Dated **19th April** 2011

FORESTRY EMISSION UNIT TRUST

Settlor
HER MAJESTY THE QUEEN IN RIGHT OF NEW ZEALAND ACTING BY AND THROUGH THE MINISTER FOR CLIMATE CHANGE ISSUES

Trustees
Angela June Foulkes
Alan Parekura Torohina Haronga
Paul Te Poa Karoro Morgan
Cletus Maanu Paul
Guy Richard Kiniwe Royal
Alexander John Wilson

Amended and restated Trust Deed incorporating the variations to the Trust Deed made by orders of the High Court on 13 September 2023

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DATED 2010

PARTIES

(1) **Her Majesty the Queen in right of New Zealand** acting by and through the Minister for Climate Change Issues (the "**Settlor**")

(2) **Angela June Foulkes, Alan Parekura Torohina Haronga, Paul Te Poa Karoro Morgan, Cletus Maanu Paul, Guy Richard Kiniwe Royal, and Alexander John Wilson** (the "**Trustees**")

BACKGROUND

A. The Settlor wishes to establish a trust to give effect to the purposes referred to in this deed.

B. On signing this deed the Settlor has paid **$10** to the Trustees to be held upon the trusts and with the powers set out in this deed.

NOW THIS DEED RECORDS:

1. DEFINITIONS AND CONSTRUCTION

1.1 **Defined terms**: In this deed, unless the context requires otherwise:

"**Act**" means that Climate Change Response Act 2002;

"**Balance Date**" means 31 March or any other date that the Trustees adopt by resolution as the date up to which accounts are to be made in each year;

"**Bank**" means a bank registered under the Reserve Bank of New Zealand Act 1989;

"**Beneficiary**" means:

(a) any person to whom Eligible CFL Land is transferred from the Crown to that person as part of a Treaty of Waitangi settlement; or

(b) the Crown in relation to Eligible CFL Land that, as a result of a Treaty of Waitangi settlement, is not transferred to a person referred in subclause (a);

"**Capital**" means the New Zealand Units held by the Trustees;

"**Crown forest licence land**" has the meaning set out in section 72(6)(a)(ii) of the Act;

"**Eligible CFL Land**" means pre-1990 forest land that was Crown forest licence land on 1 January 2008 and will not have been transferred to iwi as part of a Treaty of Waitangi settlement by the date on which the Pre-1990 Forest Land Allocation Plan is issued;

"**Funding Agreement**" means a funding agreement between the Crown and the Trustees;

"**Income**" means any payments received by the Trustees from the Crown pursuant to a Funding Agreement and any income derived from the investment of any of those payments;

"**Income Year**" means any year or other accounting period ending on a Balance Date;

"**Minister for Climate Change Issues**" means the Minister for Climate Change Issues or any other Minister of the Crown who, under the authority of any warrant or with the authority of the Prime Minister, is for the time being responsible for Subpart 2 of the Part 4 of the Act;

"**New Zealand Units**" has the meaning set out in section 4 of the Act;

"**Publish**" means to make available publicly, whether by making available via a website or other means;

"**Pre-1990 forest land**" has the meaning set out in section 4 of the Act;

"**Pre-1990 Forest Land Allocation Plan**" means the allocation plan issued under section 70(1) and 72 of the Act;

"**Teleconference Meeting**" for the purposes of rule 11 in the Third Schedule means a meeting where the participants are contemporaneously linked by telephone or some other means of instant audio or audio and visual communication;

"**Trust**" means the trusts established by this deed;

"**Trust Fund**" means the sum of ***[$10]** referred to in Background B of this deed, the Capital allocated to the Trustees and the Income paid or given to or acquired or agreed to be acquired by the Trustees after this deed has been signed with the intention that it be held by the Trustees subject to the trusts and other provisions set out in this deed.

1.2 **Construction**: In the construction of this deed, unless the context requires otherwise:

(a) a reference to "Trustees" is a reference to the trustees for the time being of the Trust Fund, whether original, additional or substituted;

(b) a reference to a person includes a corporation sole and also a body of persons, whether corporate or unincorporate;

(c) a reference to an enactment is a reference to that enactment as amended, or to any enactment that has been substituted for that enactment;

(d) the schedules form part of this deed;

(e) headings appear as a matter of convenience and will not affect the construction of this deed; and

(f) the plural includes the singular and vice versa.

