser of the Bella Vista properties is managing the property under an interim management agreement while the sale of the properties is being completed.
- 3.2.6 From 1 December 2009, CostaExchange Group have been watering and undertaking basic care and maintenance of the Kangara properties.

- 3.2.7 On 19 October 2009, Align advised the Trustee that the Trust would not be able to pay its debts as they fell due and requested the Trustee to appoint receivers and managers under the Debenture Charge.
- 3.2.8 On 22 October 2009, Stephen Longley and Paul Kirk of PricewaterhouseCoopers were appointed Receivers and Managers by the Trustee.

### **3.3 Role of the Receivers**

- 3.3.1 The role of the Receivers and Manager is to act as an independent party that takes control of the property of the Trust in order to ensure that the property is protected in the interests of Debenture Holders. The Receivers and Managers are empowered to administer the assets of the Trust. The powers are set out in the Debenture trust deed, the Debenture Charge and the Corporations Act.
- 3.3.2 The Receivers and Managers are only appointed over the assets of the Trust. The appointment is only relevant to Align in its capacity as responsible entity of the Trust. It does not affect Align's other activities.
- 3.3.3 The focus of the Receivers and Managers is to maximise the return to Debenture Holders from the realisation of all the Trust assets secured by the Debenture Charge. The principal secured assets are the Properties. Such a realisation typically involves a sale of the assets. However, the Receivers and Managers are open to other options that could maximise the outcome for the Debenture Holders.

### **3.4 Current status of the asset realisation strategy**

The Receivers and Managers advise that:

- 3.4.1 They are running two concurrent sale processes – one for each of the Bella Vista and Kangara assets. As at the date of this report, no alternate and viable options (compared to a sale of the assets) were presented to the Receivers and Managers to maximise the outcome for debenture holders;
- 3.4.2 The Bella Vista sale process is well advanced. The assets were advertised during November and December 2009 and indicative offers were received from several parties. A preferred purchaser has been selected and negotiations are continuing with this party. A sale contract is being prepared and the Receivers and Managers hope to have this contract executed within the next few weeks. For confidentiality reasons, the Receivers and Managers cannot disclose details of the offer. Although negotiations with the preferred purchaser are well advanced, the Receivers and Managers caution that a sale to this party is not yet guaranteed. In the event that a sale to this party does not take place, the Receivers and Managers will re-open the sale process;
- 3.4.3 For Kangara, indicative offers have been received from several parties and the Receivers and Managers are still in the process of selecting a preferred purchaser. The Receivers are endeavoring to select a preferred purchaser within the next 7 – 10 days. The sale of the Kangara assets is subject to a “first right of refusal” which is available to Agriexchange Murtho Pty Ltd (a subsidiary of CostaExchange Limited). This complicates the sale process to some extent, and will result in the process being slightly longer than usual. Once a preferred purchaser is selected, the Receivers and Managers will seek to finalise a sale agreement with this party. As with Bella Vista, the Receivers and Managers are unable to provide details of the competing offers at this stage; and
- 3.4.4 For both assets, it is not yet possible to estimate the quantum or timing of any return to debenture holders. Any asset realisations are likely to be subject to growers’ claims for an interest in the proceeds arising from the asset realisations. It is likely that the court will need to be consulted in determining the rights of growers (if any) to any asset realisations. Such a process is unlikely to be concluded quickly.

### **3.5 Align's role**

- 3.5.1 Align is the responsible entity of the Trust. The Align Directors are Trevor Bruce Moyle, Anthony Sam Baillieu and Alan David Fisher.
- 3.5.2 Upon the appointment of the Receivers and Managers, the Align Directors ceased to have control of the Trust assets. The Align Directors are cooperating with the Receivers and Managers in relation to the asset realisation process to achieve the best outcome for Debenture Holders.

