

# Forest Enterprises Limited

## Board Charter

### Adoption of Board Charter

This charter is adopted subject to any overriding requirements of the Companies Act 1993, the Financial Markets Conduct Act 2013, and the constitution of the Company.

<b>Executed by Forest Enterprises Limited as the Company:</b>	
	
<b>Executed by Forest Enterprises Growth Limited as the Shareholder:</b>	
	
<b>Date</b>	29 <sup>th</sup> August 2016

# Forest Enterprises Limited

## Board Charter



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## 1 Part 1 Interpretation

### 1.1 In this Charter:

“**Act**” means The Companies Act 1993;

“**Appointment Agreement**” means the agreement recording the appointment terms and conditions of Independent Directors executed by the Company and the Shareholder

“**Board**” means the board of directors of the Company;

“**Business**” means the business of the Company;

“**CEO**” means the Chief Executive Officer of the Company;

“**Chair**” means the chair of the Board and is used in a gender neutral sense;

“**Company**” means Forest Enterprises Limited;

“**Company Goals**” means the goals of the Company as set out in Part 2;

“**Directors**” mean the members of the Board;

“**FMC Act**” means the Financial Markets Conduct Act 2013;

“**Forestry Investors**” mean the persons who are investors in the forestry MIS Schemes and other forestry investments managed by the Company;

“**Independent Director**” means a Director who is independent of the Shareholder.

“**Management**” mean the executive managers of the Company;

“**Management Limitations**” means the limitations on the actions of Management as set out in paragraph 4.3;

“**MIS Schemes**” means Managed Investment Schemes under the FMC Act;

“**Outsourcing Agreement**” means the agreement between the Company and the Shareholder for the provision of services by the Shareholder to the Company;

“**Secretary**” means the Board secretary or the person normally exercising the functions of a board secretary;

“**Services Agreement**” means agreement between the Shareholder and Company for the provision of services by the Company to the Shareholder;

“**Shareholder**” means Forest Enterprises Growth Limited;

“**Supervisor**” means the supervisor of the forestry MIS Schemes in terms of the FMC Act.

## 2 Part 2 Company Goals

### 2.1 Company Goals

2.1.1 The purposes of the Company are to:

- (a) Be a licensed manager of forestry MIS Schemes under the FMC Act;
- (b) Act as the governance body for the MIS Schemes under management in respect of compliance with the Company’s market services licensee obligations under the FMC Act;
- (c) Act as a manager and administrator of other forestry investments;
- (d) To set up and promote new forestry investments for their on-going management;
- (e) Always act in the best interests of the investors in the forestry investments promoted and managed;



- (f) Operate as a successful and profitable business with a reputation for professionalism and prudence as a service provider in the financial markets industry.
- 2.1.2 The capital and resources of the Company will be allocated to those assets and activities which will enable it to achieve the Company Goals.

### **3 Part 3 Board Governance Process**

#### **3.1 Role of the Board**

- 3.1.1 The role of the Board is to ensure that the company is achieving the Company Goals.
- 3.1.2 Having regard to its role, the Board will direct and supervise the management of the Business, and affairs of the Company, including in particular:
- (a) ensuring that the Company Goals are clearly established, and that strategies are in place for achieving them (such strategies being expected to originate, in the first instance, from the joint deliberations of the Board and Management);
  - (b) establishing adequate and effective systems, policies and processes necessary to ensure the Company will meet its market services licensee obligations under the FMC Act in an effective manner, including but not limited to those obligations expressed in clause 3.2;
  - (c) establishing policies for strengthening the performance of the Company including ensuring that Management is proactively seeking to build the Business through innovation, initiative, technology, and the highest standards of professionalism, care, diligence and skill expected of a service provider in the financial markets industry;
  - (d) monitoring the performance of Management;
  - (e) deciding on whatever steps are necessary to protect the Company's financial position and the ability to meet its debts and other obligations when they fall due, and ensuring that such steps are taken;
  - (f) ensuring that the Company's financial statements are true and fair and otherwise conform with relevant standards and the law;
  - (g) ensuring that the Company has appropriate risk management, health and safety and regulatory compliance policies in place;
  - (h) ensuring the Company complies with fair dealing requirements;
  - (i) ensuring the Company and its personnel do not make improper use of information acquired as Manager to gain improper advantage or cause detriment to the Forestry Investors;
  - (j) ensure that the Company adheres to high standards of ethics and corporate behaviour.
- 3.1.3 In the normal course of events, day to day management of the Company will be in the hands of Management.
- 3.1.4 The Board will satisfy itself that the Company is achieving the Company Goals.

