

# Kowhai Forest Investment

## Investment Report

26 August 2020



Kowhai Forest main access road

Photo April 2018

Indicative Initial Offer for 200 shares	Projected Return for 200 shares	Location
\$19,300 to \$20,500 initially	\$63,580 gross	22km north of Masterton
Both the Indicative Initial Offer and the Projected Return above have been calculated using the assumptions set out in this Investment Report. Changes to the assumptions can have a material effect on these figures.		

**A holding of 200 shares in the Kowhai Forest investment is available for purchase by tender facilitated by Forest Enterprises. A prospective buyer must tender for all of this holding.**

NOTE: Return amounts expressed throughout this Report are based on a **200** shareholding unless otherwise stated.

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## Additional information for investors

The first six documents listed below about the Kowhai Forest Investment are on the Companies Office website [www.companiesoffice.govt.nz/disclose](http://www.companiesoffice.govt.nz/disclose) and found under *Search Scheme*, No. SCH10950.

Document	Note
31 March 2020 Financial Report	Extracts from the 2020 Financial Report are contained in this Investment Report
31 March 2020 Annual Report	Prescribed document which includes the fees, details and description of the Scheme.
Deed of Scheme Management (DOSM)	This document amends, restates and renames the previous Deed of Participation, amends the Limited Partnership Agreement (below) and merges the Management Agreement (which set out the powers, duties and responsibilities of Forest Enterprises Limited as the manager of the investment scheme. The DOSM also sets out the powers, duties and responsibilities of the Supervisor, the Custodian and the Financial Auditor
Limited Partnership Agreement	Sets out the matters agreed between the Limited Partnership, the General Partner and the Limited Partners in respect of the operation of the Limited Partnership
Constitution of the General Partner	Sets out how shareholders, directors and other parties interact with each other
Statement of Investment Policy and Objectives (SIPO)	Sets out the investment policy and objectives of the registered Scheme
The Impact of the Emissions Trading Scheme on your Forestry Investment	Prepared by Forest Enterprises for investors, May 2009

Visit our website at [www.forestenterprises.co.nz](http://www.forestenterprises.co.nz) for further information on all aspects of forestry investment with Forest Enterprises.

## Contact details

For further information, or any questions please contact our Customer Services Manager, Sean Roberts on Freephone 0800 PINEGOLD (0800 746 346), email [sroberts@forestenterprises.co.nz](mailto:sroberts@forestenterprises.co.nz). International callers please use telephone +64 6 370 6360.



## What will the investment cost?

### Indicative Initial Offer

#### \$19,300 to \$20,500 for a 200-share holding

An indicative Offer of \$19,300 represents an 6.5% tax paid compounded return per annum while an indicative Offer of \$20,500 represents a 6% tax paid compounded return per annum over the investment term.

These indicative Offers are for a holding of 200 shares in Kowhai Forest and represent the net present value of the Cashflow Projection set out on page 11, assuming a marginal tax rate of 33 cents in the dollar.

The indicative initial Offer calculations are provided as a basis on which prospective investors may determine the amount they wish to tender as a purchase price. **Changes in the assumptions underlying the Cashflow Projection can have a material impact which may increase or decrease the return and Prospective Investors should take account of this reality when reflecting on an Offer.**

The 6,600 pre-1990 New Zealand Units (NZU's) issued to and owned by the Kowhai Forest Investment are not reflected in the above calculation. These NZU's are being sold progressively to meet investment costs in lieu of Call payments.

The annual Investor Administration Fee of \$40 per Investor per investment per annum is only paid once, regardless of the number of shares held in the Kowhai Forest investment. This fee is not included in the Cashflow Projection.

### Projected Future Payments

Forestry investment is by nature a contributory investment where investors pay the funding required each year, in addition to the Initial Price.

Due Date	Amount
2018 to 2023	\$0 due to progressive sale of NZUs
2024 to 2031	Average of \$515 pa on 30 June each year
2032 to 2034 -	\$1,748, \$428, and \$537 on 30 June each year

On 29 September 2017, investors passed a resolution to progressively sell all NZU's at the prevailing market price to meet Calls. As a result of this decision 1,900 NZUs were sold at \$17.75 per unit for a total of \$33,725 in late 2017 and 1,100 NZUs sold on the 16 June 2018 for \$20.30 per NZU being total gross receipts of \$22,330.

To fund last year's budget, 1,000 NZUs were sold on 19 September 2019 for \$24.90 per NZU for total gross receipts of \$24,900. There are 2,600 NZUs remaining and this year's budget will also be funded by their sale.

### Investment Profit (Tax Loss)

Under current New Zealand tax law, any profit each year will be subject to tax at the investor's marginal tax rate. Resident Investors are entitled to a share of any tax losses and are advised of the amount in May each year. Non-residents (such as Overseas Persons, see page 5) should check with their Tax Adviser.

Partners on the Register of Partners at the end of the LP's financial year will be allocated the full year's profit or loss for tax purposes pro rata to their respective LP shares. It is important to note that allocation will have no regard to transfers during the year, so any transfer price should reflect the consequences of whether the buyer or seller has paid any Call or received any Distribution during the year of transfer.