### **3.6 Information about the Debentures**

- 3.6.1 The Debentures were issued by Align under two prospectuses dated 17 October 2003 and 5 May 2005.
- 3.6.2 As at the date of this Bidder's Statement, there are 567,737 Debentures on issue, each with a face value of \$100. The Debentures are quoted on ASX, although trading has been suspended since 23 April 2009.
- 3.6.3 The last recorded sale price of Debentures on ASX before trading was halted on 23 April 2009 was \$30.00.
- 3.6.4 Align used the proceeds of \$61.5 million from the issue of the Debentures (together with the proceeds from the issue of annuity bonds and units) to acquire the Properties.
- 3.6.5 The Debentures are secured by fixed and floating charges over the assets of the Trust under the Debenture Charge and by registered mortgages over the Properties.
- 3.6.6 Interest is payable quarterly in arrears within three business days after the end of each quarter until 15 December 2009 at the two year bank bill swap rate plus 3.5%. Interest has not been paid since 23 April 2009. Align sought and obtained an interest moratorium from Debenture Holders until 31 December 2009 at the meeting of Debenture Holders held on 29 June 2009.
- 3.6.7 The maturity date of the Debentures was 15 December 2010, but they are now due and payable.

### **3.7 Financial information about the Trust**

- 3.7.1 According to the preliminary final report of the Trust for the year ended 30 June 2009 released to ASX in 2009:
- (a) the revenue of the Trust for the year was \$11.30 million;
  - (b) profits from operating activities for the year was \$5.57 million;
  - (c) the loss for the year was \$55.78 million including unrealised losses in the fair value of Properties and agricultural assets of \$61.4 million;
  - (d) the trust had net liabilities of \$23.31 million, including interest bearing liabilities of \$57.92 million.
- 3.7.2 A copy of the preliminary final report can be obtained from Align's website at [www.oiml.com.au](http://www.oiml.com.au). You may also request a copy from Align by contacting Align on +61 3 9691 5412 (Attention Andrew Ashbolt).
- 3.7.3 Align has not lodged its annual report for the year ended 30 June 2009. Align has previously announced that it was not in a position to lodge the report due to uncertainties surrounding the going concern assumption required under accounting standards.
- 3.7.4 The accounts of the Trust reflect the most recent valuations of the Properties but have not been renewed in light of the recent events.

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## **4. Information about Hamilton Securities and Features of the Offer**

### **4.1 Source of Information and Disclaimer**

The information in this Section has been taken from the Bidder's Statement and as such is reflective of statements made by Hamilton Securities and are not statements or representations made by or on behalf of Align. Align makes no representation or warranty as to the accuracy or completeness of this information.

### **4.2 Details about Hamilton Securities**

4.2.1 Hamilton Securities is an investment company which was incorporated on 14 July 2009 and listed on NSX on 29 October 2009. The Company was established with the primary purpose of providing investors with exposure to distressed debt, equity and other illiquid securities whose value might be expected to improve over time.

4.2.2 As at 30 October 2009, Hamilton Securities had net assets of \$590,256. Its principal asset is cash.

Further information about Hamilton Securities can be found in Section 4 of the Bidder's Statement.

### **4.3 Key features of the Offer**

#### **The Offer and consideration**

4.3.1 Hamilton Securities is offering to acquire all of your Debentures for 30 fully paid A Class non-voting ordinary shares in Hamilton Securities for each Debenture.

4.3.2 Conditions of the Offer

4.3.3 The Conditions of the Offer are set out in full in Section 10.28 of the Bidder's Statement. In summary, the key Conditions of the Offer include:

- (a) during or at the end of the Offer Hamilton Securities has acquired a relevant interest in at least 90% by number of Debentures on issue at the end of the Offer Period;
- (b) no material adverse change occurring in relation to the financial position or prospects of the Timbercorp Orchard Trust;
- (c) the Timbercorp Orchard Trust not undertaking certain material transactions as specified in more detail in Section 10.28(c) of the Bidder's Statement;
- (d) there being no regulatory restraint in respect of the Offer; and
- (e) there being no specified occurrences.

Hamilton Securities may vary or waive some or all of these conditions.

### **4.4 Statutory condition**

It also a condition of the Offer that Hamilton Securities makes an application for admission to quotation on the ASX of the A Class Shares to be issued as consideration under the Offer within 7 days after the Bidder's Statement is given to Align and that permission for such admission is granted no later than 7 days after the end of the Offer Period.

### **4.5 Waiver of the Conditions**

Hamilton Securities may waive the other Conditions (other than the condition set out in paragraph 4.4) at its discretion. The condition in paragraph 4.4 is a statutory condition imposed by the Corporations Act and cannot be waived.

### **4.6 Offer Period and Closing Date**

The Offer Period commenced on 13 January 2010 and the Offer will close on the Closing Date at 7.00pm (Sydney) time on 26 February 2010 unless it is extended or withdrawn.

