

DEED OF SETTLEMENT

Dated: 17 May, 2017

PARTIES

PIEMONTE PTY LTD AS TRUSTEE FOR WE & RB SUPERANNUATION FUND
(ACN 077 890 156)

AND

PIEMONTE PTY LTD (ACN 077 890 156)

AND

A & B HYDROPONICS INTERNATIONAL PTY LTD (ACN 003 105 440)

AND

JOE AGIUS

AND

ROBERT BRUCE BOSTON

AND

WARREN ELBRIDGE BOSTON

AND

MICHAEL JOE



SETTLEMENT DEED

DATE

17th . MAY 2017

DETAILS OF PARTIES

Name Piemonte Pty Ltd as trustee for WE & RB Superannuation Fund (ACN 077 890 156)
Label **The Superannuation Fund**
Street Address Care of Steindls Lawyers and Notary, Level 6 RSL Centre, 9 Beach Road, Surfers Paradise QLD 4217

Name Piemonte Pty Ltd (ACN 077 890 156)
Label **Piemonte**
Street Address Care of Steindls Lawyers and Notary, Level 6 RSL Centre, 9 Beach Road, Surfers Paradise QLD 4217

Name A & B Hydroponics International Pty Ltd (ACN 003 105 440)
Label **A & B Hydroponics**
Street Address Care of Bell Legal Group, Level 4, 91 Upton Street, Bundall QLD 4217

Name Joe Agius
Label **Agius**
Street Address Care of Bell Legal Group, Level 4, 91 Upton Street, Bundall QLD 4217

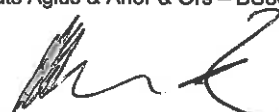
Name Robert Bruce Boston
Label **Robert**
Street Address Care of Steindls Lawyers and Notary, Level 6 RSL Centre, 9 Beach Road, Surfers Paradise QLD 4217

Name Warren Elbridge Boston
Label **Warren**
Street Address Care of Steindls Lawyers and Notary, Level 6 RSL Centre, 9 Beach Road, Surfers Paradise QLD 4217

Name Michael Joe
Label **Michael**
Street Address Care of Tobin King Lateef Lawyers, Level 10, 217 George Street, Brisbane QLD 4001

BACKGROUND

- A. On or about 28 August 2015, the Superannuation Fund and Piemonte commenced legal proceedings against A & B Hydroponics and Agius in the Supreme Court of Queensland at Brisbane, proceedings number BS8600/2015 ("Proceedings").




- B. In the proceedings, the Superannuation Fund and Piemonte make a number of allegations against A & B Hydroponics and Agius arising out of the Agreements and an alleged venture at the Farm including for negligent misrepresentation and alleged contraventions of the *Trade Practices Act 1974* (Cth) and the *Fair Trading Act 1999* (Qld) ("**Allegations**").
- C. On 7 December 2016, A & B Hydroponics and Agius filed a defence to the proceeding in which they deny the Allegations raised in the Proceedings.
- D. On 19 January 2017, A & B Hydroponics and Agius filed Third Party proceedings against Robert, Warren and Michael, claiming an indemnity equal to the Defendants' liability for the Plaintiffs' claim.
- E. Robert, Warren and Michael deny the allegations raised and are defending the Third Party Proceedings.
- F. In order to avoid the costs, inconvenience and uncertainty of continuing the Proceedings, the parties have agreed to settle the dispute between them on the terms set out in this Deed.

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply in this Deed:

Actions means any claim, proceeding or action for damages, compensation, expenses, losses, legal costs, Costs, contribution, indemnity or any other legal, equitable or statutory remedy.

Agreements means the following, as defined in the Statement of Claim in the Proceedings:

- (a) Heads of Agreement;
- (b) Loan Agreement;
- (c) Shareholders' Agreement;
- (d) Variation;
- (e) Second Loan Agreement; and
- (f) Agius Agreement;

Business Day means a day on which banks are open for retail banking, other than a Saturday, Sunday or public holiday, in Queensland, Australia.

Claim means the claims in the Proceeding.

Completion means the final payment of the Consideration (as defined in the Share Sale Agreement) for the Loan Accounts (as defined in the Share Sale Agreement) on or before 31 August 2018 (or any other date agreed to by the parties to the Share Sale Agreement)

Costs means costs of all issues in the Proceeding and includes:

- (a) costs ordered to be costs of the Proceeding;
- (b) costs of complying with the necessary steps before starting the Proceeding;
- (c) costs incurred before or after the start of the Proceeding for successful or unsuccessful negotiations for settlement.