#### **3.2 Market Services Licensee Obligations**

- 3.2.1 The market services licensee obligations referred to in clause 3.1.2 (b) are:
- (a) ensure the Company always meets the minimum standards, standard conditions plus specific conditions of its license as a manager of forestry MIS Schemes;



- (b) ensure the Company always maintains positive net tangible assets and any other financial requirements prescribed in order to meet its market services licensee obligations under the FMC Act;
- (c) comply with all governing documents, statutory processes and any rules around prohibited activities required or imposed under the FMC Act;
- (d) monitor contracted out functions on the basis that the Manager remains liable and must monitor the contractor's performance;
- (e) comply with the general rules in the FMC Act on licensed managers of MIS Schemes entering into transactions giving related party benefits;
- (f) report to FMA and the Supervisor on an accurate and timely basis.

### **3.3 The Board's Relationship with the Forestry Investors**

- 3.3.1 The Board will use its best endeavours to familiarise itself with issues of concern to the Forestry Investors to fully understand the Company's market demands and drivers.
- 3.3.2 The Board will regularly evaluate economic, political, legal and forestry issues and any other relevant external matters that may influence or affect the interests of the Forestry Investors and, if thought appropriate, will take outside expert advice on these matters.

### **3.4 Board Relationship with Shareholder**

- 3.4.1 The Company has one shareholder, Forest Enterprises Growth Limited (Shareholder) with which it has an Outsourcing Agreement for services provided by the Shareholder to the Company and also a Services Agreement for services provided by the Company to the Shareholder.
- 3.4.2 The Shareholder appoints the Directors in terms of clause 3.5.
- 3.4.3 The relationship between the Company and the Shareholder must at all times allow the Board to meet the market services licensee obligations as a licensed manager of forestry MIS Schemes under the FMC Act.
- 3.4.4 Where the interests of the Forestry Investors conflict with the interests of the Shareholder, the interests of the Forestry Investors will prevail, subject to the Shareholder being entitled to require the Company at all times to operate according to commercially reasonable practices (including the charging of fees) which would prevail in an arm's length relationship.

### **3.5 Appointment of Directors**

- 3.5.1 In appointing the Directors, the Shareholder has agreed to the following appointment criteria –
  - (a) No less than one individual who is independent of the Shareholder (Independent Director) subject to the criteria set out in 3.5.2; and
  - (b) The Managing Director of the Shareholder; and
  - (c) Those individuals with a shareholding of 10% or more in the Shareholder.
- 3.5.2 The Directors appointed who are Independent of the Shareholder will –
  - (a) have the proficiency and judgement to make sensible business decisions and recommendations, the ability to ask the hard questions, preferably some experience in the financial services sector, high ethical standards, sound practical sense, and a commitment to furthering the interests of the Forestry Investors and the achievement of the Company Goals; and
  - (b) be approved by the Supervisor; and



- (c) have their appointment terms and conditions recorded in an Appointment Agreement executed by the Company and the Shareholder.