### **4.7 Withdrawal of Offer**

Hamilton Securities may withdraw unaccepted Offers at any time with the written consent of ASIC and subject to the conditions (if any) in such consent.

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#### **4.8 Effect of acceptance**

The effect of acceptance of the Offer is set out in detail in clause 10.25 of the Bidder's statement. You should read that clause in full to understand the effect of acceptance on your ability to exercise rights attaching to your Debentures, the irrevocable authorisation and direction and the representations and warranties you will be taken to have given Hamilton Securities by accepting the Offer.

#### **4.9 When you will receive consideration if you accept the Offer**

If you accept the Offer, you will be issued the consideration detailed in the Offer on or before the earlier of:

4.9.1 one month after the later of:

- (a) the date the Offer is validly accepted by you; and
- (b) the date on which the Offer becomes unconditional; and

4.9.2 21 days after the end of the Offer Period,

4.9.3 subject to all relevant documents being received by Hamilton Securities. Please see clauses 10.47 to 10.55 of the Bidder's Statement.

#### **4.10 Compulsory acquisition following bid**

Hamilton Securities has stated that it intends to compulsorily acquire your Debentures on the same terms as the Offer if it becomes entitled to do so. See clauses 2.14 and 2.15 of the Bidder's Statement.

If Hamilton Securities acquires 90% of the Debentures, Hamilton Securities will be entitled to compulsorily acquire Debentures under Division 1 of Part 6A.1 of the Corporations Act. In order to compulsorily acquire the Debentures, Hamilton Securities must prepare and issue a notice in the form prescribed by the Corporations Act.

A Debenture Holder whose Debentures are the subject of a compulsory acquisition under Part 6A.1 of the Corporations Act may apply for a court order that their Debentures not be compulsorily acquired. If a court is satisfied that the consideration does not represent fair value for the Debentures, the court may make this order.

#### **4.11 Compulsory buy-out following bid**

If it is required to do so under Divisions 2 and 3 of Part 6A.1 of the Corporations Act, Hamilton Securities will give notices to Debenture Holders under sections 662B and 663B of the Corporations Act (as relevant in the circumstances), offering to acquire their Debentures or as required by sections 662A and 663A of the Corporations Act. Hamilton Securities must despatch the notices to the Debenture Holders within one month of the end of the Offer Period.

Hamilton Securities would be required to acquire such Debentures on the terms of the Offer.

Debenture Holders who receive such a notice may elect, but are not compelled, to accept the offer made in the relevant notice.

#### **4.12 Compulsory acquisition in general**

If Hamilton Securities does not compulsorily acquire any outstanding Debentures under Division 1 of Part 6A.1 of the Corporations Act, or is not entitled to do so because it has not reached the 90% threshold, it may nevertheless become entitled to exercise general compulsory acquisition rights under Division 1 of Part 6A.2 of the Corporations Act at a later point in time.

If Hamilton Securities elects to compulsorily acquire any outstanding Debentures, it must send to each Debenture Holder a notice in the form required by the Corporations Act. A Debenture Holder may object to compulsory acquisition of their Debentures. If Debenture Holders who hold at least 10% of the outstanding Debentures validly object to compulsory acquisition, Hamilton Securities may apply to the court for approval of the compulsory acquisition. The court may grant such approval if Hamilton Securities can show that the terms set out in the compulsory acquisition notice give a fair value for the Debentures.

Pursuant to the Corporations Act, Hamilton Securities must bear the legal costs of any such Debenture Holder in relation to any application by Hamilton Securities for the court to approve the compulsory acquisition. This applies unless the court is satisfied that the Debenture Holder acted improperly, vexatiously or otherwise unreasonably.

#### **4.13 Summary of Hamilton Securities' securities**

As at the date of this Target's Statement, Hamilton Securities has:

- 4.13.1 120,000 A Class non-voting ordinary shares on issue;
- 4.13.2 520,000 B Class ordinary shares on issue;
- 4.13.3 800,000 B Class Options on issue. Each B Class Option is an option to subscribe for 1 B Class ordinary share in Hamilton Securities and is exercisable at \$1.00 on or before 30 November 2019.

Hamilton Securities intends to issue free B Class Options to A Class Shareholders and B Class Shareholders on the register of members on the date immediately before the first issue of new A Class Shares to accepting Debenture Holders (record date). If all B Class Options are exercised (including those currently on issue) the number of B Class Shares on issue will be approximately 3,023,211. Accordingly, the interests of accepting Debenture Holders in Hamilton Securities may be diluted to approximately 84.4% of the total shares on issue.

