



Instrument No. 11188338.1
 Status Registered
 Date & Time Lodged 10 Aug 2018 14:25
 Lodged By Jacobson, Byron Frederick Samue
 Instrument Type Easement Instrument



Affected Computer Registers	Land District
NA103B/586	North Auckland
NA105B/560	North Auckland

Annexure Schedule: Contains 21 Pages.

Grantor Certifications

I certify that I have the authority to act for the Grantor and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Signature

Signed by Timothy Richard Bunker as Grantor Representative on 10/08/2018 08:55 AM

Grantee Certifications

I certify that I have the authority to act for the Grantee and that the party has the legal capacity to authorise me to lodge this instrument

I certify that I have taken reasonable steps to confirm the identity of the person who gave me authority to lodge this instrument

I certify that any statutory provisions specified by the Registrar for this class of instrument have been complied with or do not apply

I certify that I hold evidence showing the truth of the certifications I have given and will retain that evidence for the prescribed period

Signature

Signed by Craig Andrew Nelson as Grantee Representative on 10/08/2018 11:40 AM

*** End of Report ***

Form B**Easement instrument to grant easement or *profit à prendre*, or create land covenant**

(Sections 90A and 90F Land Transfer Act 1952)

Grantor

Fulton Hogan Limited

Grantee

Matariki Forests

Grant of Easement or *Profit à prendre* or Creation of Covenant

The Grantor being the registered Grantor of the servient tenement(s) set out in Schedule A **grants to the Grantee** (and, if so stated, in gross) the easement(s) or *profit(s) à prendre* set out in Schedule A, **or creates** the covenant(s) **set out** in Schedule A, with the rights and powers or provisions set out in the Annexure Schedule(s)

Schedule A*Continue in additional Annexure Schedule, if required*

Purpose (Nature and extent) of easement; <i>profit</i> or covenant	Shown (Plan reference)	Servient Tenement (Computer Register)	Dominant Tenement (Computer Register) or in gross
Forestry Right	As shown on the Plan attached to the First Schedule	NA105B/560 & NA103B/586	In gross

Form B - continued

Easements or profits à prendre rights and powers (including terms, covenants and conditions)

Delete phrases in [] and insert memorandum number as required; continue in additional Annexure Schedule, if required

The implied rights and powers are hereby substituted by the provisions set out in the Annexure Schedule

Covenant provisions

Delete phrases in [] and insert Memorandum number as required; continue in additional Annexure Schedule, if required

The provisions applying to the specified covenants are those set out in the Annexure Schedules

Form L

Annexure Schedule

Insert instrument type

Easement Instrument to grant easement or profit a prendre, or create land covenant

Continue in additional Annexure Schedule, if required

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions:

Act means the Climate Change Response Act 2002;

Business Day means a day (other than a Saturday or Sunday) on which banks are open for business in Auckland;

CAA means a carbon accounting area, and has the meaning set out in section 4(1) of the Act;

Commencement Date means the date of completion of the Tree Sale Agreement, scheduled to be 10 August 2018;

Contamination means that land, air or water is affected by:

- (a) a substance, gas, liquid, chemical, mineral or other physical or biological matter that is at a concentration which is above the concentration normally present in the Land or water in the vicinity and presents a risk of harm to human health or the environment;
- (b) a "contaminant" is defined in the RMA; and
- (c) a material or compound controlled, prohibited or regulated from time to time by any environmental law,

but excluding any contamination by sediment to the extent disclosed in writing by the Grantor to the Grantee prior to the Commencement Date;

Default Interest Rate means the rate equal to 2% above the average rate as displayed on the Reserve Bank of New Zealand website (or any successor page displaying substantially the same information) under the heading Bank bill yields for bank accepted bills having a term of 30 days (subject to manifest error) at or about 10.45 a.m. on the first business day of the period in respect of which such rate of interest is to be calculated and compounded on quarterly rests;

Force Majeure Event means any circumstances beyond the reasonable control of the Grantee including, but not limited to, storm, tempest, flood, act of God, riot or civil disturbance, war, military action, insurrection, act of any governmental or military agency acting under actual or assumed authority, expropriation, delay in transport, failure of any source of supply, acute or unusual material shortages, strike, lockout, labour disturbances or lawful or unlawful labour dispute and any other like cause. For the avoidance of doubt, an inability to meet a payment due by the Grantee under this Forestry Right because of a lack of funds will in no circumstances be treated as a Force Majeure Event;

Forestry Right means this forestry right, created pursuant to the Forestry Rights

Registration Act 1983;

Forestry Right Area means that part of the Land identified as the Forestry Right Area in the attached Plan;

Forestry Operations has the meaning as defined in clause 2.1;

GST means goods and services tax charged under the Goods and Services Tax Act 1985 and any tax imposed in substitution for that tax;

Hand Back means returning an area of the Forestry Right Area to the Grantor in accordance with the provisions of clause 8, and excluding such land from the Forestry Right Area, and **Handed Back** shall have the corresponding meaning;

Improvements means all buildings, erections, fences, gates, culverts, dams, drains, crossings, roads, bridges, fixtures and other improvements either ancillary to Forestry Operations or otherwise made, carried out, or paid for by the Grantee on the Land;

Land means as set out in Schedule A;

Native Trees means all the native trees and timber (whether standing or otherwise) on the Land at the Commencement Date;

NZIF means the New Zealand Institute of Forestry and includes any replacement body from time to time;

Occupier has the meaning given to that term in the Crown Minerals Act 1991;

Plan means the plan of the Land and the Forestry Right Area attached in the First Schedule;

post-1989 forest land has the meaning given to that term in the Act;

pre-1990 forest land has the meaning given to that term in the Act;

Pre-1990 Trees means any trees planted on pre-1990 forest land contained within the Land (if any);

RMA means the Resource Management Act 1991;

Taonga has the same meaning as "artifact" has in the Antiquities Act 1975 meaning any chattel, carving, object, or thing which relates to the history, art, culture, traditions, or economy of the Maori or other pre-European inhabitants of New Zealand and which was or appears to have been manufactured or modified in New Zealand by any such inhabitant, or brought to New Zealand by an ancestor of any such inhabitant, or used by any such inhabitant, prior to 1902;

Term means the period commencing on the Commencement Date and expiring on the date 7 years after the Commencement Date or such lesser period, if this Forestry Right is terminated in accordance with its provisions, provided that the parties agree to extend the term by a period of time equivalent to any agreed period when harvesting is suspended whether pursuant to the terms contained in this Forestry Right or otherwise;

Wahi Tapu means a place sacred to Maori in the traditional, spiritual, religious, ritual, or mythological sense;

Trees means all the trees and timber and any other exotic and fast growing species of trees and timber whether standing or otherwise on or in the Forestry Right Area at the Commencement Date, but excluding the Native Trees (if any); and,

Tree Sale Agreement means the Agreement for Sale and Purchase of Trees between the Grantor (as vendor) and the Grantee (as purchaser) dated 13 July 2018.