2. CREATION OF TRUST

Declaration of trust

2.1 The Settlor directs, and the Trustees acknowledge, that the Trustees will hold the Trust Fund upon the trusts and with the powers set out in this deed.

Name of trusts

2.2 The trusts established by this deed are to be known as the "Forestry Emission Unit Trust".

Status of Trust

2.3 The Trust is not an instrument of the Crown, nor of the Government of New Zealand.

3. PURPOSES

3.1 The Trust is established for the purposes of:

(b) applying for an allocation of New Zealand Units in respect of Eligible CFL Land in accordance with the Act;

(c) holding on trust for the Beneficiaries any allocation of New Zealand Units in respect of Eligible CFL Land; and

(d) distributing the New Zealand Units to the Beneficiaries in accordance with clause 6.

4. INCOME TRUSTS

Power to pay or apply income

4.1 The Trustees may pay or apply as much of the Income in an Income Year as they think fit for or towards one or more of the purposes of the Trust. If the Trustees provide for more than one purpose they need not treat each purpose equally.

Power to retain income

4.2 The Trustees need not distribute all of the Income in an Income Year, but may retain or decide to retain all or part of that income to establish or augment any reserve fund, which may be used at any later time for any purpose for which Income may be used.

5. CAPITAL TRUSTS

5.1 The Trustees may not distribute or otherwise apply or use any part of the Capital, except in accordance with clause 6 or on the determination of the Trust in accordance with clause 12.

6. DISTRIBUTIONS

Distributions following transfer of Eligible CFL Land pursuant to a Treaty of Waitangi settlement

6.1 As soon as reasonably practicable following the earlier of:

- the settlement date set out in the legislation under which Eligible CFL Land is to be transferred; or
- the date on which Eligible CFL Land is actually transferred,

to a Beneficiary pursuant to a Treaty of Waitangi settlement, the Trustees must:

(a) determine the number of New Zealand Units that the relevant Beneficiary is entitled to receive in respect of that land; and

(b) transfer the New Zealand Units received in respect of applications by the Trust to the relevant Beneficiary.

Distributions if Eligible CFL Land will not be transferred

6.2 As soon as reasonably practicable after the Trustees are satisfied that, as a result of a Treaty of Waitangi settlement, Eligible CFL Land is not transferred to a person referred to in clause 6.1, the Trustees must:

(a) determine the number of New Zealand Units that the Crown is entitled to receive in respect of that land; and

(b) transfer the New Zealand Units received in respect of applications by the Trust to the Crown.

7. INTERESTED TRUSTEES

Disclosure of interests

7.1 A Trustee will be interested in a transaction to which the Trust is a party if the Trustee:

(a) is a party to, or will derive or may derive a material financial benefit from, that transaction;

(b) has material financial interest in another party to the transaction;

(c) is a director, officer or trustee of another party to, or person who will or may derive a material financial benefit from the transaction, not being a party that is wholly owned by the Trust;

(d) is the parent, child or spouse, civil union partner, or de facto partner of another party to, or person who will or may derive a material financial benefit from the transaction; or

(e) is otherwise directly or indirectly materially interested in the transaction.

7.2 As soon as a Trustee becomes aware of the fact that he or she is interested in a transaction or proposed transaction with the Trust, he or she must disclose to his or her co-trustees at a meeting of the Trustee:

(a) if the monetary value of the Trustee's interest is able to be quantified, the nature and monetary value of that interest; or

(b) if the monetary value of the Trustee's interest cannot be quantified, the nature and extent of that interest.

7.3 A disclosure of interest by a Trustee must be recorded in the minute book of the Trust.

Interested Trustee may not vote

7.4 A Trustee who is interested in a transaction entered into, or to be entered into, by the Trust may not vote on a matter relating to the transaction, but may:

(e) attend a meeting of Trustees at which a matter relating to the transaction arises, and be included among the Trustees present at the meeting;

(f) sign a document relating to the transaction on behalf of the Trust; and

(g) do anything else as a Trustee in relation to the transaction, as if he or she were not interested in the transaction.