As this record date will occur immediately before the date A Class Shares are issued to accepting Debenture Holders under the Offer, accepting Debenture Holders will not be entitled to receive these options.

One free B Class Option will be issued for every 10 A Class Shares issued under the Offer. These new B Class Options will be divided amongst the A Class Shareholders and B Class Shareholders on the record date, in proportion to the number of A Class Shares and B Class Shares held at that date.

Hamilton Securities expect to issue up to approximately 1,703,211 new B Class Options to A Class Shareholders and B Class Shareholders, depending on the level of acceptance of the Offer by Debenture Holders. If all these B Class Options are exercised, the number of additional B Class Shares on issue will be approximately 3,023,211.

#### **4.14 Debenture Holders should carefully read the Bidder's Statement in its entirety and seek independent financial, taxation or other professional advice, if necessary.**

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## 5. Your Choices

### 5.1 Your Choices

You have 3 choices currently available to you:

#### Choice 1: Accept the Offer

- 5.1.1 You may accept the Offer. You may only accept the Offer in respect of all of your Debentures.
- 5.1.2 See clause 2.7 of the Bidder's Statement as well as the instructions on the acceptance form accompanying the Bidder's Statement for instructions on how to accept the Offer.
- 5.1.3 Under the CGT provisions, If you accept the Offer you may incur a capital loss if the capital proceeds from the disposal of your Debentures are less than the Debentures' reduced cost base. The capital proceeds will be the market value of the A Class Shares at the time at which you accept the Offer.
- 5.1.4 By accepting the Offer, you should not incur any brokerage fees (unless you are a Foreign Debenture Holder, in which case the proceeds you will receive will be net of sales costs including brokerage).

#### Choice 2: Sell some or all of your Debentures

- 5.1.5 You may choose to sell some or all of your Debentures (unless you have previously accepted the Offer and you propose to sell and you have not validly withdrawn your acceptance). You should be aware that the Debentures are currently suspended from listing on the ASX and there is no active market for trading Debentures. It may therefore be difficult to identify a buyer for your Debentures.

#### Choice 3: Take no action

- 5.1.6 If you do not wish to accept the Offer, you should take no action.
- 5.1.7 You should note that if you chose not to accept the Offer, Hamilton Securities will not be able to acquire your Debentures unless it becomes entitled to compulsorily acquire the remaining Debentures that it does not acquire under the Offer under the compulsory acquisition provisions in the Corporations Act (for example, if it holds at least 90% of the Debentures at the end of the Offer Period) and decides to do so. Hamilton Securities has stated that it intends to compulsorily acquire your Debentures on the same terms as the Offer if it becomes entitled to do so. See paragraphs 4.10 to 4.12 of this Target's Statement and paragraphs 2.14 and 2.15 of the Bidder's Statement for further information regarding compulsory acquisition.

### 5.2 Important Considerations

#### Effect of acceptance and your ability to withdraw your acceptance

- 5.2.1 If you accept the Offer you cannot withdraw your acceptance unless a withdrawal right arises under the Corporations Act. Such a withdrawal right will arise if, after you have accepted the Offer, Hamilton Securities varies the Offer in a way that postpones, for more than one month, the time when Hamilton Securities has to meet its obligations under the Offer and the Offer is still subject to any Conditions.

#### Effect of an improvement in consideration under the Offer on Debenture Holders

- 5.2.2 If Hamilton Securities increases the consideration offered under the Offer after you have accepted the Offer you will still be entitled to the benefit of the increased consideration.

### **Effect of a competing bid**

- 5.2.3 If a competing bid for the Debentures is made at a higher price or consideration than the Offer, Debenture Holders who have already accepted the Offer will not be able to sell their Debentures to the competing bidder. Rather, Hamilton Securities could declare the Offer free from all Conditions and accept the higher bid in respect of the Debentures for which it has received acceptances. In that case, Hamilton Securities would enjoy the excess of the higher competing bid consideration over that offered under the Offer.

### **Lapse of the Offer**

- 5.2.4 The Offer will lapse if the Conditions are not waived or fulfilled by the end of the Offer Period, in which case any contract resulting from acceptance of the Offer will automatically be void. In such circumstances, if you have previously accepted the Offer, you will be free to deal with your Debentures as you wish.