Default means:

- (a) the failure of the Purchaser Mr Martin Rice to pay any one of the instalments due on 31 May 2017, 31 July 2017, 30 September 2017, 30 November 2017, 31 January 2018, 31 March 2018, 31 July 2018 and 31 August 2018 within 7 days of notice of default being sent by the Vendor to the Purchaser pursuant to the Share Sale Agreement; and
- (b) the failure of A & B Hydroponics, Agius, Michael and Dalmax Corporation Ltd to pay the whole of the balance amount owing by the buyer under the Share Sale Agreement within 30 days after receiving notice from Piemonte and the Superannuation Fund of the buyer failing to remedy the notice of default.

Defunct Body means a body or agency that has ceased to exist, been renamed or replaced, or had its powers or functions removed.

Dispute is as described in the Background of this Deed and includes the Allegations, the Claim and the dispute between the parties referred to in Recitals A to F to this Deed.

Farm means a farm property at Wai Wai Subdivision, Nausori Highland, Nadi Fiji of which Paradise Garden Produce Limited is the lessee

GST has the meaning given by the GST Law.

GST Amount means the amount equal to any GST paid or payable by the supplier in respect of a taxable supply.

GST Law has the meaning given to "GST law" in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Proceeding means matter number No. BS8600/2015 in the Queensland Supreme Court at Brisbane.

Share Sale Agreement means the Agreement incorporating a guarantee (including Schedules and Annexures) dated 17 May 2017 in the form Annexed to this Deed.

1.2 Rules for Interpreting this Deed

This clause 1.2 specifies the rules for interpreting this Deed, except where the context makes it clear that a rule is not intended to apply.

- (d) Headings are for convenience only and do not affect the interpretation of this Deed.
- (e) A reference to:
 - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;



- (ii) a document (including this Deed), or a provision of a document (including a provision of this Deed), is to that document or provision as amended or replaced;
 - (iii) a party to this Deed, or a party to any other document or agreement, includes that party's executors, administrators, permitted substitutes and permitted assigns;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
 - (v) anything (including a right, obligation or concept) includes each part of it;
 - (vi) property includes real, personal and intangible property;
 - (vii) a body or agency that is a Defunct Body means the agency or body which succeeds to the Defunct Body's powers or functions, or performs most closely the functions of the Defunct Body;
 - (viii) AUD\$, A\$, \$A, dollar or \$ is to Australian currency; or
 - (ix) a clause, schedule or annexure is to a clause of, or schedule or annexure to, this Deed.
- (f) A singular word includes the plural, and vice versa.
- (g) A word which suggests one gender includes any other genders.
- (h) If a word is defined, another part of speech of that word has a corresponding meaning.
- (i) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (j) An obligation on, warranty by, or right of:
- (i) two or more persons; or
 - (ii) a party that comprises two or more persons,
- is the obligation, warranty or right (as the case may be) of those persons jointly and severally.
- (k) Time is reckoned as follows:
- (i) A reference to the date or time of day, is a reference to that date or that time of day in Queensland, Australia.
 - (ii) If a period expressed in days, beginning on a given day, act or event is provided or allowed for any purpose, the period is calculated by:
 - (A) excluding the day, or the day of the act or event; and
 - (B) including the day on which the purpose is to be fulfilled.

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- (iii) If a period expressed in weeks, months or years, beginning on a given day, act or event is provided or allowed for any purpose, the period is calculated from:
 - (A) the day, or the day of the act or event; until
 - (B) the corresponding day in the next appropriate week, calendar month or year.
- (iv) If there is no corresponding day for the purposes of clause 1.1(k)(iii)(B), because of the differing number of days in calendar months, the corresponding day is taken to be the last day of the relevant calendar month.
- (v) If something is to be done on a particular day, it must be done by 5.00pm on that day.
- (vi) If something is to be done on a day which is not a Business Day then that thing must be done on the next Business Day.
- (l) Terms defined in the GST Law have the same meaning in this Deed unless the context makes it clear that a different meaning is intended.

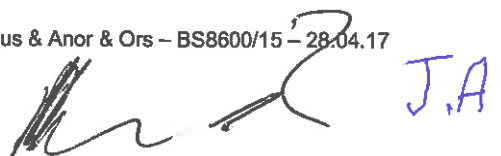
2. SETTLEMENT

2.1 Discontinuance

- (a) The Superannuation Fund and Piemonte agree that upon the conditions set out in clause 2.2, 2.3 and 2.4 of this Deed being fulfilled, that the Dispute is resolved and:
 - (i) the releases provided for in clause 3 of this Deed will be effective; and
 - (ii) that the parties will take all steps, within 14 days of Completion, to file consent orders in the Court in the Proceedings on the following terms:
 - (A) the Claim be dismissed; and
 - (B) there be no order as to costs.