### **3.6 Board Procedures**

- 3.6.1 The conduct of Directors will be consistent with their duties and responsibilities to the Company and to the Forestry Investors.
- 3.6.2 Each Director will be bound by the Company's Code of Ethics.
- 3.6.3 The Board will be disciplined in carrying out its role, with the emphasis on strategic issues and policy. Directors will always act within any limitations imposed by the Board on its activities.
- 3.6.4 Directors will use their best endeavours to attend Board meetings and to prepare thoroughly. Directors are expected to participate fully, frankly and constructively in Board discussions and other activities and to bring the benefit of their particular knowledge, skills and abilities to the Board table. Directors unable to attend a meeting will advise the Chair at the earliest date possible and confirm in writing to the Secretary.
- 3.6.5 Board discussions will be open and constructive, recognising that genuinely-held differences of opinion can, in such circumstances, bring greater clarity and lead to better decisions. The Chair will, nevertheless, seek a consensus in the Board but may, where considered necessary, call for a vote. All discussions and their record will remain confidential to the Company and the Shareholder unless there is a specific direction from the Board to the contrary, or disclosure is required by law.
- 3.6.6 The Board has sole authority over its agenda and exercises this through the Chair. Any Director may, through the Chair, request the addition of an item to the agenda. The agenda will be set by the Chair in consultation with the CEO and the Secretary.
- 3.6.7 The Board will normally hold meetings every two months and will hold additional meetings as the occasion requires. At each normal meeting the Company's interests register will be updated as necessary.
- 3.6.8 Directors are entitled to have access, at all reasonable times, to all relevant Company information and to Management.
- 3.6.9 Directors are expected to strictly observe confidentiality of Company information.

### **3.7 Chair and Deputy Chair**

- 3.7.1 The Shareholder will instruct which Independent Directors the Board shall appoint the Chair and Deputy Chair.
- 3.7.2 If there is only one Independent Director, the CEO will be the Deputy Chair.
- 3.7.3 The Chair is responsible for ensuring the integrity and effectiveness of the governance process of the Board as set out in this Part 3.
- 3.7.4 The Chair is responsible for maintaining regular dialogue with the CEO over all operational matters and will consult with the remainder of the Board promptly over any matter that gives cause for major concern.
- 3.7.5 The Chair will act as facilitator at meetings of the Board to ensure that no Director dominates discussion, that appropriate discussion takes place and that relevant opinion among Directors is forthcoming. The Chair will ensure that discussions result in logical and understandable outcomes.
- 3.7.6 The Chair is responsible to ensure the Secretary prepares and circulates in a timely manner minutes which correctly record the business of each meeting of the Board.



### **3.8 Board Decisions in Absence of Chair or Deputy Chair**

- 3.8.1 Board decisions should only be made in the absence of the Chair (or the Deputy Chair if an Independent Director is acting as Chair) if delay until the Chair is available is not in the best interests of the Company.

### **3.9 Board Committees**

- 3.9.1 Board committees will be formed only when it is efficient or necessary to facilitate efficient decision making.
- 3.9.2 Board committees will observe the same rules of conduct and procedure as the Board unless the Board determines otherwise.
- 3.9.3 Board Committees will only speak or act for the Board when so authorised.
- 3.9.4 The authority conferred on a Board Committee will not derogate from the authority delegated to the CEO.

### **3.10 Induction of Independent Directors**

- 3.10.1 On first appointment Independent Directors will have the benefit of an induction program aimed at deepening their understanding of the Company and the business and the environment and markets in which the company operates.
- 3.10.2 As part of the program, Independent Directors will receive as a folder (or in appropriate electronic form) essential Board and Company information and will meet Management.

### **3.11 Directors' Remuneration**

- 3.11.1 Only the Independent Directors are entitled to be paid remuneration. The remuneration paid will be set out in their Appointment Agreement.

### **3.12 Provision of Business or Professional Services by Directors**

- 3.12.1 Directors who are not Independent Directors will potentially be providing business and professional services to the Company consequential to their relationship with the Shareholder and in the course of their employment duties. The conflicts of interest actual or perceived will be addressed in the Outsourcing Agreement with the Shareholder.
- 3.12.2 Because a conflict of interest (actual or perceived) may be created, Independent Directors should not generally provide business or professional services of an ongoing nature to the Company.
- 3.12.3 Notwithstanding the general rule, the Company is at liberty for the purpose of a special assignment, to engage the services of any Independent Director having special expertise in the particular field so long as the terms of engagement are competitive, clearly recorded and all legal requirements for disclosure of the engagement are properly observed.

### **3.13 Other Board Appointments**

- 3.13.1 Any Director is, while holding office, at liberty to accept other Board appointments so long as the appointment is not in conflict with the Business and does not detrimentally affect the Director's performance as a Director.
- 3.13.2 All such other Board appointments, if arising after appointment to the Company Board, must be advised to the Board in advance of acceptance and the appointment minuted.