## What is the projected return?

### Projected Return at Harvest

\$63,580 gross in 2032 and 2036 for a 200-share holding

The table below shows the projected gross return at harvest for a holding of 200 shares in Kowhai Forest at current log prices and if log prices increase or decrease by 10%

Year ending	Current Log Prices -10%	Current Log Prices	Current Log Prices +10%
2032	\$20,817	\$28,851	\$36,885
2036	\$27,379	\$34,729	\$42,078
<b>Total</b>	<b>\$48,196</b>	<b>\$63,580</b>	<b>\$78,963</b>

**Please note that variations around this timing are possible.** Refer to page 8 for details on how the projected return at harvest has been calculated.

### Harvest Tax Issues

Under current tax law, harvest proceeds will be paid to investors as a gross amount and investors will be responsible for paying tax at their marginal rate. The net return to investors will depend on their marginal tax rate at the time of harvest. Investors can choose to spread harvest income between the year of harvest and any one or more of the three preceding income years. In addition, investors will receive their share of the value of the land as a capital payment (non-taxable), when sold. Non-residents (such as Overseas Persons, see page 5) should check with their Tax Adviser.

As set out in the Cashflow Projection on page 11 the total projected net distribution at a tax rate of 33 cents in the dollar is \$41,494 for a holding of 200 shares.

### Selling the Investment Before Harvest

Shares can be sold at any time before harvest, but the sale is deemed to be a disposal of the underlying assets (land and trees). The sale of trees is a taxable event, whereas the sale of land is not. Section HG 5 of the Income Tax Act 2007 creates a \$50,000 threshold (in any 12-month period), under which this taxation treatment does not apply.

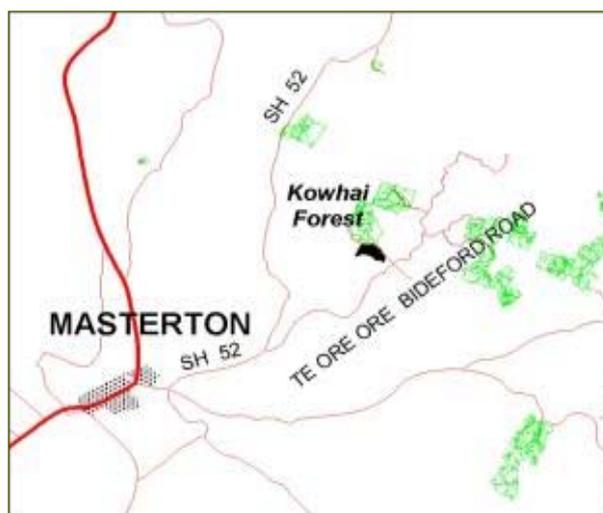
### Where is Kowhai Forest?

Kowhai Forest is located approximately 22km north of Masterton, in a property comprising 132.15 hectares. Kowhai Forest is the dark green area on the map (right).

Masterton has access to an international log export port and major processing mills.

Kowhai Forest is in the vicinity of several other Forest Enterprises forests investments (light green areas on the map).

A more detailed location map can be found on page 13.



## How do I invest in Kowhai Forest?

### Tender Process

Forest Enterprises operates a market for the sale and purchase of shares in their existing forestry investments. The purpose of the market is to enable existing Investors to liquidate their investment and to allow prospective Investors to purchase investments in established forests. Shares in the Kowhai Forest Investment may be purchased by open tender for all or part of this holding.

An example Tender Form with terms and conditions can be found on page 14. To submit a tender, complete the Tender Form and return it to Forest Enterprises (refer to Contact Details on page 2).

The total purchase price you tender may be within, above or below the indicative initial Offer on page 3. Prospective investors usually set their tendered purchase price based upon a projected investment rate they wish to achieve for the duration of the investment.

### Who can invest?

An eligible Forest Enterprises investor is:

- An individual who has attained the age of 18 years, investing on their own or jointly
- Or a company, a trust or a partnership
- And, may be a New Zealander or an overseas person

### Overseas Persons

Overseas persons can invest provided no more than 25% of the investment is held by overseas persons. The Overseas Investment Act 2005 defines an overseas person as an individual who is neither a New Zealand citizen nor ordinarily resident in New Zealand. It is also required that overseas persons obtain a New Zealand Inland Revenue (IR) tax number. To do this, the applicant must have their identity verified by a Reporting Entity (see Verifying Customer Identity below) such as Forest Enterprises Limited (upon investment) or a New Zealand bank (upon opening a bank account). We are able to assist with opening a bank account if required. Contact us for further information relevant to overseas persons.

### Verifying Customer Identity

As a Financial Services Provider, we are required under the *New Zealand Anti-Money Laundering and Countering Financing of Terrorism Act 2009* to undertake due diligence on all new customers to prevent the criminal use of funds. This involves us:

- gathering information about customer identity and residential address, and
- verifying a customer's identity, to ensure the customer is who they say they are.

## Investment structure

### Limited Partnership

The Kowhai Forest Investment is a Managed Investment Scheme (MIS) under the Financial Markets Conduct Act 2013 (FMC Act)

#### Limited Partnership and General Partner

The Kowhai Forest Investment comprises a limited partnership registered under the Limited Partnerships Act 2008 called Kowhai Forest LP (the Limited Partnership) with one general partner which is a registered company under the Companies Act 1993 called Kowhai Forest GP Limited (the General Partner).

#### Shares in Limited Partnership and shares in General Partner

Investors in the Kowhai Forest Investment have limited partner shares in the Limited Partnership plus an equivalent number of company shares in the General Partner. The Limited Partnership Agreement requires that the 12,000 issued shares in the GP Company Partnership, are to be held pro rata to the number of Limited Partners shares held by the limited partners.