2. CREATION OF FORESTRY RIGHT

2.1 In consideration of the payments made to the Grantor in accordance with the term of the Tree Sale Agreement and this Forestry Right and subject to the covenants and conditions on the part of the Grantee expressed or implied in this Forestry Right, the Grantor hereby creates in favour of the Grantee for the Term the right to:

- (a) maintain, manage, cultivate, protect, render productive, harvest, carry away, sell, and otherwise utilise on an exclusive basis, all the Trees in the Forestry Right Area;
- (b) make, construct, install, maintain, improve, repair and use roads, skids, tracks, bridges, culverts, gates, and other means of access and egress (with or without machinery, vehicles and plant of all kind) on or over the Land (which are or may be reasonably required for the purpose of fully exercising the rights conferred in this clause 2.1). Anything to be constructed outside the Forestry Right Area shall require the prior written consent of the Grantor;
- (c) quarry, remove and use material including pumice, shingle, metal, gravel, rock and clay from established sources of such material for the sole purpose of the construction, maintenance or repair of any road, landing, bridging, concrete work or other construction work on the Land;
- (d) construct on the Forestry Right Area such buildings, plant and other works as may be necessary or convenient for the full enjoyment of this Forestry Right and to remove the same on expiry of this Forestry Right or its sooner determination;
- (e) establish skids and processing areas on the Forestry Right Area and to process, place, stack and load onto transportation upon any part of the Land any Trees, timber or logs harvested from the Trees pursuant to this Forestry Right;
- (f) erect signs and notices on any part of the Land indicating the Grantee's interest in the Trees and as is desirable for health, safety and fire protection purposes during the Term;
- (g) enter, pass and repass on and over those parts of the Land (agreed to by the Grantor) on foot or with or without machinery equipment, vehicles and plant of any kind (which are or may be reasonably required for the purpose of fully exercising the rights conferred in this clause 2.1);
- (h) use roads, tracks or access ways on the Land for the purpose of haulage of any trees, timber or logs harvested from the Trees; and
- (i) generally do whatever may be necessary or convenient for accessing, maintaining, managing, cultivating, protecting, rendering productive, harvesting and carrying away and disposing of the Trees, and the timber and logs obtained from the Trees and for obtaining the full benefit of the rights and privileges created in favour of the Grantee in this Forestry Right.

(Forestry Operations).

For the avoidance of doubt, any of the rights created in favour of the Grantee

under this Forestry Right may be exercised by the Grantee's employees, agents, contractors and any other person authorised by the Grantee.

2.2 Notwithstanding any other term of this Forestry Right, the Grantee shall be under no obligation at any time during the Term to harvest the Trees where the Grantee reasonably believes that it is not commercially prudent to do so, or not safe to do so.

2.3 Without limiting the Grantee's rights under this clause 2, in the course of carrying out any Forestry Operations (including building of roads, skids, tracks, bridges, culverts, gates, and other means of access and egress, or conducting harvesting operations), the Grantee is entitled to clear any trees or vegetation of any nature whatsoever on the Land, provided the Grantee must comply with normal industry practice and any applicable consents under the RMA. The Grantee shall not be liable to compensate the Grantor in respect of any such trees or vegetation.

3. ACCESS TO LAND

3.1 The Grantor shall, at all times during the Term, allow the Grantee continued uninterrupted access at all times to those parts of the Land outside of the Forestry Right Area agreed with the Grantor, including the Forestry Right Area. Such access shall be at no cost, fee or charge to the Grantee. The Grantor may be able to restrict access to that part of the Land that adjoins its quarrying operation where it considers it prudent to do so for the safe and efficient operation of the quarry.

3.2 For the avoidance of doubt, the Grantor and its authorised persons shall at all times have, at no cost, continued uninterrupted access to the Land, including the Forestry Right Area, provided that such activities do not interfere with the exercise of the Grantee's rights and obligations under this Forestry Right.

4. SECURITY

4.1 The Grantee will have the right to lock all access gates on the Forestry Right Area on the basis that the Grantee will provide the Grantor with a full set of keys for such gates to allow the Grantor to access the Forestry Right Area in accordance with the terms of this Forestry Right. The Grantor will follow the directions of the Grantee in terms of how such gates are to be left, but in the absence of such a direction gates will be utilised on a "lock in and lock out" basis.

4.2 Any costs, expenses or charges of whatever nature reasonably incurred by either party by reason of the security measures relating to the Forestry Right Area set out in clause 4.1 shall be paid for by the Grantee.

4.3 For the avoidance of doubt, the Grantee shall not be responsible for any security costs incurred by the Grantor in respect of the Land.

5. CARBON ACCOUNTING

Pre-1990 Forest Land

5.1 The Grantor warrants that part of the Land constitutes pre-1990 forest land and that all liability relating to accounting for carbon emissions from that land (if any) remains with the Grantor. The parties acknowledge and agree that there are no Pre-1990 Trees within the Forestry Right Area.

Post-1989 Forest Land

5.2 Clause 5.3 shall apply in respect of that part of the Land and Trees that is post-1989 forest land under the Act.

5.3 The Grantor and the Grantee acknowledge and agree that:

- (a) as at the Commencement Date:
 - (i) no part of the Land which is post-1989 forest land is registered as a CAA under the Act; and,
 - (ii) no approval has or will be given to any third party to register any part of the Land as a CAA;
- (b) the Grantor may register as a participant under the Act and / or register any part of the Land as CAAs during the Term, subject to the prior written consent of the Grantee (which may be withheld, or granted subject to any conditions which the Grantee may require, in each case at the discretion of the Grantee).