### **3.14 Independent Professional Advice**

- 3.14.1 Circumstances giving rise to the need for independent professional advice are unlikely to arise because any matters of importance impacting on the





Company or the Directors will be the subject of professional advice obtained by the Company.

3.14.2 The Independent Directors will however be entitled to obtain independent professional advice relating to the affairs of the Company or their Board responsibilities subject to the prior –

- (a) approval of the Board; and
- (b) agreement on whether the cost will be reimbursed by the Company.

### 3.15 **Board Evaluations**

3.15.1 The Board will each year, critically evaluate its own performance, and its own processes and procedures to ensure that they are not unduly complex and are designed to assist the Board in effectively fulfilling its role.

### 3.16 **Indemnities and Insurance**

3.16.1 The Company or the Shareholder will provide Directors with, and will pay the premiums for, indemnity and insurance cover while acting in their capacities as Directors.

### 3.17 **Company Secretary**

3.17.1 The Company's Legal Services Director will ex officio serve as the Company's Secretary.

3.17.2 The Secretary is responsible for ensuring that Board procedures are followed, that the applicable rules and regulations for the conduct of the affairs of the Board are complied with and for all matters associated with the maintenance of the Board or otherwise required for its efficient operation.

3.17.3 All Directors, particularly the Chair, have access to the advice and services of the Secretary for the purposes of the Board's affairs and the Business.

## 4 **Part 4 Board - Management Relationship**

### 4.1 **Position of CEO**

4.1.1 The CEO will be appointed by the Board subject to the agreement of the Shareholder.

4.1.2 The CEO will provide strong leadership to, and effective management of, the Company in order to achieve and maintain the Company Goals.

4.1.3 The Board will link the Company's governance and management functions through the CEO.

4.1.4 All Board authority conferred on Management is delegated through the CEO so that the authority and accountability of Management is considered to be the authority and accountability of the CEO so far as the Board is concerned.

4.1.5 The Board will agree with the CEO to achieve specific results directed towards the Company Goals. This will usually take the form of a Board authority under which the CEO is authorised to make any decision and take any action directed at achieving the Company Goals.

4.1.6 Between Board meetings the Chairman maintains an informal link between the Board and the CEO, expects to be kept informed by the CEO on all important matters, and is available to the CEO to provide counsel and advice where appropriate.

4.1.7 Only decisions of the Board acting as a body are binding on the CEO. Decisions or instructions of individual Directors or officers are not binding



except in those instances where specific authorisation is given by the Board.

#### **4.2 Accountability of CEO to Board**

4.2.1 The CEO, in association with the Chairman, is accountable to the Board for the achievement of the Company Goals and the CEO is accountable for the observance of the Management Limitations.

#### **4.3 Management Limitations**

4.3.1 The CEO is expected to act within all specific authorities delegated by the Board.

4.3.2 The CEO is expected to not cause or permit any practice, activity or decision that is contrary to –

- (a) The Company's market services licensee obligations; and
- (b) commonly accepted good business practice or professional ethics.

4.3.3 In allocating the capital and resources of the Company the CEO is expected to adhere to, and ensure Management adhere to, the Company Goals.

4.3.4 In financing the Company, the CEO is expected to not cause or permit any action that is likely to result in the Company having negative net tangible assets or which breaches any other financial limit under the Company's market services licensee obligations.

4.3.5 The assets of the Company are expected to be adequately maintained and protected, and not unnecessarily placed at risk. In particular, the Company must be operated with a comprehensive system of internal control, and assets or funds must not be received, processed or disbursed without controls that, as a minimum, are sufficient to meet standards acceptable to the Company's external auditors.

4.3.6 In managing the risks of the Company, the CEO is expected to not cause or permit anyone to substitute risk preferences other than those approved by the Board.

4.3.7 The CEO is expected to ensure employees and other parties working for the Company are treated equitably, fairly and with respect, and work under safe conditions.

### **5 Part 5 Variations to Board Charter**

5.1.1 Variations to this Board Charter are only valid if -

- (a) executed by the adopting parties being the Company and the Shareholder; and
- (b) the Company constitution amended accordingly (by update of Schedule 1).