#### Managed Investment Scheme

The Kowhai Forest Investment was registered as a MIS under the FMC Act on 29 November 2016.



## Limited Partnership is Managed Investment Scheme

By consequence of FMC Act definition of “managed investment scheme”, the Limited Partnership is the registered MIS.

## Deed is pre-eminent Governing Document

The Deed of Scheme Management is the pre-eminent Governing Document of the MIS, and sets out the rights, obligations and duties of the Manager, the Supervisor, the Custodian and the Limited Partners in relation to the MIS including provisions for compliance with the FMC Act including, but not limited to:

- specific MIS provisions
- management of the MIS by the Manager
- supervision of the MIS by the Supervisor
- custodianship of the MIS's Scheme Property
- financial reporting and appointment and duties of the financial auditor of the MIS.

## Limited Liability

As the Kowhai Forest Investment is a Limited Partnership, the liability of investors (Limited Partners) is limited and they are only liable to the extent of their capital contributions (funds invested), plus any other obligations expressed in the Limited Partnership Agreement.

## Who is involved in providing this investment for me?

### Manager

Forest Enterprises Limited  
5 Papawai Place  
PO Box 128  
Masterton

### Banker

Bank of New Zealand  
193-197 Queen Street  
Masterton

### Supervisor

Trustees Executors Limited  
Level 6, 10 Customhouse  
Quay  
PO Box 3222  
Wellington

### Financial Auditor

Baker Tilly Staples Rodway Audit Ltd  
Chartered Accountants  
95 Customhouse Quay  
PO Box 1208  
Wellington

### Forestry Auditor

Forme Consulting Group Ltd  
173 Main Road  
PO Box 56-030  
Tawa  
Wellington

## About Forest Enterprises

Forest Enterprises is one of New Zealand's leading forest investment companies and is unique in providing both forest management and investment services. Our business is to create wealth naturally for private investors via New Zealand pine plantation forestry.

Our 6,500 investors are mostly New Zealanders, and on their behalf we manage a forest estate of more than 20,000 hectares in the North Island's East Coast regions of Wairarapa, Hawkes Bay and Gisborne. Forest Enterprises is also the property manager of over 10,000 hectares of FSC® certified forestry in New Zealand owned by an international institutional forestry fund.

Since we started in 1972 in Masterton, New Zealand we have remained a locally owned and operated business. We have grown to 28 employees in total—who include the company's five shareholders—professionals in the fields of forestry, accounting and finance, administration, commercial law, and sales and marketing.

Forest Enterprises is the business name for Forest Enterprises Limited (FEL), and its parent company Forest Enterprises Growth Limited (FEG). FEL is the Manager of the Kowhai Forest Investment. FEG is contracted by FEL to coordinate and supervise all the field activities relating to the land and trees, at the direction of FEL, a licenced manager of forestry managed Investment Schemes under the FMC Act.



## The Kowhai Forest

### Property Description

The terrain of Kowhai Forest can be described as medium hill country with predominantly easy land and flat country around the Taueru River. The aspect is generally to the east with northerly and southerly faces. The property drains to the Mangarei Stream (north), the Ruatiki Stream (south), which both flow into the Taueru River to the east. The range in altitude is from 140 metres above sea level (asl) to a high point on the western boundary of 280 metres asl with most of the property around 220 metres asl.

### Climate

The property is located in a warm valley, well sheltered from the prevailing northwest wind and has an annual rainfall of 1,125 mm. The site index, a forestry term for the indication of growth potential, has been assessed as being an average of 29.5 metres, which compares well with an average of about 28.5 metres at Kaingaroa forest in the Central North Island.

Kowhai Forest is a replanted second rotation forest. In order to harvest the first crop, an extensive roading structure was formed throughout the forest that will benefit investors as the cost to form these roads has already been met. Kowhai Forest is adjacent to other forests managed by Forest Enterprises, providing potential economies of scale for all operations

### Forest Development Status

Kowhai Forest comprises a net-planted area of 99.8 hectares, established in 2003, 2004, 2005, 2006, and 2009. Each shareholding of 200 shares represents 1.66 hectares of established forest on land owned by the Investors.

GF 19 genetically improved treestocks were used at a target planting density of 1,000 stems per hectare. Pruning and thinning was undertaken to achieve the maximum volume of clearwood (knot-free wood) at harvest, coupled with good tree size and restriction of branch size in the unpruned zone (above 6.5 metres).

Planting year	Net Stocked Area
2003	23.4 hectares
2004	17.7 hectares
2005	11.8 hectares
2006	6.6 hectares
2009	40.3 hectares
<b>Total</b>	<b>99.8 hectares</b>

Areas are based upon mapping completed in April 2015, updated in 2017. Mapping accuracy is + or – 3.0%. Updated photography and mapping is undertaken during the life of a forest and it is usual for the measured net stocked area to change with each update and the changes can be material.

### Insurance

Kowhai Forest is insured until harvest under a special purpose forest insurance scheme, designed to cover key forest risks, including losses from fire, wind, volcanic eruption plus re-establishment, infrastructure replacement and claim preparation costs. There is a policy excess of \$225,000.

### Manager's Report

The Managers Report summarises forest activity for the previous and coming year plus other material management issues and is included in the Financial Report. Relevant extracts from the latest Manager's Report for Kowhai Forest are included on page 9.



## How has the projected return at harvest been calculated?

Taken from the Financial Report for the year ended 31 March 2020.