Liabilities and Indemnities

5.4 In respect of all or any areas of the Land constituting post-1989 forest land or pre-1990 forest land, including both registered and unregistered as a CAA:

- (a) the Grantor will assume all obligations as a participant in respect of the relevant registered post-1989 forest land under the Act including complying with and meeting all of the monitoring, reporting and compliance obligations and liabilities under the Act, the Act's amendments and any related legislation; and
- (b) the Grantee shall not be responsible for complying with and meeting any obligations or liabilities under the Act, the Act's amendments and any related legislation.

5.5 The Grantor will indemnify the Grantee against all direct actions, claims, demands, proceedings, damages, costs, charges, expenses, losses and liabilities that the Grantee may reasonably and properly incur under the Act and in respect of the Grantor's acts or omissions in connection with the Act and in respect of any post-1989 forest land and any pre-1990 forest land. This indemnity shall survive expiry or early termination of this Forestry Right.

6. RETURN OF LAND

6.1 On completion of harvest of the Trees or the earlier expiring of this Forestry Right, the Grantee shall notify the Grantor and deliver a memorandum of transfer or any other document required to surrender the Forestry Right, to be prepared and registered at the cost of the Grantee.

6.2 Prior to the return of the Land to the Grantor in accordance with this clause 6, the Grantee shall ensure that the Land is left in the condition described in clause 10.1(s). Following harvest of any Trees, the Grantee will undertake a post-harvest clean up in accordance with the conditions specified in clause 10.1(s).

6.3 If the parties cannot agree upon whether the Grantee has sufficiently discharged its obligations under clause 6, the parties will appoint a forestry consultant registered with the NZIF (and failing such approval and joint appointment, as appointed by the President for the time being of NZIF) to determine and to certify whether such obligations have been discharged. The parties will bear equally the cost of the registered forestry consultant, unless it is determined that the Grantee has not complied with its obligations in which case the Grantee shall be liable for such costs.

7. REPORTING

Two Year Plan

7.1 During the Term, the Grantee will provide to the Grantor, on 31 October of each year, an indicative non-binding rolling Two Year Plan ("Two Year Plan"), for the two-year period from the next 1 January to 31 December two years later. The first Two Year Plan for the period to 31 December 2020 will be provided to the Grantor within 3 months after the Commencement Date.

The Two Year Plan is to detail all of the following:

- (a) location of area to be harvested in each of the years of the Two Year Plan required pursuant to clause 7.1 for the next harvesting year;
- (b) details of any areas of Land intended to be Handed Back in accordance with this Forestry Right; and
- (c) any other matter in relation to the exercise of this Forestry Right which the Grantor reasonably requests.

The Grantor will be given the right to review and comment on the harvesting plan to the extent that the harvesting plan materially adversely impacts on the Grantor's quarrying activities on the Land and the Grantee shall take into consideration the comments made by the Grantor on the Harvesting Plan. In particular the Grantor shall be able to request that any Forestry Operations taking place near the quarry are coordinated with the quarrying activities of the Grantor, so as to minimise to the maximum extent possible any disruption to the Grantor's operations.

8. HAND BACK

8.1 The Grantor may request, after the completion of harvesting of any part of the Forestry Right Area, that the Grantee Hand Back any harvested part of the Forestry Right Area by giving written notice to the Grantee. The Grantor may only request a Hand Back once per calendar year during the Term.

8.2 Following a request being made by the Grantor in accordance with clause 8.1, the Grantee will Hand Back the relevant area within six (6) calendar months from the date of the request provided that, in the reasonable opinion of the Grantee, the relevant area is not required by the Grantee for the purpose of its on going Forestry Operations.

8.3 The Grantee must, within 10 Business Days following Hand Back, provide to the Grantor any maps of the part(s) of the Forestry Right Area Handed Back together with an updated Plan and schedule of the Forestry Right Area.

8.4 Subject to clauses 8.6 and 11.1(a), the Grantor may deal with any area Handed Back at its complete discretion, including (without limitation) creating a forestry right or licence in favour of any third party.

8.5 At Hand Back or the expiry or earlier termination of the Term, the Grantee shall ensure compliance with clause 10.1(s).

8.6 At the Hand Back, the Grantor shall grant to the Grantee the right, with and without vehicles, plant, machinery and equipment to pass and repass over that part of the Forestry Right Area which has been handed back for all purposes connected with this Forestry Right and to avoid doubt such area still constitutes part of the Land over which the Grantee has access rights under this Forestry Right.

8.7 At the request of either party, within a reasonable time following any Hand Back, the parties will take all steps necessary to vary this Forestry Right to reflect the

reduced area of the Forestry Right Area, including by way of Landonline e-dealing.

9. PAYMENTS

Consideration

9.1 The Grantee covenants with the Grantor to pay to the Grantor the Purchase Price (as defined in the Tree Sale Agreement) pursuant to the Tree Sale Agreement by direct bank payment or otherwise as the Grantor may direct (acting reasonably).

Other Payments

9.2 The Grantor shall be responsible for all of the following:

- (a) all general, water, special and other rates, charges, levies, duties, impositions, fees, taxes (including land tax or any other similar tax on the ownership of land), carbon taxes (or similar, including any deemed greenhouse gas emission accountabilities), assessments and outgoings of any nature whatsoever made or due in respect of the ownership, use or occupation of the Land; and
- (b) all costs to comply with all requisitions and requirements of any authority or other body having jurisdiction over the Land which are not related to the activities of the Grantee of the Land.