7.5 If a Trustee contravenes clauses 7.2 or 7.4, his or her vote or other decision will not be counted.

7.6 If the Trustee who is interested in the transaction or proposed transaction with the Trust is the chairperson, then another Trustee must assume the role of chairperson in respect of the transaction.

8. TRUSTEES' POWERS

8.1 The Trustees have the power to do:

(a) all lawful things that are necessary or desirable in their opinion for the carrying out of the purposes of the Trust; and

(b) without limiting (a), those things specified in the First Schedule,

and may exercise them either alone or with any other person(s).

8.2 Despite anything to the contrary in this Deed, the Trustees do not have the power to invest and/or trade New Zealand Units. New Zealand Units must be held passively on trust.

9. ADVICE OF COUNSEL

If the Trustees are in doubt over any matter relating to the administration of the Trust Fund, or over the exercise of any power vested in them, they may obtain and act upon the opinion of a barrister of the High Court of New Zealand of at least 7 years' standing. And they may act upon the barrister's opinion without being liable to any person who may claim to be beneficially interested in respect of anything done in accordance with that opinion. This right to obtain and act upon a barrister's opinion, however, will not restrict the Trustees' right to apply to the High Court of New Zealand for directions.

10. PROVISION OF INFORMATION

10.1 As soon as reasonably practicable after the Trustees have been notified of the Minister's final determination under section 77 of the Act, the Trustees will Publish information from the final determination.

10.2 For the purposes of enabling future Beneficiaries to identify the number of New Zealand Units that attach to Eligible CFL Land the Trustees will provide the Office of Treaty Settlements and Land Information New Zealand (or successor) with an estimate of the number of New Zealand Units that attach to parcels of Eligible CFL Land as and when requested by the Office of Treaty Settlements or Land Information New Zealand.

11. LIABILITY OF TRUSTEES

A Trustee will be liable only for any loss attributable to his or her dishonesty or to his or her wilful commission or omission of an act that he or she knows to be a breach of trust. In particular, no Trustee will be bound to take, or liable for failing to take, any proceedings against a co-trustee for breach or alleged breach of trust.

12. INDEMNITY

12.1 Each Trustee is indemnified from the Income of the Trust Fund for any loss or liability that he or she incurs in the carrying out or omission of any function, duty or power of the Trustees under this deed unless the loss or liability is attributable to his or her dishonesty or to the wilful commission or omission of an act known by him or her to be a breach of trust.

12.2 Each Trustee is indemnified by the Crown for any:

(a) cost incurred by him or her in defending any claim or proceeding against the Trustee for any liability that he or she incurs in the carrying out or omission of any function, duty or power of the Trustees under this deed; and

(b) loss or liability of the Trustee arising from the settlement of or judgment in any such claim or proceeding,

not being liability which is attributable to his or her dishonesty or the wilful commission or omission of an act known by him or her to be a breach of trust.

12.3 The indemnity provided under this clause only applies to the extent that the loss or liability incurred is not covered by the Trustees' indemnity insurance (if any).

13. PERIOD OF TRUST

13.1 The Trust established by this deed will continue unless earlier terminated until the expiration of sixty years from the date of this deed.

14. WINDING UP

14.1 The Trustees may wind up the Trust if:

(a) all of the New Zealand Units have been distributed to the Beneficiaries; or

(b) the Minister for Climate Change Issues terminates the appointment of the Trustees.

14.2 On the winding up or dissolution of the Trust, the Trustees must:

(a) apply for the transfer of all remaining New Zealand Units from the Trust to the Crown or another person appointed under section 73 of the Act; and

(b) give or transfer all surplus Income after the payment of costs, debts and liabilities to the Crown.

15. RULES

The rules that govern the appointment and proceedings of the Trustees, subject to the provisions of this deed, are set out in the Second and Third Schedules.