### Net Stumpage

The return at harvest is expressed as the net stumpage per hectare. For Kowhai Forest this is currently projected to be \$35,354 per hectare (ha) calculated as follows —

Log Type	Projected Recoverable Volume (m <sup>3</sup> /ha)	Percentage	FE Price at Point of Sale (\$/m <sup>3</sup> )	Total Production Costs (\$/m <sup>3</sup> )	Net Return Stumpage (\$/m <sup>3</sup> )	Contribution to Stumpage (\$/ ha)
<b>Export</b>						
P40	80.3	11%	\$183.40	\$84.37	\$99.03	\$7,948
P35	39.6	6%	\$175.35	\$83.21	\$92.14	\$3,648
A	268.4	38%	\$133.65	\$84.37	\$49.28	\$13,225
K	66.7	9%	\$118.20	\$84.37	\$33.83	\$2,256
KI	53.2	8%	\$111.60	\$84.37	\$27.23	\$1,449
KIS	51.7	7%	\$96.10	\$84.37	\$11.73	\$607
<b>Domestic</b>						
S30	65.2	9%	\$121.25	\$69.66	\$51.59	\$3,362
S20	78.2	11%	\$106.25	\$69.66	\$36.59	\$2,861
<b>Totals</b>	<b>703.1</b>	<b>100%</b>				<b>\$35,354</b>

### Harvest Assumptions

The calculated harvest return is a projection based upon a number of critical assumptions —

- A sales scenario based on Masterton and the Port of Wellington as the point-of-sale has been used and therefore assumes demand will exist at harvest time at this destination. Other scenarios will produce different stumpage outcomes.
- Once the Partnership's harvest is budgeted to commence within 12 months of reporting date, the Forest Valuation for this 12 month period will be based on Forest Enterprises' 12 month average log prices prior to reporting date. The Forest Valuation post this 12 month period following reporting date will be based on Forest Enterprises' 36 month average log prices prior to reporting date. This change in assumption has no impact on the Forest Valuation as this Partnership is not budgeted to commence harvest within 12 months of reporting date.
- Harvesting and Transportation costs are based upon the costs currently being paid by Forest Enterprises for current harvesting. These costs reflect the characteristics of the forests currently being harvested, which may differ from the characteristics of this forest when it is harvested. The financial impact of the relevant characteristics of this forest are unable to be quantified at this time.
- The cost of the roading network required at harvest is substantial. An estimate has been made and represents \$6.00/ m3 of the Total Production Costs (\$/ m3) figure shown in the Stumpage calculation above.
- Harvest is assumed to occur in the years shown. **Harvesting practicalities will probably have an impact on this timing.**

### Important

Every effort has been made to arrive at reasonable figures based upon Forest Enterprises 48 years forestry knowledge, including our current harvesting experience. Investors should be aware that the projections provided will vary over time depending upon many factors and the resulting changes could be material.



## Manager's Report for Kowhai Forest

Taken from the Financial Report for the year ended 31 March 2020.

### Forest Activity for the Year

The LiDAR (light detection and ranging) mapping program commenced.

### Forest Activity for the Coming Year

Provision has been made in the budget for the continued maintenance of the tracks and internal access ways, as required in 2020.

### Change in Discount Rate for the Treecrop Valuation in the Financial Statements

The auditors have reviewed the discount rate we apply to the Treecrop valuation and consider that the pre-tax 10% discount rate previously used is higher than current industry practice. In light of this, the rate has been changed to 8%. We have implemented this new rate and this has the impact of increasing the Treecrop valuation in the Financial Statements.

The discount rate applied to your Investment Valuation of individual share parcels remains at 6% post tax.

### Insurance

The insurance policy for your forest investment was up for renewal on 31 August 2019. As is prudent, we obtained quotes from multiple providers. Having considered the various policies available, we have remained with our existing provider. Insurance Facilitators Pty Ltd, an Australian based specialist forestry and crop insurance provider, and underwritten by SJ Catlin & Others Syndicate 2003 at Lloyd's with a Standard & Poors rating of A+(Strong).

There has been a change to the policy. The excess has increased from a maximum of \$25,000 to 0.75% of the Sum Insured of each Forest Location with Area Damage, subject to a minimum of \$5,000 and maximum \$225,000 in every Single Cause.

To keep the excess at a maximum of \$25,000, the alternative quotes we obtained were more than 3 times the premium and there would have been less cover for wind. Cover terms of the alternative policies were also far less favourable.

### Conclusion

This report is specific to matters pertaining to your forest, with items of a more general nature, and industry comment being covered in our regular Forest Enterprises Investor Communications.



## General Notes to the Cashflow Projection

The base Cashflow Projection is updated yearly as part of the financial reporting process with the first year's expenditure being the budget for the current year. Regular changes are made to the harvest revenue projection between Financial Reports in accordance with the harvest assumptions on page 8. Generally, changes between reporting periods are only made if separately identifiable and material or to reflect their timing relative to the date of the Investment Report.

The Cashflow Projection reflects our estimate of the cost of the work to be done or services provided, year-by-year through to harvest, generally based upon the work program and prices current at the time of the Financial Report review. Actual costs and timing will vary from the projections as a consequence of changes over time to the work program and the prices; these changes may be material.