2.2 Condition One

This Deed is conditional upon each of the Parties and Dalmax Corporation Ltd signing and agreeing to be bound by the Share Sale Agreement.



2.3 Condition Two

This Deed is conditional upon Agius consenting and doing all things necessary to grant a registered caveat in favour of Piemonte over his interest in the property located at Lot 6 in Deposited Plan 727425 at Cudgen, Local Government of Tweed, Parish of Cudgen, County of Rous as security for his guarantee and to prevent his encumbering such property to defeat the interest of Piemonte in respect of the guarantee.

Such caveat is to remain on title until Completion upon which it will be withdrawn by Piemonte within 7 days of Completion taking place.

2.4 Condition Three

This Deed is conditional upon there being no Default and Completion occurring.

2.5 Undertaking

A & B Hydroponics, Agius and Michael undertake that they will not take any action that may be prejudicial to the Superannuation Fund and Piemonte affecting its interests and in enforcing its rights pursuant to the Agreements and the Loan Accounts on or before Completion.

2.6 Proceedings Stayed

Upon execution of this Deed, the parties agree that the Proceedings are stayed and no party to the Proceedings shall be entitled to take a step in the Proceedings unless a Default occurs and/or Completion is not effected. The parties to this Deed will sign all necessary documents to file consent orders in the Court to give effect to this clause.

3. RELEASE

- (a) Upon Completion, the Superannuation Fund, Piemonte, Robert and Warren release, save and except for any rights arising under this Deed, A & B Hydroponics, Agius and Michael from all Actions that the Superannuation Fund, Piemonte, Robert and Warren had, has or may have had against A & B Hydroponics, Agius and Michael arising out of or in connection with the Agreements, the Allegations, the Proceeding, the Claim and/or the Dispute.
- (b) Upon Completion, A & B Hydroponics and Agius release, save and except for any rights arising under this Deed, the Superannuation Fund, Piemonte, Robert, Warren and Michael from all Actions that A & B Hydroponics and/or Agius had, has or may have had against the Superannuation Fund, Piemonte, Robert, Warren and Michael arising out of or in connection with the Allegations, the Agreements, the Proceeding, the Claim and/or the Dispute.
- (c) Upon Completion, Michael releases, save and except for any rights arising under this Deed, the Superannuation Fund, Piemonte, Robert, Warren, Agius and A & B Hydroponics from all Actions Michael had, has or may have had against the Superannuation Fund, Piemonte, Robert, Warren, Agius and A & B Hydroponics

4. BAR

This Deed may be pleaded as a bar and defence to any proceeding brought in contravention of it.




5. NO ADMISSION

No party by executing this Deed admits liability in the Dispute, the Claim, the Allegations and/or Proceeding.

6. ACKNOWLEDGMENTS

- (a) If a circumstance of Default occurs and Completion is not effected, the Superannuation Fund and Piemonte may take all recovery action and commence proceedings to enforce its rights under the Share Sale Agreement against the Purchaser and against any of the guarantors being Agius, A & B Hydroponics, Michael and Dalmax Corporation Ltd under the guarantee contained in the Share Sale Agreement
- (b) Except for the circumstances as set out in clause 6(a), the terms of settlement contained in this Deed are in full and final satisfaction of all Actions arising out of or in connection with the Agreements, the Dispute, the Claim, the Allegations and the Proceeding, save and except for any rights arising under this Deed. Each party acknowledges that the later discovery of information or facts regarding the dispute between the parties does not affect the enforceability of this Deed.
- (c) Each party acknowledges that it has obtained, or has had the opportunity to obtain, legal advice about this Deed before executing it.

7. MISCELLANEOUS

7.1 Assignment

A party may only dispose of, deal with, declare a trust over or otherwise create an interest in, its rights under this Deed with the prior consent of each other party.

7.2 No Liability for Loss

A party is not liable to another party for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this Deed.

7.3 Exclusion of Contrary Legislation

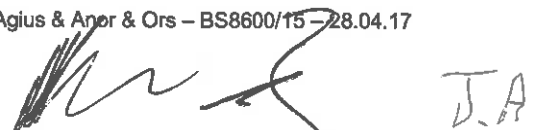
Any legislation that diminishes the obligation of a party, or adversely affects the exercise by a party of a right or remedy, under or relating to this Deed is excluded to the full extent permitted by law.

7.4 Amendment

This Deed can only be amended, supplemented, novated or replaced by another document signed by the parties.