10. GRANTEE'S COVENANTS

10.1 The Grantee covenants with the Grantor as follows:

General

- (a) comply with best industry practice for silviculture, forestry and harvesting practice in relation to the Forestry Right in accordance with the NZFOA New Zealand Environmental Code of Practice for Plantation Forestry and the National Environmental Standards for Plantation Forestry;

Forest Management

- (b) the Grantee shall pay all costs incurred (save as provided elsewhere in this Forestry Right) in managing and protecting the Trees, in accordance with this Forestry Right and otherwise in accordance with the best forest industry practice;
- (c) to repair and maintain any boundary fences or fences around native bush areas on the Land to the standard such fences were in at the Commencement Date reasonable wear and tear excluded;
- (d) in relation to the use of the Land for the purpose of managing and protecting the Trees, and in accordance with the accepted forest industry practice, the Grantee shall use its reasonable endeavours to sustain a crop of healthy trees and:
 - (i) control insects and other pests, fungal and other tree diseases;
 - (ii) prevent soil erosion and pollution of streams by the Grantee;
 - (iii) conserve and protect fish and wildlife;
 - (iv) conserve and protect native bush reserves;

- (v) store all fuels and oils safely on suitably cleared Land;
- (vi) ensure all vehicles and equipment operated by the Grantee its employees, contractors and agents have a safe and efficient means of preventing the escape of dangerous sparks or flames from the exhaust and carry at all times an efficient fire extinguisher;
- (vii) clear away and dispose of debris carried on to adjoining properties by the Grantee;
- (viii) clear weeds and spray and tend the Trees; and
- (ix) keep all streams, water courses, water races, water pipes, electric power and telephone posts and lines, roads, fire breaks, skids and survey monuments on the Land clear and unobstructed;

Use of the Land

- (e) the Grantee shall use the Land only in accordance with the terms and conditions in this Forestry Right and in order to exercise its rights and powers under this Forestry Right and in accordance with the true intent and spirit of this Forestry Right. In particular but subject to the provisions of clauses 10.1(f) and 10.1(g) the Grantee is not to remove from the Land any minerals, metals, precious metals, precious stones, coal, earth, rock, sand, clay, pumice, gravel, shingle, petroleum, gas, crude oil or geothermal water;
- (f) notwithstanding the provisions of clause 10.1(e) the Grantee shall be entitled to use on the Land for any forestry purpose reasonably required by it, any sand, clay, gravel, shingle, rock and the Trees located in on or on top of the Land. The Grantee may only use such materials for the building and maintenance of roads, bridges, culverts, fences, skids and any buildings and erections for such purposes;
- (g) the Grantee may establish a quarry or quarries on the Land for the purposes of clause 10.1(f) only;
- (h) the Grantee may clear any of the Land under or adjacent to any electric transmission lines or telegraphic or telephone transmission lines or pipelines carrying gas liquid or solid substances where in the reasonable opinion of the Grantee the practicalities of good forest management so require subject to the lawful requirements of the Ministry of Business, Innovation and Employment, Spark New Zealand Limited, First Gas Limited, any applicable electricity lines company or of any other body, authority or State Owned Enterprise having the lawful right to have access to the Land and any other proper body or authority having control over same;

Assignment

- (i) the Grantee may not assign or transfer (in part or in whole) this Forestry Right or any interest in this Forestry Right to any other person without the consent of the Grantor (which consent shall not be unreasonably withheld or delayed if the Grantee provides the Grantor with written evidence which reasonably demonstrates that the proposed assignee or transferee (as the case may be) is solvent and has the ability to comply with the requirements of the Grantee under this Forestry Right), provided that nothing in this clause 10.1(i) shall preclude the Grantee from selling its trees and timber from the Forestry Right Area in the ordinary course of its

forestry business provided that the Grantee may mortgage this Forestry Right without the Grantor's consent

Fire Protection

- (j) the Grantee shall:
- (i) carry out all proper fire protection and forest security on the Forestry Right Area;
 - (ii) take all reasonable measures that may be necessary to prevent the spreading of any fire on, from, to or across the Forestry Right Area;
 - (iii) provide and maintain equipment in good working order and condition which is suitable for the purpose of fighting fires and for securing the reasonable safety of lives from fire on the Forestry Right Area;
 - (iv) use reasonable endeavours to place fire fighting and safety equipment on those parts of the Forestry Right Area where the Grantee considers it will be reasonably required, readily accessible and conveniently ready for use at all times;
 - (v) provide structures and do all things that the Grantee reasonably considers necessary for the protection of the fire fighting and safety equipment;
 - (vi) use reasonable endeavours to participate in any legitimate regional organisation established to control fires in the area the Grantee considers necessary;
 - (vii) construct firebreaks and take such other reasonable fire protection measures (including the destruction without compensation of any portion of the Trees) as may from time to time be necessary; and,
 - (viii) unless otherwise agreed with the Grantor, to take out and maintain public liability insurance to the minimum value of \$5,000,000;

Damage and nuisance

- (k) the Grantee shall exercise the rights, liberties and powers granted by this Forestry Right in such manner so as to cause as little damage, nuisance or injury as is reasonably practicable given the use of the Land for forestry purposes to the owners or occupiers of any adjoining or neighbouring land. For the avoidance of doubt, the exercising of the Grantee's rights in this Forestry Right in accordance with all applicable laws or regulations will not be a breach of this clause;

Compliance with Statutes and Regulations

- (l) the Grantee shall comply with all relevant statutes, bylaws, permits, consents, requisitions and approvals affecting the Grantee's use of the Land or the Grantee's activities/operations under this Forestry Right or on the Land and in particular, but by way of example only, the Health and Safety at Work Act 2015. As appropriate, the Grantee shall put in place appropriate policies and procedures to ensure compliance with such statutes, regulations, bylaws, permits and consents. The Grantee acknowledges that in respect of the Forestry Right Area it shall be a PCBU (as defined in the Health and Safety at Work Act 2015) and shall

be responsible for health and safety obligations within the Forestry Right Area. If the Grantor is to enter the Forestry Rights Area it will be required to comply with all health and safety directions of the Grantee;