Other assumptions (in addition to the harvest assumptions set out on page 8) include —

- It is assumed that the land will be sold in the final harvest year at the current rating valuation.
- No provision is made for the replanting of the areas harvested, other than for trees on the property at the time of purchase. Practically this will occur the winter following harvest and the replanted tree crop sold at the conclusion of harvest (in addition to the land). This will impact upon the timing of the distribution of the harvest revenue.
- The Cashflow opposite does not include the annual Investor Administration Fee of \$40.

**NOTE:** Future Calls in the Cashflow Projection should be taken as a guide only. **Due to harvest practicalities, it is likely that Distributions will be spread over several years.**



Trees adjacent to an access track after final pruning and thinning

Photo November 2018





## Statement of Financial Position for Kowhai Forest

Taken from the Financial Report for the year ended 31 March 2020.

### Statement of Financial Position

Kowhai Forest Investment as at 31 March 2020

2018/19 \$		Note	\$	\$	2019/20 \$
	<b>CURRENT ASSETS</b>				
	<b>Funds on Hand</b>				
15,988	Cash and Cash Equivalents		22,557		
<b>15,988</b>	<b>Total Funds on Hand</b>			<b>22,557</b>	
	<b>Other Current Assets</b>				
309	GST Receivable		462		
55	Resident Withholding Tax Recoverable		22		
<b>364</b>	<b>Total Other Current Assets</b>			<b>484</b>	
<b>16,352</b>	<b>TOTAL CURRENT ASSETS</b>			<b>23,041</b>	
	<b>LESS CURRENT LIABILITIES</b>				
3,437	Trade and Other Payables		3,775		
9	Calls in Advance		9		
<b>3,446</b>	<b>TOTAL CURRENT LIABILITIES</b>			<b>3,783</b>	
<b>12,906</b>	<b>NET CURRENT ASSETS</b>				<b>19,257</b>
	<b>PROPERTY, PLANT &amp; EQUIPMENT</b>				
	<b>Roading</b>				
23,381	Road Formation		23,381		
(22,558)	Less Accumulated Depreciation		(22,723)		
<b>823</b>	<b>Total Roding</b>			<b>658</b>	
	<b>Land Preparation</b>				
65,806	Land Preparation		65,806		
(37,310)	Less Accumulated Depreciation		(39,105)		
<b>28,496</b>	<b>Total Land Preparation</b>			<b>26,701</b>	
	<b>Non Depreciable Assets</b>				
216,019	Land at Cost		216,019		
<b>216,019</b>	<b>Total Non-Depreciable Assets</b>			<b>216,019</b>	
<b>245,338</b>	<b>TOTAL PROPERTY, PLANT &amp; EQUIPMENT</b>	1		<b>243,378</b>	
	<b>Biological Assets</b>				
569,684	Forest Crop Value	2	1,090,535		
<b>569,684</b>	<b>Total Biological Assets</b>			<b>1,090,535</b>	
<b>815,022</b>	<b>TOTAL NON-CURRENT ASSETS</b>				<b>1,333,913</b>
<b>827,928</b>	<b>NET ASSETS</b>				<b>1,353,170</b>
	<b>EQUITY</b>				
746,220	Investment by Limited Partners		746,220		
81,708	Retained Earnings		606,950		
<b>827,928</b>	<b>NET EQUITY</b>				<b>1,353,170</b>

#### Notes to Statement of Financial Position

- Property, Plant and Equipment held at the end of the financial year was \$243,378 (Last year \$245,338). The decrease in value of \$1,960 (Last year \$2,122) is due to depreciation claimed of that amount.
- The fair value of the Forest Crop at balance date. Refer to the notes on pages 13-14 for details on the calculation.



## Detailed Location Map of Kowhai Forest



# Tender Form

This form establishes an offer by open tender to purchase shares from an existing investor in a Forest Enterprises forestry investment, as detailed below.

<b>Tenderer Details</b>	
Name:	_____
Address:	_____ _____
Phone: (Day)	_____ (Mobile) _____
Email:	_____
Tenderer intends to invest as: (tick one)    Individual(s) <input type="checkbox"/> Trust <input type="checkbox"/> Company <input type="checkbox"/> Partnership <input type="checkbox"/>	

<b>Offer Details</b>	
Investment Name:	_____
Number of Shares:	_____ Purchase Price: \$ _____ (Total in figures)
_____ (Total in words)	
PLUS the Forest Enterprises Ltd (FEL) Transfer Fee of \$150.00.	

**By submitting a completed and signed Tender, the Tenderer acknowledges and agrees to the following:**

- To pay a non-refundable Transfer Fee of \$150 per investment for the number of shares purchased. Payment is to be included with the payment for the shares.
- The Tenderer has full legal capacity (has attained the age of 18 years and is competent to manage their own affairs in relation to property), and authority (if acting for the Buyer of the shares), to submit this tender and enter into a binding contract to buy the shares.
- The documentation to be completed in respect of any resulting sale will take into account the Land Value and the Value of Standing Timber pursuant to Section HG5 of the Income Tax Act 2007. In the event that the Value of Standing Timber exceeds the \$50,000 threshold, or the New Zealand Inland Revenue determines the threshold is exceeded, the financial consequences will be the sole responsibility of the Seller. As a consequence, the successful Buyer will then receive a Cost of Timber (as that is defined in section DP 10 of the Income Tax Act 2007) in respect of the Standing Timber purchased.
- Should the offer be accepted by the Seller, the consequential contract will be with the Seller, and whilst FEL will co-ordinate and facilitate the process, FEL has no responsibility or liability to the Tenderer should the Seller default in their obligations to complete the resulting transfer, other than to reimburse the Purchase Price and Transfer Fee if paid. Payment is expected within 5 working days of the offer being accepted.
- Should the offer be accepted, the documentation necessary to settle the transfer of the shares will be completed and returned in full.
- This offer is irrevocable until acceptance by the Seller, or for ten (10) working days following the receipt by FEL of the offer whichever is sooner.
- That the investment is contributory in nature and therefore may require Investor payments (referred to as Calls) between the purchase date and harvest. Refer to the Investment Report (Cashflow Projection) for further details.