EXECUTION

EXECUTED as a **DEED** by)
HER MAJESTY THE QUEEN in right of)
New Zealand acting by and) [*signed and witnessed in original*]
through the Minister for Climate Change) _____
Issues as Settlor Signature

in the presence of

_____
Witness signature

_____
Full name

_____
Address

_____
Occupation

_____

EXECUTED as a **DEED** by)
Angela June Foulkes as Trustee) [*signed and witnessed in original*]
) _____
in the presence of) Signature

_____
Witness signature

_____
Full name

_____
Address

_____
Occupation

EXECUTED as a **DEED** by)
Alan Parekura Torohina) [*signed and witnessed in original*]
Haronga as Trustee)
)
Signature

in the presence of

Witness signature

Full name

Address

Occupation

EXECUTED as a **DEED** by)
Paul Te Poa Karoro Morgan as) [*signed and witnessed in original*]
Trustee)
)
Signature

in the presence of

Witness signature

Full name

Address

Occupation

EXECUTED as a **DEED** by)
Cletus Maanu Paul as Trustee) [*signed and witnessed in original*]
)
Signature

in the presence of)

Witness signature

Full name

Address

Occupation

EXECUTED as a **DEED** by)
Guy Richard Kiniwe Royal) [*signed and witnessed in original*]
as Trustee)
) _____
) Signature

in the presence of

_____
Witness signature

_____
Full name

_____
Address

_____
Occupation

EXECUTED as a **DEED** by)
Alexander John Wilson as Trustee) [*signed and witnessed in original*]
) _____
in the presence of) Signature

_____
Witness signature

_____
Full name

_____
Address

_____
Occupation

FIRST SCHEDULE: TRUSTEES' POWERS

The Trustees have power:

1. To invest

To invest the Income held by the Trustees under this deed, either alone or in common with any other person or persons in:

(a) the stocks, funds or other securities of the New Zealand Government; or

(b) interest bearing deposit accounts with any Bank.

If, for the time being, any one or more Trustees, but not all Trustees, is or are engaged in a profession, employment or business that is or includes acting as a Trustee or investing money on behalf of others, then in exercising any power of investment, that Trustee or those Trustees (as the case may be) will not be required to exercise the care, diligence and skill that a prudent person engaged in that profession, employment or business would exercise in managing the affairs of others. Rather, that Trustee or those Trustees (as the case may be) will be required only to exercise the care, diligence and skill that a prudent person of business would exercise in managing the affairs of others.

2. To retain investments

To retain any investments coming into the Trustees' hands as part of the Income for as long as the Trustees think proper, even if they are not investments that could be properly made by a Trustee.

3. To sell

To sell any real or personal property forming part of the Income in the manner and on the terms and conditions the Trustees think fit, including (without limitation) power to allow such part of the purchase price as the Trustees think fit to remain on loan with or without security or to be payable by instalments.

4. To postpone sale

To postpone the sale of any real or personal property forming part of the Income for as long as the Trustees think fit without being liable for any resultant loss to the Trust Fund.

5. To let

To let any real and personal property at such rent and on such terms and conditions (including an option to purchase) as the Trustees think fit and to accept surrenders of any leases and tenancies.

6. To purchase property

To purchase as an asset of the Trust Fund any property or interest in property that the Trustees consider will benefit the Trust Fund. In exercising this power the Trustees will not be taken to be exercising a power of investment.

7. Bank accounts

To open any bank accounts in the name of the Trust. The Trustees may also make arrangements with any Bank for the Trustees, or any two or more Trustees named in writing by the Trustees, to operate any account from time to time opened at that Bank.

8. To insure

To insure any insurable property to any amount up to its full insurable value, or at the Trustees' option, up to its full replacement value, against destruction or damage by fire, earthquake, fire following earthquake and such other risks as the Trustees think fit. The Trustees may pay the premiums out of income as they think fit.

9. To waive debts

Without being liable for loss, to waive any debts due to the Trust Fund, either absolutely or on such terms as the Trustees think expedient.

10. To deposit funds

To deposit all or part of the Income in a savings or other interest or non-interest bearing account with any Bank.

11. To hold the Income uninvested

To hold any part of the Income uninvested for as long as the Trustees think fit without being liable for any loss due to devaluation or other governmental restriction.

12. To protect or enhance assets

To enter into any type of contract whatever to protect, maintain or enhance the value of any assets acquired or held by the Trustees or which they have the right to acquire or hold.