- (m) the Grantee, at its own cost, shall obtain and maintain and do all things necessary to obtain and comply with all necessary regulatory permits, consents and approvals, including all necessary resource consents, in connection with the Grantee's use of the Land, and consult with the Grantor in respect of the same;
- (n) prior to submitting a resource consent application or agreeing to the terms of any resource consent the Grantee shall provide a copy of the same to the Grantor for review. The Grantor shall be entitled to object to any provision which could, in the Grantor's reasonable opinion:
 - (i) impact upon the Grantor's quarrying operations in a materially adverse manner; or
 - (ii) restrict the Grantor's ability to use the Forestry Right Area for any purpose following the expiry of the Term. Where any objection is raised the Grantee will amend its application or, at the Grantor's cost, seek to have the resource consent amended. Where the consent is amended to reflect the objection raised by the Grantor, the Grantor shall pay the Grantee (as soon as practicable after such amount is agreed or determined) an amount by way of full compensation to reflect:
 - (A) any decrease in value of the Trees as a result of any decrease in the number of Trees (if any) which can be harvested, with such value to be determined by reducing the Purchase Price by the same percentage as the Trees which cannot be harvested bears to the total Trees as at the Commencement Date; and
 - (B) any increase in costs of Forestry Operations to the Grantee compared to the cost the Grantee would have incurred without the amendment.
- (o) The Grantee acknowledges that part of the Forestry Right Area is zoned Special Purpose – Quarry Zone under the operative Auckland Unitary Plan and that the Grantor holds a Resource Consent for the quarrying of this part of the Land which relates to the management of Long Tailed Bats. The Grantee undertakes:
 - (i) To co-operate with the Grantor and any suitably qualified person appointed by the Grantor in relation to achieving compliance with the terms of consent relating to Long Tailed Bats; and
 - (ii) To only harvest Trees in the relevant parts of the Forestry Right Area identified as being used as roosts by Long Tailed Bats between October and April (inclusive).

Where pursuant to complying with this clause the Grantee is unable to harvest any trees then the Grantor shall pay to the Grantee (as soon as practicable after such amount is agreed or determined) an amount by way of full compensation to reflect:

- (i) any decrease in value of the Trees as a result of any decrease in the number of Trees (if any) which can be harvested, with such value to be determined by reducing the Purchase Price by the same percentage as the Trees which cannot be harvested

bears to the total Trees as at the Commencement Date; and

- (ii) any increase in costs of Forestry Operations to the Grantee compared to the cost the Grantee would have incurred without the harvest restriction.

Wahi Tapu

- (p) the Grantee shall preserve and safeguard all Wahi Tapu in or on the Forestry Right Area the existence and location of which have been disclosed;
- (q) the Grantee shall preserve and safeguard Wahi Tapu which is discovered on the Forestry Right Area in the course of the Grantee's operations on the Forestry Right Area;

Nga Taonga-O-Nga Tupuna

- (r) subject to the Antiquities Act 1975, if during the Term any Taonga is discovered by the Grantee or its employees, contractors, agents, licensees or other invitees, the Grantee shall take all reasonable practicable steps to safeguard the same, and will immediately notify the Grantor and will comply with the Grantor's reasonable directions as to the disposal of the same;

Post Harvest

- (s) upon return of any part of the Forestry Right Area in accordance with clauses 6 or 8 or expiry or earlier termination of this Forestry Right, the Grantee shall:
 - (i) return the cutover land of the Forest to the Grantee in a cutover condition consistent with industry best practice;
 - (ii) undertake a post-harvest clean up in accordance with the NZFOA New Zealand Environmental Code of Practice for Plantation Forestry, the National Environmental Standards for Plantation Forestry, and any applicable resource consents granted under the Resource Management Act 1991;
 - (iii) at the direction of the Grantor undertake a Wagner Waste Assessment measurement to confirm that the cutover is clean, that being no more than 10 m³ per ha of Trees with a minimum diameter of 10 cm and a minimum length of 3.1m;
 - (iv) ensure that harvested trees and logging slash are removed from water courses, wetlands, roads, culverts and fences;
 - (v) ensure any slash left from log manufacture on the Land is left in a safe and stable condition;
 - (vi) ensure that logging slash is left in a safe and stable location as per the NZFOA New Zealand Environmental Code of Practice for Plantation Forestry; and
 - (vii) ensure that foreign bodies and rubbish deposited during the Term (including, without limitation, logging equipment and consumables such as wire rope) are removed.

Constructing and Maintaining Access

- (t) ensure road construction and earthworks are undertaken in accordance with the NZFOA New Zealand Environmental Code of Practice for Plantation Forestry, the NZFOA New Zealand Forest Road Engineering Manual (2012), and the National Environmental Standards for Plantation Forestry to protect the relevant waterways on or adjoining the Land.

Fencing

- (u) the Grantee shall be responsible for repairing any damage to all existing boundary fencing or fencing that the Grantor has installed on the Land to the extent that such damage is caused by the Grantee or its contractors, agents or invitees, including undertaking the following:
- (i) repairing or replacing such parts of fences and gates located on the boundaries as may become damaged by the act or omission of the Grantee;
 - (ii) complying with all the provisions of the Fencing Act 1978; and
 - (iii) keeping the Grantor safe and harmless and indemnified from and against any notices, issues or claims arising under or pursuant to the Fencing Act 1978.

Notwithstanding the above, the Grantee will not be required to repair or replace any fence to a higher standard than what was in place as at the Commencement Date.

11. GRANTOR'S COVENANTS

11.1 The Grantor covenants with the Grantee as follows:

- (a) in the course of the Grantor's use and enjoyment of the Land, the Grantor shall not unreasonably or unnecessarily interfere with the Grantee's rights granted pursuant to this Forestry Right or at all law generally;
- (b) that the Grantor shall cause as little disruption or nuisance as possible to either the Forestry Operations or the Grantee's use of the Land for the Forestry Operations;
- (c) to comply with the provisions of all statutes, ordinances, regulations and by-laws in any way relating to the use of the Land by the Grantor;
- (d) the rights created under this Forestry Right have been created solely and exclusively in favour of the Grantee and that during the Term, the Grantor shall not create any other forestry right in respect of the Forestry Right Area, or any other right or interest in the Land that might prejudicially and materially affect the Grantee's Forestry Right, without obtaining the Grantee's prior written consent, such consent to be granted at the Grantee's sole discretion;
- (e) the Grantor shall at the Grantee's cost provide reasonable assistance to the Grantee in relation to the Grantee obtaining any necessary permits, consents or approvals for any activities of the Grantee in accordance with the exercise of the Grantee's rights under this Forestry Right and will not take any action nor omit to do anything which may hinder the Grantee in obtaining such permits, consents or approvals;
- (f) The Grantor shall comply with the Consent Notice pursuant to Section 221(1) Resource Management Act 1991, D046071.8 (on Identifier NA105B/560) which relates to areas of native bush on the Land, but

which areas have been excluded from the Forestry Right Area.