Tenderer Full Name: \_\_\_\_\_

Tenderer Signature: \_\_\_\_\_ Date:        /        /

Return your completed Tender Form to Customer Services Manager Sean Roberts at [sroberts@forestenterprises.co.nz](mailto:sroberts@forestenterprises.co.nz)



5 Papawai Place, Masterton 5810 | PO Box 128, Masterton 5840, New Zealand  
Office +64 6 370 6360 | Fax +64 6 370 6369 | [www.forestenterprises.co.nz](http://www.forestenterprises.co.nz)

Forest Enterprises is the business name of Forest Enterprises Growth Limited and its subsidiary Forest Enterprises Limited. Forest Enterprises Limited is licensed to manage Managed Investment Schemes (excluding managed funds) which are primarily invested in forestry assets.

## Example Deed of Assignment and Power of Attorney

<b>DEED OF ASSIGNMENT AND POWER OF ATTORNEY</b>	
THIS DEED is executed the _____ day of _____ 2020 <i>[To be completed by Forest Enterprises Ltd]</i>	
<b>Parties</b>	
1. [Name of Assignor(s)]	("the Assignor(s)")
2. [Name of Assignee(s)]	("the First Assignee(s)")
3. [Investment Name] Forest LP	("the Limited Partnership")
<b>Particulars of Managed Investment Scheme</b>	
<b>Scheme Name:</b>	[Investment Name] Forest Investment ("the Investment")
<b>Scheme Number:</b>	[Scheme Number]
<b>General Partner:</b>	[Investment Name] Forest GP Limited ("the General Partner")
<b>Manager:</b>	Forest Enterprises Limited ("the Manager")
<b>Governing Documents:</b>	Deed of Scheme Management dated [date]. Limited Partnership Agreement dated [date]. Constitution of the General Partner ("the Constitution")
<b>Particulars of Securities Transferred</b>	
<b>Limited Partnership:</b>	Shares in the Limited Partnership ("the LP Shares")
<b>Number of LP Shares:</b>	[Number of LP Shares]
<b>General Partner:</b>	Shares in the General Partner ("the GP Shares")
<b>Number of GP Shares:</b>	[Number of GP Shares]
<b>Consideration for LP Shares:</b>	[Consideration for LP Shares]
<b>Land Value:</b>	[Land value]
<b>Value of Standing Timber</b>	[Share Consideration less Land Value]
<b>Assignee Overseas Person:</b>	Yes / No
<b>Effective Date:</b>	<i>[To be completed by Forest Enterprises Ltd]</i>



## Background

1. The Assignor(s) are the owner of the LP Shares and the GP Shares in the Investment.
2. On the Specific Terms and the General Terms and Conditions of this Deed and for the consideration specified above, the Assignor transfers to the Assignee the LP Shares and the GP Shares. On the Effective Date, the terms of the Governing Documents registered on the Disclose Register and the terms of the Constitution registered in the Companies Office will bind the Assignee.
3. The Assignee(s) wish to grant to Trustees Executors Limited the limited Powers of Attorney which are a condition in the Governing Documents of being a limited partner in the Limited Partnership, and a condition in the Constitution of being a shareholder in the General Partner.

## Specific Terms

4. **Tax Treatment if Standing Timber Consideration is >\$50,000:** The Assignor confirms that the consideration paid by the Assignee under this Deed is taxable income because the safe harbour under section HG 5 of the Income Tax Act 2007 does not apply. Therefore, the Assignee is entitled to a 'cost of timber' deduction in terms of section DP 10 of the Income Tax Act. The Assignor and Assignee agree that:
  - 4.1 The Assignor will obtain from the Manager details of the value of the standing timber component of this assignment.
  - 4.2 The Assignor will meet the resulting taxation liability.
  - 4.3 The Assignee will be entitled to a 'cost of timber' of the standing timber component of this transaction without additional payment to the Assignor. The Manager will advise the Assignee the quantum of the Assignee's 'cost of timber' entitlement which will be the value of the standing timber component of this assignment advised to the Assignor in subclause 4.1 of this clause.
  - 4.4 In the event that IRD determines a different value of the standing timber component of this assignment to that obtained from the Manager, the Assignor will provide a copy of IRD's determination to the Manager who will then advise the Assignee of the amended quantum of the 'cost of timber'.
5. **Tax Treatment if Standing Timber Consideration < \$50,000:** The Assignor confirms that the consideration paid by the Assignee under this Deed is excluded income under section HG 5 of the Income Tax Act 2007 and therefore the Assignee is not entitled to a 'cost of timber' deduction in terms of section DP 10 of the Income Tax Act. The Assignee acknowledges this taxation status of the assignment.
6. **IRD Determination:** In the event that the New Zealand Inland Revenue Department ("IRD") determines otherwise:
  - 6.1 The Assignor will advise the Manager of the change in status of this transaction and obtain from the Manager details of the value of the standing timber component of this assignment.
  - 6.2 The Assignor will meet the resulting taxation liability.
  - 6.3 The Assignee will be entitled to a 'cost of timber' of the standing timber component of this transaction without additional payment to the Assignor. The Manager will advise the Assignee the quantum of the Assignee's 'cost of timber' entitlement which will be the value of the standing timber component of this assignment advised to the Assignor by the Manager.
  - 6.4 In the event that IRD determines a different value of the standing timber component of this assignment to that obtained from the Manager, the Assignor will provide a copy of IRD's determination to the Manager who will then advise the Assignee of the amended quantum of the 'cost of timber'.