SECOND SCHEDULE: RULES GOVERNING THE APPOINTMENT OF THE TRUSTEES

1. Number of Trustees

1.1 The number of Trustees must be six except when:

(a) there is a casual vacancy; and

(b) an alternate is appointed under paragraph 3.

1.2 If at any time the number of Trustees falls below six, then, pending any new appointment, the continuing Trustees are empowered to act in all matters, notwithstanding the provisions of paragraph 1.1.

2. Appointment of new Trustees

2.1 The power of appointment of new Trustees is vested in the Minister for Climate Change Issues.

2.2 The Minister for Climate Change Issues also has the power to:

(a) remove any Trustee at any time and from time to time;

(b) replace any Trustee removed under paragraph 2.2(a); and

(c) appoint a new Trustee at any time,

provided that, except as provided in paragraph 1.1, the number of Trustees will at all times be no more nor less than six.

3. Alternate Trustees

If any Trustee is unable or unwilling to act in any manner or for a temporary period, the Minister for Climate Change Issues may appoint an alternate Trustee for that Trustee. The alternate Trustee will have all the powers and duties of a Trustee, subject to any limitations specified in the appointment and notwithstanding that there may already be six Trustees. A Trustee and an alternate for that Trustee may not act simultaneously on the same matter but may act at the same time on different matters.

4. Payment of Trustees

4.1 For the first Income Year, the chairperson will receive an annual fee equal to the highest amount payable under the Cabinet Circular Fees Framework (as modified, extended or replaced from time to time) for members appointed to bodies in which the Crown has an interest, in the fee category "Group 3a: Governance Boards, Level 5, Chair" as determined at 1 April each year.

4.2 For the first Income Year, each Trustee other than the chairperson will receive an annual fee equal to the highest amount payable under the Cabinet Circular Fees Framework (as modified, extended or replaced from time to time) for members appointed to bodies in which the Crown has an interest, in the fee category "Group 3a: Governance Boards, Level 5, Member" as determined at 1 April each year.

4.3 For subsequent Income Years, the Minister will assess the predicted workload of the Trust and will determine a reasonable annual fee for the chairperson and each Trustee other than the chairperson.

5. Receipt of gifts

5.1 The Trustees may not receive gifts or inducements related to the purposes of the Trust.

THIRD SCHEDULE: RULES GOVERNING THE PROCEEDINGS OF THE TRUSTEES

1. Validity of Proceedings

1.1 If, for any reason, a Trustee is not properly appointed, re-appointed or is disqualified from holding office, anything done by that Trustee (or by a meeting at which that Trustee was present as a Trustee) before discovery of the irregularity, will be as valid as if that Trustee had been duly appointed, re-appointed or had not been disqualified (as the case may be).

1.2 If at any time the Trustees number less than six, anything done by the continuing Trustees in accordance with the provisions of this deed pending the appointment of a new Trustee or Trustees will be as valid as if the requirement for six Trustees had been met during that period.

2. Appointment of secretary and others

The Trustees may appoint a secretary and any other officers or employees that the affairs of the Trust may require on such terms and conditions as they think fit. The Trustees may also remove and replace any persons so appointed.

3. Ordinary meetings

The Trustees may meet as often as they consider desirable for the efficient and proper conduct of the affairs of the Trust, but in any event at least in once each Income Year.

4. Special meetings

A special meeting may be called at any time by the chairperson or any three or more Trustees.

5. Notice of meetings

5.1 Written notice of every ordinary or special meeting, must be either hand-delivered, posted, sent by facsimile or email to each Trustee at least seven days before the date of the meeting. The secretary or some other person acting under the direction of the Trustees or, in the case of a special meeting, acting under the direction of those Trustees calling the meeting, will give the notice of the meeting. No notice will be required for adjourned meetings except to those Trustees who were not present when the meeting was adjourned.

5.2 Every notice of a meeting will state the place, day and time of the meeting, and in the case of a notice of a special meeting, will also state the subject-matter of the meeting.

5.3 The requirement for notice of a meeting may be waived if all of those Trustees who are for the time being in New Zealand give their written consent to such a waiver.

6. Chairperson

The Trustees must elect a chairperson of their meetings and determine the term of his or her office as chairperson. The chairperson must take the chair at all the meetings of the Trustees. The chairperson has a deliberative vote only and not a casting vote.