12. RISK

- 12.1 Pending the expiry or earlier termination of this Forestry Right, any loss, damage or destruction to the Trees or Improvements on the Land will be at the risk of the Grantee.

13. DEFAULT

- 13.1 If the Grantee is, at any time or times during the Term, in default in the performance of any one or more of the covenants, conditions or provisions under this Forestry Right and the Grantor has notified the Grantee in writing of such default and the non-observance or non-performance by the Grantee has continued for a period of three calendar months then it shall be lawful for the Grantor (without prejudice to any rights of re-entry or other right) to perform such covenant, condition or provision on behalf of the Grantee, provided that the Grantor may perform and observe any such covenant, condition or provision at an earlier time if the Grantor reasonably considers that such observance and performance is required to protect the Trees or the Land and/or to comply laws and regulations relating to the same.
- 13.2 For the purposes of clause 13.1, the Grantor may, at all times, enter upon the Land, with such workers and other persons as the Grantor thinks fit and remain on the Land for such time as in the circumstances is reasonable and proper to perform any such covenant, condition or provision on behalf of the Grantee.
- 13.3 All costs and expenses reasonably and properly incurred by the Grantor in exercising its rights pursuant to clause 13.2 are to be repaid to the Grantor by the Grantee within 10 Business Days of receipt of written demand for payment and, if not paid within 20 Business days from the date of written demand by the Grantor, are to be paid together with interest to be calculated at the Default Interest Rate on a daily basis from the date of demand to the date of actual payment.
- 13.4 The Grantor may, by written notice to the Grantee, terminate this Forestry Right with immediate effect if:
- (a) any monies payable by the Grantee to the Grantor pursuant to this Forestry Right shall be unpaid for 20 Business Days, provided that the Grantor has given the Grantee 20 Business Days' prior written notice of that default;
 - (b) the Grantee has not taken reasonable steps (including any reasonable steps required by the Grantor) to remedy any material default (other than a default as to a payment obligation) by the Grantee of its obligations under this Forestry Right within three months of notice from the Grantor requiring such default to be remedied; or
 - (c) the Grantee:
 - (i) is or is deemed to be unable to pay its debts under section 287 of the Companies Act 1993; or
 - (ii) enters into voluntary administration or any assignment or other compromise or scheme of arrangement with the Grantee's creditors or any class of the Grantee's creditors;
 - (iii) goes into receivership or has a receiver, trustee or manager (or any of them) (including a statutory manager) appointed in

respect of all or any of its property;

- (d) a liquidator is appointed for the Grantee (whether voluntarily or otherwise) save for a bona fide solvent reconstruction or amalgamation that has been approved in advance by the Grantor (acting reasonably);
- (e) the primary, or all of the, business activities of the Grantee are suspended or cease for 50 consecutive Business Days (save for as a result of a Force Majeure Event); or
- (f) directly assigns or transfers its interest of the Grantee under this Forestry Right (otherwise than in accordance with clause 10.1(i)) provided always nothing should prevent the Grantee from selling the Trees.

13.5 Any termination pursuant to clause 13.1 shall be without prejudice to either party's right to damages or other remedies.

14. FORCE MAJEURE

14.1 If and to the extent to which either party is unable to carry out any of its obligations under this Forestry Right because of any event or circumstance which is, in relation to that party (**Non-Performing Party**), a Force Majeure Event, the Non-Performing Party will have no liability to the other party in respect of the non-performance by the Non-Performing Party of such obligations, provided that:

- (a) the Non-Performing Party must, as soon as reasonably practicable after becoming aware of the Force Majeure Event, notify the other party in writing accordingly, describing the event or circumstance of Force Majeure, including:
 - (i) the date of the commencement of the Force Majeure Event;
 - (ii) the expected effect or duration of the Force Majeure Event; and
 - (iii) where reasonably practicable, the Non-Performing Party's proposal for mitigating the effect or duration of the Force Majeure Event and, if applicable, the amount of any cost that may be incurred by the other party as a result of implementing this proposal (provided that no such proposal will be implemented by the Non-Performing Party without the prior written consent of the other party),

and, where reasonably practicable, the Non-Performing Party will continue to provide to the other party regular written reports with respect to such Force Majeure Event, for so long as the Force Majeure Event continues to prevent the Non-Performing Party from carrying out its obligations under this Agreement;

- (b) neither party will be released from any liability which existed before the commencement of the Force Majeure Event;
- (c) the Non-Performing Party must, by the exercise of industry best practice endeavour to overcome, and to mitigate the effects of, the Force Majeure Event and to complete the Non-Performing Party's obligations under this Forestry Right on time. If, despite complying with this clause 14.1, the Non-Performing Party reasonably requires any extension of time in order to comply with any of its obligations under this Forestry Right, the Non-Performing Party will notify the other party in writing as soon as possible