**Align encourages Debenture Holders to read the Bidder's Statement and this Target's Statement in their entirety, consider their own personal risk profile, portfolio strategy, tax position and financial circumstances and seek professional advice before making any decision in relation to their Debentures.**

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## **6. Additional information**

### **6.1 Information about Align directors**

- 6.1.1 As at the day before the date of this Target's Statement, the Align Directors had no direct or indirect interests in Debentures.
- 6.1.2 As at the date of this Target's Statement, none of the Align Directors has a relevant interest in any securities of Hamilton Securities.
- 6.1.3 Neither Align nor any Align Director has acquired or disposed of a relevant interest in any securities of Hamilton Securities whether in the 4 month period immediately preceding the day immediately before the date of this Target's Statement or at any other time.
- 6.1.4 No Align Director has agreed to receive, or is entitled to receive, any benefit from Hamilton Securities which is conditional on, or is related to, the Offer.
- 6.1.5 No Align Director has any interest in any contract entered into by Hamilton Securities.

### **6.2 Consents**

- 6.2.1 Each Align Director has given his consent to the lodgement and issue of this Target's Statement, and to this Target's Statement including statements made by, or based on statements made by, the Director in the form and context in which those statements appear. None of these consents have been withdrawn before the lodgement of this Target's Statement with ASIC.
- 6.2.2 The Receivers and Managers have consented to being named in this Target's Statement in the form and context in which they are named and have not withdrawn their consent.
- 6.2.3 Maddocks has consented to being named in this Target's Statement as legal advisers of Align in the form and context in which it is named and has not withdrawn their consent.

### **6.3 Disclaimers**

Each person named in Section 6.2 as having given their consent to the inclusion of a statement or to being named in this Target's Statement:

- 6.3.1 does not make, or purport to make, any statement in this Target's Statement or any statement on which a statement in this Target's Statement is based other than, in the case of a person referred to above as having given their consent to the inclusion of a statement, a statement included in this Target's Statement with the consent of that person; and
- 6.3.2 to the maximum extent permitted by law, expressly disclaims and takes no responsibility for any part of this Target's Statement, other than a reference to its name, and, in the case of a person referred to above as having given their consent to the inclusion of a statement, any statement or report which has been included in this Target's Statement with the consent of that party.

### **6.4 Professional services**

Maddocks has acted as the legal adviser to Align in relation to the Offer. Align anticipates that it will pay Maddocks approximately \$15,000, excluding GST and disbursements, for its services and will pay additional fees for future work on normal time based rates.

### **6.5 Copies of documents**

This Target's Statement includes or is accompanied by statements which are made in, or based on statements made in, documents lodged with ASIC or on the company announcement platform of ASX or NSX. These documents include the Hamilton Securities announcement "Hamilton Securities announces takeover bid for the Debentures of Timbercorp Orchard Trust" dated 18 December 2009;

Under the terms of ASIC Class Order 01/1543, the parties making those statements are not required to consent to, and have not consented to, the inclusion of those statements in this Target's Statement.

If you would like to receive a copy of any of these documents please contact Align on +61 3 9691 5412 (Attention Andrew Ashbolt) during the Offer Period and you will be sent a copy free of charge.

## **6.6 No other material information**

This Target's Statement must include all the information that Debenture Holders and their professional advisers would reasonably require to make an informed assessment whether to accept the Offer, but:

- 6.6.1 only to the extent to which it is reasonable for investors and their professional advisers to expect to find this information in this Target's Statement; and
- 6.6.2 only if the information is known to any Align Director.

The Align Directors are of the opinion that the information that Debenture Holders and their professional advisers would reasonably require to make an informed assessment whether to accept the Offer is:

- 6.6.3 the information contained in the Bidder's Statement (to the extent that the information is not inconsistent with or superseded by information in this Target's Statement);
- 6.6.4 the information contained in this Target's Statement; and
- 6.6.5 the information contained in Align's releases to ASX prior to the date of this Target's Statement.

The Align Directors have assumed, for the purposes of preparing this Target's Statement, that the information in the Bidder's Statement is complete and accurate (unless they have expressly indicated otherwise in this Target's Statement). However, the Align Directors do not take any responsibility for the contents of the Bidder's Statement and are not to be taken as endorsing, in any way, any or all statements contained in it.