7.5 Giving Effect to this Deed

Each party agrees, at its own expense, to do anything (including ensuring that its employees and agents do anything) that any other party reasonably requires (such as obtaining consents, signing and producing documents) as may be necessary or desirable to give full effect to the provisions of this Deed and the transactions contemplated by it.



7.6 Entire Agreement

This Deed embodies the entire agreement between the parties and supersedes all previous agreements, understandings, negotiations, warranties and representations on the subject matter of this Deed. If this Deed is inconsistent with any other agreement between any of the parties, this Deed prevails to the extent of the inconsistency.

7.7 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this Deed or any part of it.

7.8 Severability

If the whole, or any part, of a provision of this Deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of this Deed has full force and effect, and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance materially alters the nature or intended effect of this Deed.

7.9 Execution under Power of Attorney or Agency

Each person who executes this Deed as:

- (a) attorney for a party, or
- (b) agent of a party,

warrants that he or she has authority to do so, and will produce written evidence of that authority to any party who requests it.

7.10 Governing Law

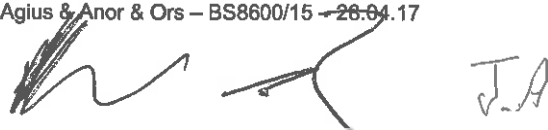
This Deed is governed by the law in force in Queensland, Australia. Each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Queensland, and any court that may hear appeals from any of those courts for any proceeding in connection with this Deed, and waives any right it may have to claim that those courts are an inconvenient forum.

7.11 Counterparts and Facsimile Copies

This Deed may be executed in counterparts. A counterpart may be a facsimile or electronic copy of this Deed. All counterparts together are taken to constitute one instrument. A facsimile copy of this Deed which has been executed by a party may be relied upon by a party to the same extent as if it was an original of this Deed executed by the party.

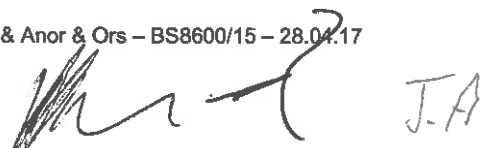
7.12 Electronic Form of Deed

All Parties acknowledge that the original of this Deed may be in electronic form and agree to accept the signed electronic Deed as the original and binding Deed.

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7.13 Costs

Each party will be responsible for their own legal costs of preparing and considering this Deed.

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Execution

Executed as a deed.

EXECUTED by Piemonte Pty Ltd as trustee for WE & RB Superannuation Fund (ACN 077 890 156) in accordance with Section 127 of the Corporations Act in the presence of



Signature of director

ROBERT BRUCE BOSTON
Name (BLOCK LETTERS)




Signature of director/secretary/
sole director/sole director & secretary*
*delete whichever is not applicable

WARREN BOSTON
Name (BLOCK LETTERS)

17-5-2017

Date signed

EXECUTED by Piemonte Pty Ltd (ACN 077 890 156) in accordance with Section 127 of the Corporations Act in the presence of



Signature of director

ROBERT BRUCE BOSTON
Name (BLOCK LETTERS)



Signature of director/secretary/
sole director/sole director & secretary*
*delete whichever is not applicable

WARREN BOSTON
Name (BLOCK LETTERS)

17-5-2017

Date signed

J.A

EXECUTED by **A & B Hydroponics International Pty Ltd** (ACN 003 105 440) in accordance with Section 127 of the Corporations Act in the presence of

Signature of director

Name (BLOCK LETTERS)

Joe Agius

Signature of director/secretary/
sole director/sole director & secretary*
*delete whichever is not applicable

JOE AGIUS

Name (BLOCK LETTERS)

17/05/2017

Date signed

EXECUTED by **JOE AGIUS**

Joe Agius

Signature

JOE AGIUS

Name (BLOCK LETTERS)

[Signature]

Witness

TIMOTHY ELLIOTT

Name (BLOCK LETTERS)

17/05/2017

Date signed

EXECUTED by **ROBERT BRUCE BOSTON**

[Signature]

Signature

ROBERT BRUCE BOSTON

Name (BLOCK LETTERS)

[Signature]

Witness

MATTHEW JOHN JONES

Name (BLOCK LETTERS)

17 - may . 2017

Date signed

EXECUTED by WARREN ELBRIDGE
BOSTON



Signature

WARREN BOSTON

Name (BLOCK LETTERS)



Witness


MATTHEW JOHN JONES

Name (BLOCK LETTERS)

17/05/2017

Date signed

EXECUTED by MICHAEL JOE



Signature

Michael Joe

Name (BLOCK LETTERS)



Witness Sebastiano John Anthony Miano

Solicitor

Sebastiano John Anthony Miano

Name (BLOCK LETTERS)

17/05/2017

Date signed