## Signed by the Assignor

Signed by:		In the presence of:	
Assignor Full Name: <b>[Name of Assignor]</b>	Witness Signature:		
Assignor Signature:	Witness Full Name		
	Witness Town/City of Residence:	Witness Occupation:	



## Signed by the Assignee

<b>Signed by:</b>	<b>In the presence of:</b>	
Assignee Full Name: <b>[Name of Assignee]</b>	Witness: Signature:	
Assignee Signature:	Witness Full Name	
	Witness Town/City of Residence:	Witness Occupation:

## Signed by the Limited Partnership

<b>Signed by [Investment Name] Forest GP Limited on behalf of "[Investment Name]" Forest LP:</b>	
Director Name: <b>Graeme Mark TINDALL</b>	Director Signature:
Director Name: <b>Gordon Brent WONG</b>	Director Signature:

## GENERAL TERMS AND CONDITIONS

- Execution in Counterpart:** This Deed may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single agreement
- Definition of Independent Trustee:** For the purposes of the Governing Documents and this Deed, a person is an independent trustee if that person has no interest in the assets of the trust other than as a trustee. For the purposes of clarification (but without limitation) a person is not an independent trustee and has an interest in the assets of the trust if that person is a beneficiary or discretionary beneficiary in relation to the trust. All trustees acknowledge the need to immediately inform the Manager of changes to trustees, including appointments and retirements.
- Same Definitions in Governing Documents:** All terms defined in the Governing Documents bear the same meaning when used in this Deed unless the context requires otherwise.
- Interpretation:** Words importing the singular number include the plural and vice versa and where obligations bind more than one person those obligations bind those persons jointly and severally.
- Assignment and Covenants**
  - Transfer of LP Shares:** On settlement of the assignment, all rights and interest in the LP Shares are vested in the Assignee effective from the Effective Date.
  - Transfer of GP Shares:** On settlement of the assignment, effective from the Effective Date all rights and interest in the GP Shares are vested in the Assignee in accordance with the requirements under the Governing Documents and the Constitution.
  - Tax Loss/Tax Profit:** Any tax loss incurred by the Assignor or tax profit attributable to the Assignor in the Investment in the financial year in which this assignment takes place will at the end of the financial year be treated as a tax loss incurred by the Assignee or a tax profit attributable to the Assignee, as the case may be, despite the Assignee not being a limited partner at the time the tax loss was incurred or the tax profit was made.
  - Assignor's Obligations to Effective Date:** The Assignor covenants with the Assignee that the Assignor has up to the Effective Date observed and performed all obligations required to be observed or performed under the Governing Documents in respect of the LP Shares and under the Constitution in respect of the GP Shares.
  - Assignee's LP Share Obligations from Effective Date:** The Assignee covenants with the Limited Partnership and the other limited partners in the Limited Partnership that from the Effective Date the Assignee will observe and perform all obligations contained or implied in the Governing Documents and will keep indemnified the other limited partners in respect of any obligation required of the Assignee with respect to the LP Shares and otherwise in terms of the Governing Documents.
  - Assignee's GP Share Obligations from Effective Date:** The Assignee covenants with the General Partner and the other shareholders in the General Partner that from the Effective Date the Assignee will observe and perform all obligations contained or implied in the Constitution of the General Partner with respect to the GP Shares held by the Assignee.
  - Assignee must not be a Minor:** The Assignee covenants with the Limited Partnership that for the purposes of the enforceability of this Deed the Assignee is not under the age of 18 years.
  - Overseas Person:** The Assignee acknowledges that if the Assignee is an overseas person this Deed shall be of no force or effect unless the General Partner in its absolute discretion consents in writing to the Assignee holding the LP Shares. If the Assignee is not an overseas person on the Effective Date but subsequently becomes an overseas person while being a Limited Partner, the Assignee must immediately give notice of that fact to the General Partner and may be required to transfer all or some of the LP Shares and GP Shares to a person who is not an overseas person at the written direction of the Manager.
  - No Encumbrances:** The Assignor warrants that the LP Shares and the GP Shares are unencumbered. The Assignee warrants the LP Shares and GP Shares will remain unencumbered.



14. **Instruction to Register Transfer:** The Assignee instructs the Manager to record the vesting of the LP Shares in the name of the Assignee (together with any joint holders) in the register of limited partners in the Limited Partnership maintained by the Manager and to notify the Registrar of the change in terms of Section 59 of the Limited Partnerships Act 2008. The Assignee also instructs the Manager to record the vesting of the GP Shares to the Assignee in the register of shareholders maintained by the Manager.

#### Limitation of Liability of Independent Trustees

15. **Limitation of Liability:** Any person who is an independent trustee of a trust executes this Deed in their capacity as an independent trustee so that their liability will not be an unlimited personal liability but will be restricted to the funds and assets of that trust in their hands or under their control at the time demand is made on them for payment, performance or indemnity under this Deed or the Governing Documents.