In deciding what information should be included in this Target's Statement, the Align Directors have had regard to:

- 6.6.6 the nature of the Debentures;
- 6.6.7 the matters that Debenture Holders may reasonably be expected to know;
- 6.6.8 the fact that certain matters may reasonably be expected to be known to their professional advisers; and
- 6.6.9 the time available to Align to prepare this Target's Statement.

## **6.7 Approval of this Target's Statement**

This Target's Statement was approved by a resolution of the Align Directors and any Align Director is authorised to sign this Target's Statement on behalf of Align.

No Align Director voted against the Directors' resolution approving this Target's Statement.

Signed by Alan Fisher on behalf of Align



Dated: 27 January 2010

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## 7. Defined Terms and Interpretation

### 7.1 Definitions

In this Target's Statement, unless the context otherwise requires:

**A Class Shares** means a fully paid A Class non-voting ordinary share in the capital of Hamilton Securities.

**Align** means Align Funds Management Limited ACN 105 684 231 in its capacity as the responsible entity of the Trust.

**Announcement Date** means 7 January 2010.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited or the financial market which it operates, as the context requires.

**B Class Option** means an option over 1 B Class Share exercisable at \$1.00 until 30 November 2019.

**B Class Share** means a fully paid B Class ordinary share in the capital of Hamilton Securities.

**Bidder's Statement** means the supplementary Bidder's Statement issued by Hamilton Securities and served on Align of which the Offer forms a part and dated 7 January 2010.

**Business Day** means any day other than a Saturday or Sunday on which banks are open for business in Sydney, Australia.

**CGT** means capital gains tax in Australia.

**Closing Date** means the later of 26 February 2010 and any date to which the period of the Offer is extended in accordance with the terms of the Bidder's Statement and the Corporations Act.

**Conditions** means the conditions of the Offer referred to in paragraph 4.3.3 of this Target's Statement.

**Corporations Act** means the *Corporations Act 2001* (Cwlth).

**Debenture** means the debentures (ASX Code: TODHA) issued by Align.

**Debenture Holder** means a holder of Debentures.

**Debenture Charge** means the fixed and floating charge over the assets of the Trust dated 17 October 2003 granted by Align to the Trustee.

**Director** or **Align Director** means a director of Align.

**Foreign Debenture Holder** means a Debenture Holder who is a citizen or a resident of a jurisdiction other than Australia or whose address as shown in the register of Debenture Holders is a place outside Australia and its external territories unless Hamilton Securities otherwise determines.

**Hamilton Securities** means Hamilton Securities Limited ACN 138 270 201.

**NSX** means the National Stock Exchange of Australia.

**Offer** means the offer to be made by Hamilton Securities for Debentures on the terms set out in the Bidder's Statement.

**Offer Period** means the period commencing on the date the Offer is made and ending on the Closing Date.

**Receivers and Managers** means Paul William Kirk and Stephen Graham Longley of PricewaterhouseCoopers, in their capacity as receivers and managers of the Trust.

**TAM** means Timbercorp Asset Management Pty Limited (ACN 105 888 364) (Administrators Appointed).

**Target's Statement** means this Target's Statement issued by Align under Part 6.5, Division 3 of the Corporations Act in response to the Offer as set out in the Bidder's Statement.

**Timbercorp** means Timbercorp Limited (ACN 055 185 067) (In Liquidation).

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**Trust or Timbercorp Orchard Trust** means the Timbercorp Orchard Trust (ARSN 106 557 297) (Receivers and Managers Appointed).

**Trustee** means Permanent Nominees (Aust.) Limited in its capacity as trustee for the Debenture Holders.

**TSL** means Timbercorp Securities Limited (ACN 092 311 469) (In Liquidation).

**you** means a Debenture Holder.

## 7.2 Interpretative

In this Target's Statement unless the contrary intention appears:

- 7.2.1 words and phrases have the same meaning and interpretation as in the Corporations Act;
  - 7.2.2 agreement on the part of, or in favour of two or more persons binds or is for the benefit of them or any one or more of them jointly and severally;
  - 7.2.3 where a word or phrases is given a defined meaning in this Target's Statement, any other part of speech or grammatical form in respect of such word or phrase has a corresponding meaning; and
  - 7.2.4 references to dollar or are references to the currency of Australia;
  - 7.2.5 where the expression **including** or **includes** is used it means 'including but not limited to' or 'including without limitation';
  - 7.2.6 reference to time are references to time in Sydney, Australia.
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