	<p>of the extension required. The other party will be deemed to have agreed to the extension notified to it unless it expressly notifies the Non-Performing Party in writing to the contrary (and the other party may do so on reasonable grounds only);</p> <p>(d) the Non-Performing Party will, as soon as reasonably practicable after becoming aware of the cessation of the Force Majeure Event, notify the other party in writing accordingly; and</p> <p>(e) the Term of this Forestry Right will be extended by a period of time equivalent to any period of time during which the Force Majeure Event suspends Forestry Operations.</p> <p>(f) this Forestry Right will otherwise remain in effect in all respects.</p>
14.2	<p>If any Force Majeure Event is of such magnitude or will be of such duration that it is, or is reasonably likely to be, impossible or impractical for the Non-Performing Party to comply, to a material extent, with the Non-Performing Party's obligations under this Forestry (taken as a whole) for a period of 6 consecutive months or longer, either party may apply to the other party to terminate this Forestry Right by written notice to the other party, provided that such notice, in order to have effect, must state:</p> <p>(a) the Force Majeure Event which the party giving that notice considers to have led to, or to be likely to lead to, the impossibility or impracticality referred to in this clause (Relevant Force Majeure); and</p> <p>(b) that the party giving that notice has concluded that the Relevant Force Majeure will have that effect, including all material particulars to support that conclusion.</p>
14.3	<p>This Forestry Right will terminate on the date which is 20 days (or such longer period as may be agreed) after the date on which the parties both agree in writing to terminate this Forestry Right.</p>
14.4	<p>If the parties agree to such termination, then the terms of the termination are to be agreed between the parties, provided that the terms of such termination must include a compensation payment by the Grantor to the Grantee to reflect the proportionate value of the Trees that remain on the Land (whether harvested or not) on termination compared to the value of the Trees harvested and removed from the Land, where such value shall be determined having regard to the Purchase Price referred to at clause 9.1. If the parties fail to agree on such terms then the matter is to be determined pursuant to clause 15.</p>
15.	DISPUTES
15.1	<p>A party to this Forestry Right shall not commence Court proceedings or arbitration relating to any dispute arising from this Forestry Right except where that party seeks urgent relief from a court. Any matters in dispute whether as to construction of this Forestry Right or otherwise shall be dealt with first pursuant to clause 15.2 and, if still unresolved, pursuant to clause 15.3.</p>
15.2	<p>If any dispute arises between the parties under this Forestry Right, either party may give formal written notice of the matters in dispute to the other party and refer them for formal discussion between the parties in an attempt to resolve the dispute. Within 5 Business Days after a party has referred a matter for discussion under this process and the other party has received a notice of the matters in dispute, each party will appoint a representative to attend such discussions. The parties may if they wish appoint a mediator to assist in the determination of the</p>

dispute. The terms of any settlement shall be recorded in writing and signed by both representatives. If the parties are unable to resolve the dispute within a period of 20 Business Days after both parties have notice that the matters have been referred to this resolution process then either party may then refer the matter to arbitration in accordance with clause 15.3.

15.3 Subject to the parties having exhausted the process in clause 15.2 and still being unable to resolve the dispute, the matters in dispute may be referred by either party to arbitration in accordance with the Arbitration Act 1996, and in that event shall be determined by an arbitrator appointed by the parties or, failing agreement within 20 Business Days after the matter was referred to arbitration, by a person nominated by the President of the New Zealand Law Society, who shall act as arbitrator.

15.4 The award of the arbitrator under clause 15.3 shall be final and binding on both parties and the cost of any arbitration proceeding shall be borne as the arbitrator may direct.

16. CONTAMINATION

16.1 Where Contamination is discovered on the Forestry Right Area and there is either:

- (a) an order from an Authority to remediate the Contamination; or
- (b) a statutory obligation to mitigate the effects of the Contamination; and
- (c) such Contamination existed prior to the Commencement Date; or
- (d) such Contamination is caused by the Grantor (or any of its contractors, agents or employees) during the Term, including (but not limited to) as a result of any activities undertaken pursuant to clause 3 of this Forestry Right,

the Grantor shall at its cost promptly remediate and make good the Contamination in accordance with the obligations under the order received, from the Authority or to the level required by the statutory obligation.

16.2 Where Contamination is discovered on the Forestry Right Area and there is either:

- (a) an order from an Authority to remediate the Contamination; or
- (b) a statutory obligation to mitigate the effects of the Contamination; and
- (c) such Contamination arises wholly as a result of the exercise of the Grantee's Rights under clause 2.1 of this Forestry Right by the Grantee, its employees, agents, contractors or other persons authorised by the Grantee,

the Grantee shall at its cost promptly remediate and make good the Contamination in accordance with the obligations under the order received, from the Authority or to the level required by the statutory obligation.

16.3 In the event the Grantor does not remediate and make good any Contamination or any other environmental issues in accordance with clause 16.1 within the timeframe required pursuant to clause 16.1 and such failure is adversely impacting on Forestry Operations then, the Grantee may remediate such Contamination to the level set out in clause 16.1 and recover the reasonable and proper costs of doing so from the Grantor. The Grantor shall reimburse the Grantee for any such costs incurred pursuant to this clause 16.3 within five working days after receiving

a valid tax invoice from the Grantee.

16.4 In order to determine the level of Contamination as at the Commencement Date, the Grantor shall, before or as soon as practicable thereafter, arrange for a suitably qualified and independent consultant to undertake a sample analysis assessment of the Forestry Right Area in order to establish the level of Contamination as at the Commencement Date, provided that the Grantor must obtain the Grantee's prior written approval of the consultant to be engaged and the scope of the assessment sought (such approval not to be unreasonably withheld or delayed). This report will be used to:

- (a) Establish the level of Contamination as at the Commencement Date;
- (b) Identify which Contamination each party is responsible for; and
- (c) Establish the level to which the Grantee is required to undertake any remediation to pursuant to clause 16.2.

17. PROFIT A PRENDRE

17.1 The rights granted to the Grantee in this Forestry Right are expressly declared to be in the nature of a profit a prendre in gross over the Land. This Forestry Right is to be binding upon and is to enure for the benefit of the Grantor and the Grantee and their respective successors, permitted assigns and transferees.

18. GST ON PAYMENTS

18.1 All payments stated in this Forestry Right are exclusive of GST and the party making payment will pay GST in addition to such payments, subject to receiving an appropriate GST invoice from the other party.

19. NOTICES

19.1 Any demand or requirement of notice under this Forestry Right will be in writing and will be signed by or on behalf of the party giving the demand, requirement or notice and will be deemed to have been duly served on the other party, if:

- (a) delivered by hand or sent by post to the intended recipient's address as set out below or to such other address as may have been notified by one party to the other party from time to time; or
- (b) sent by email to the intended recipient's email address as set out below or to such other email address as may have been notified by one party to the other party from time to time, and if the recipient acknowledges receipt (whether by way of an automated message or otherwise).