7. Adjournment

If all Trustees are not present within 30 minutes after the time appointed for any meeting the Trustee or Trustees present may adjourn the meeting. The chairperson may adjourn any meeting on the adoption of a resolution for its adjournment.

8. Committees

The Trustees may appoint sub-committees, ad hoc committees or executive committees as they may from time to time think expedient for carrying out the purposes of the Trust. Any such committee may co-opt any other person, whether a Trustee or not, to be a member of that committee. Subject to these rules and to any directions that the Trustees might give, each committee may regulate its own procedure. For the avoidance of doubt, any committee member who is not a Trustee is bound by the same rules as Trustees.

9. Resolutions

9.1 A resolution is validly passed when it is made by four of the Trustees at a duly convened and conducted meeting of the Trustees or of a committee (as the case may be).

9.2 The Trustees may vary or cancel any resolution at a meeting. In cancelling or varying any resolution the Trustees must resolve to do so with the same or greater number of Trustees as passed the original resolution.

9.3 A written resolution signed by all the Trustees or by all the members of a committee (as the case may be) will be as effective for all purposes as a resolution passed at a properly convened and conducted meeting of the Trustees or of that committee (as the case may be). Such a resolution may comprise several duplicated documents, each signed by one or more of the Trustees or members of the committee (as the case may be).

10. Minutes

10.1 The Trustees must keep a proper record in a minute book of all decisions taken and business transacted at every meeting of the Trustees.

10.2 Any minute of the proceedings at a meeting that is purported to be signed by the chairperson of that meeting or by the chairperson of the next succeeding meeting will be evidence of those proceedings.

10.3 If minutes of the proceedings at a meeting of the Trustees have been made in accordance with the provisions of this rule then, until the contrary is proved, the meeting will be deemed to have been properly convened and its proceedings to have been properly conducted.

11. Teleconference Meetings

For the purposes of these rules a Teleconference Meeting between Trustees, together with the secretary or another person acting as a secretary, will be deemed to constitute a meeting of the Trustees or the committee members (as the case may be). All the provisions in these rules relating to meetings will apply to Teleconference Meetings so long as the following conditions are met:

(a) all of the Trustees or committee members (as the case may be) for the time being entitled to receive notice of a meeting will be entitled to receive notice of a Teleconference Meeting and to be linked for the purposes of such a meeting. Notice of a Teleconference Meeting may be given on the telephone;

(b) throughout the Teleconference Meeting each participant and the secretary or person acting as a secretary must be able to hear each of the other participants taking part;

(c) at the beginning of the Teleconference Meeting each participant must acknowledge his or her presence for the purpose of that meeting to all the others taking part;

(d) a participant may not leave the Teleconference Meeting by disconnecting his or her telephone or other means of communication without first obtaining the chairperson's express consent. Accordingly, a participant will be conclusively presumed to have been present at all times during the Teleconference Meeting unless he or she leaves the meeting with the chairperson's express consent;

(e) a minute of the proceedings at the Teleconference Meeting will be sufficient evidence of those proceedings, and of the observance of all necessary formalities, if certified as a correct minute by the chairperson of that meeting and by the secretary or person acting as a secretary.

12. Annual report and financial statements

At their first ordinary meeting in each Income Year (other than the first Income Year) the Trustees must present a report dealing with the affairs of the Trust, supported by a statement of the Trust's income and expenditure during the previous Income Year and a statement of its assets and liabilities at the end of that Income Year. The Trustees must provide a copy of the report and audited accounts to the Minister for Climate Change Issues.

13. Audit

The Trustees must appoint an auditor, who must be a member of the New Zealand Institute of Chartered Accountants, to audit the financial statements of the Trust for each Income Year within 4 months after the end of that Income Year. The person appointed as auditor must not be a Trustee.

14. Control of funds

All money received by or on behalf of the Trust must be paid immediately to the credit of the Trust in an account or accounts with a Bank or Banks selected from time to time by the Trustees. All cheques and other negotiable instruments, withdrawal slips and receipts for money must be signed, drawn, accepted, endorsed or otherwise executed (as the case may be) on behalf of the Trust in such manner as the Trustees decide from time to time.