#### Applicable Laws

16. **Compliance:** This assignment is subject to the obligation of the Assignee to provide the Manager with any documentation and information the Manager may request from time to time in order for the Manager to undertake any action required to comply with all laws, rules, codes, regulations and other legal requirements in force, including the Limited Partnerships Act 2008, the Financial Markets Conduct Act 2013 and the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("Applicable Laws"). The Assignee also agrees to such documentation and information provided to the Manager being disclosed to any person to enable it to be reported and used in compliance with the relevant Applicable Laws.

#### Privacy Act 1993

17. **Collection and Use of Personal Information:** The Limited Partnership, the General Partner and the Manager may collect and use any personal information about the Assignee that is required to comply with any legislation or requirements of law and reasonably necessary for the business of the Limited Partnership. The name and address of the Assignee and the number of LP Shares and GP Shares held by the Assignee may be disclosed in a list by the Manager to other limited partners in the Limited Partnership but subject to clause 16, no other personal information about the Assignee that is not already in the public domain may be disclosed to any other person without the Assignee's consent.
18. **Access to and Correction of Personal Information:** The Assignee has rights of access to and correction of his or her personal information held by the Limited Partnership, the General Partner or the Manager pursuant to the Privacy Act 1993.

### POWER OF ATTORNEY

19. **Appointment of Attorney:** The Assignee irrevocably appoints Trustees Executors Limited or any corporate trustee company that succeeds Trustees Executors Limited as the supervisor over the Investment ("the Attorney") to be the Assignee's Attorney with the limited powers given by this Deed.
20. **Powers:** The Attorney may in its own name and as the Assignee's Attorney do or perform any of the acts set out in paragraphs A and B below and will have sole discretion as to decision making with respect to this Power of Attorney.
21. **Binding and Non-Revocable:** The Assignee agrees to be bound by whatever the Attorney may lawfully do by this Power of Attorney. The powers conferred by this Power of Attorney may not be revoked or suspended except with the prior written agreement of the Manager and the Attorney.
22. **Reliance on Power of Attorney:** No person dealing with the Attorney in good faith will be bound to enquire as to whether this Power of Attorney is in full force and effect or as to the propriety of anything the Attorney may do by this Power of Attorney. A written statement by the Attorney to the effect that the Attorney has no notice of the revocation or suspension of its powers and authorities under this Power of Attorney will be conclusive evidence to that effect.
- 23.

#### A. Power of Attorney under the Governing Documents The Attorney will have the following limited powers:

- (a) To appoint any director of the General Partner present at any meeting of limited partners as proxy for all limited partners not present at the meeting solely for the purpose of satisfying the common law requirement that a meeting cannot be held without at least two individuals present in person or proxy;
- (b) To waive on behalf of all limited partners who are entitled to attend and vote at any limited partnership meeting but who do not attend the meeting any irregularity in the notice of meeting but only if the irregularity is of a technical or non-material nature;
- (c) To approve an amendment to a resolution set out in a notice of meeting provided that the amendment is:
- the correction of an error; or
  - a qualification of the application or restriction of the effect of the resolution on limited partners; or
  - for clarification and in the opinion of the Attorney consistent with the clear intent of the resolution;
- (d) To approve on behalf of the limited partners an amendment to the Governing Documents if in the opinion of the Manager the amendment is made to correct a manifest error or is of a formal or technical nature or is convenient and is not prejudicial to the general interests of the Limited Partnership or the limited partners, and the amendment is subject to prior approval by the Attorney; and
- (e) To execute a deed of modification on behalf of the limited partners to record any amendment approved or permitted in accordance with the Governing Documents.

#### B. Power of Attorney under the Constitution

##### The Attorney will have the following limited powers:

- (a) To pass a written resolution in lieu of annual meeting as provided for in the Constitution for the purposes of:
- any resolution to receive, approve and adopt any directors' statement, directors' report, or financial statements within the meaning of section 6 of the Financial Reporting Act 2013;
  - any resolution regarding appointment of auditors to the General Partner under section 207(3)(b) of the Companies Act 1993;
- (b) To vote on any resolution appointing a director of the General Partner;
- (c) To vote on any resolution accepting a director's resignation or removing a director from office;
- (d) To appoint a director present at any meeting of shareholders as proxy for any shareholders not present at the meeting who have not appointed a proxy for the limited purpose of satisfying the common law requirement that a meeting (other than a resolution in lieu of meeting under paragraph (g) below) cannot be held without at least two shareholders present in person or proxy;
- (e) To approve an amendment of a resolution set out in a notice of meeting provided that the amendment is:
- the correction of an error; or
  - qualification of the application or restriction of the effect of the resolution on shareholders; or
  - for clarification and in the opinion of the Attorney consistent with the clear intent of the resolution.
- (f) To waive on behalf of all shareholders who are entitled to attend and vote at any shareholder meeting but who do not attend the meeting any irregularity in the notice of meeting but only if the irregularity is of a technical or non-material nature; and
- (g) To sign any resolution made in lieu of a meeting of shareholders in accordance with section 122 of the Companies Act in respect of which the Attorney has the limited powers to vote under paragraphs (b) and (c) above and to pass.





Main access road

Photo April 2017



Pruned trees showing uniformity of height

Photo April 2017



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