To the Grantor: Fulton Hogan Limited

Tel: 027 479 6081
 Address: Private Bag 11 900, Ellerslie, Auckland 1542
 Email: Simon.Dyne@fultonhogan.com
 Attn: Simon Dyne

To the Grantee: Matariki Forests

Tel: (09) 302 2988
 Address: PO Box 9283, Newmarket, Auckland 1149
 Email: rznofices@rayonier.com
 Attn: Managing Director

19.2 Any notice transmitted by email or delivered after 5.00pm on a Business Day, or at any time on a non Business Day, will be deemed received at 9.00am on the next Business Day (being, in each case, the time of day at the intended place of receipt of that notice).

20. GENERAL

20.1 **Registration:** As soon as practicable the Grantee will, at its own expense, take all steps necessary to register this Forestry Right pursuant to the provisions of the Forestry Rights Registration Act 1983. The Grantor will provide to the Grantee all reasonable assistance requested by the Grantee to permit such registration.

20.2 **Governing Law:** The law applicable to this Forestry Right will be the law of New Zealand. The parties irrevocably and unconditionally agree to submit to, and to be bound by, the non-exclusive jurisdiction of the Courts and tribunals of New Zealand.

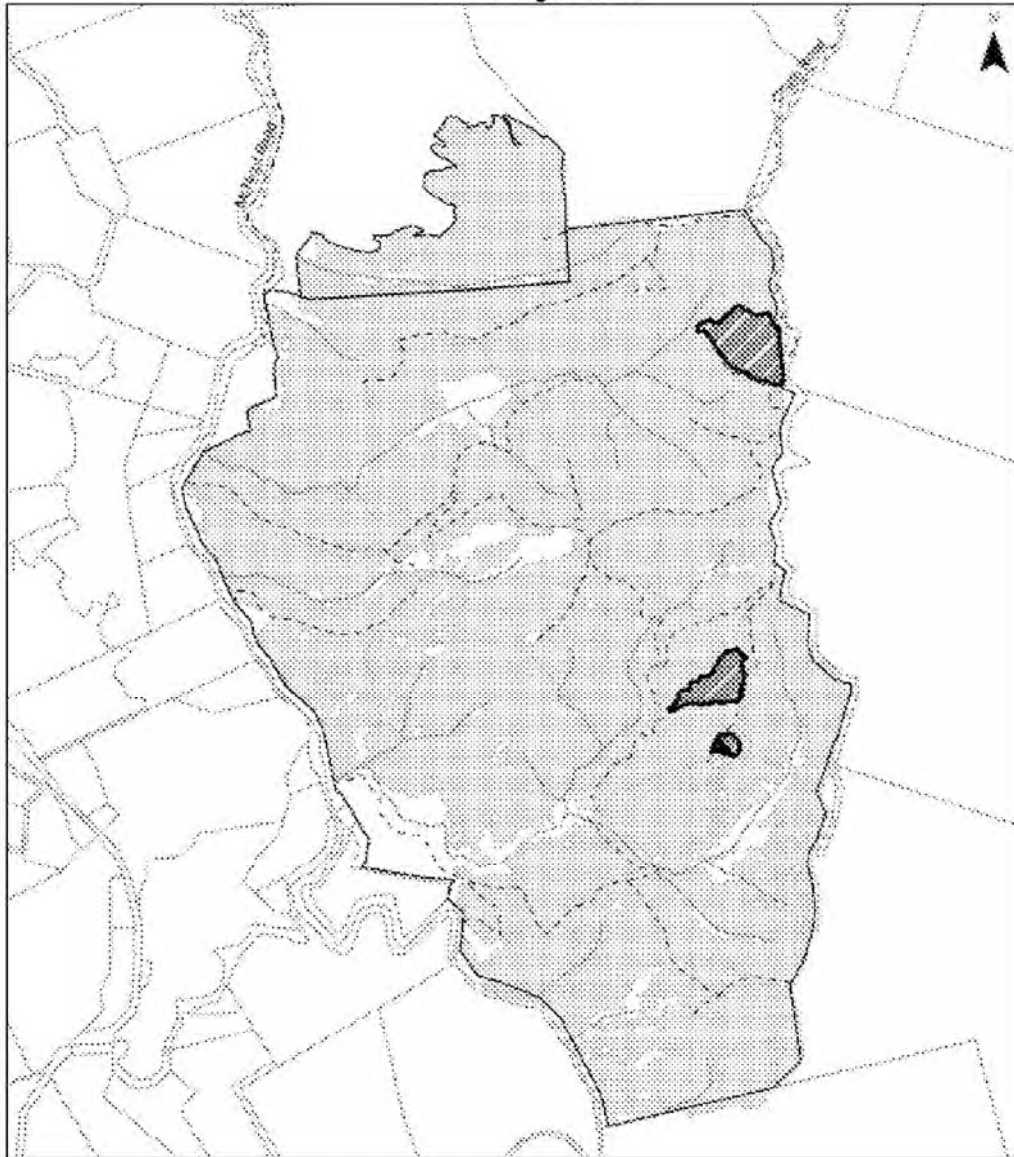
20.3 **Waiver:** No waiver or acquiescence by either party in respect of one breach on one occasion of any obligation in this Forestry Right shall operate as the waiver of the same breach on any subsequent occasion or as a waiver of any other covenant or stipulation contained or implied in this Forestry Right.

20.4 **Costs:** Unless otherwise stated in this Forestry Right, each party will bear its own costs and expenses in connection with the implementation of this Forestry Right.

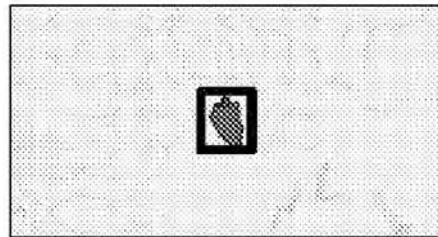
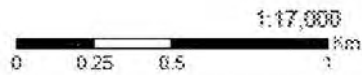
20.5 **Severability:** Each provision of this Forestry Right is individually severable. If any provision is or becomes illegal, unenforceable or invalid it is to be treated as being severed from this Forestry Right, but the rest of the Forestry Rights will not be affected.

FIRST SCHEDULE – PLAN

Greenridge Forest



- Native Bush – Exclude from FR
- Greenridge Staked Forestry Right
- Forestry Right Area
- Roads
- Waterways



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