

Corporate Governance Guidelines

Adopted on March 2016

Overview

The Board of Directors of ECOARK HOLDINGS, INC., ("Ecoark") acting on the recommendation of its Board, has developed and adopted the following corporate governance guidelines ("Guidelines") to promote the functioning of the Board of Directors ("Board") and its Committees, and to set forth a common set of expectations as to how the Board should perform its functions.

Board Composition and Selection

Board Size. Under the Ecoark Holdings, Inc. Bylaws, the Board has the authority to change, from time to time, the size of the Board and to fill vacancies that may occur between meetings of the stockholders. The Board periodically evaluates whether a larger or smaller board would be preferable, depending upon the needs of the Board and availability of qualified candidates. It is the sense of the Board that the size of the Board range from 5 to 9 members.

Selection of Nominees. The Board is responsible for selecting the nominees for election to the Board. The Corporate Governance and Nominating Committee, after consultation with the Chairman of the Board and the receipt of any nominee recommendations from other Directors and/or stockholders, is responsible for identifying and recommending to the Board qualified candidates to be nominated for election as Directors at the Annual Meeting, or to be appointed by the Board to fill vacancies occurring between Annual Meetings. The invitation to join the Board is extended by the Board through the Chairman of the Board.

Qualification Standards.

- a. **Criteria.** In evaluating the suitability of candidates, the Board and the Corporate Governance and Nominating Committee take into account many factors, including a candidate's: (i) general understanding of elements relevant to the success of a publicly traded company in the current business environment, (ii) understanding of Ecoark's business, and (iii) educational and professional background. The Board and the Corporate Governance and Nominating Committee also give consideration to a candidate's judgment, competence, anticipated participation in Board activities, experience, geographic location and special talents or personal attributes. The composition of the Board should encompass a broad range of skills, expertise, industry knowledge, diversity, and contacts relevant to Ecoark's business. When evaluating the suitability of an incumbent Director for nomination for re-election, the Board and the Corporate Governance and Nominating Committee also consider the Director's past performance, including attendance at meetings and participation in and contributions to the activities of the Board as well as the Director's ability to make contributions after any significant change in circumstances (including changes in employment or professional status).



- b. **Independence.** A majority of the Directors of the Board shall be "independent" in accordance with the listing requirements of The NASDAQ Capital Market. The Board, on an annual basis, reviews the independence of all Directors, makes a determination as to the independence of each Director, and discloses those determinations. For a Director to be "independent," the Board must affirmatively determine that, in its business judgment, the Director has no material relationship with Ecoark, either directly or as a partner, shareholder or officer of an organization that has a relationship with Ecoark except as a Director. In making that determination, the Board adheres to the independence requirements of The NASDAQ Capital Markets and the following additional standards:
- i. A Director who owns, together with any ownership interests held by members of the Director's immediate family, 10% of another company that makes payments to, or receives payments from, Ecoark (together with its consolidated subsidiaries) for property or services in an amount which, in any single fiscal year, exceeds the greater of \$1 million or 2% of such other company's consolidated gross revenues, shall not be considered "independent" until three years after falling below such threshold.
 - ii. A Director who is, or whose immediate family member is, a director, trustee or officer of a charitable organization, or holds a similar position with such an organization, and Ecoark (together with its consolidated subsidiaries) makes contributions to the charitable organization in an amount which exceeds, in any single fiscal year, the greater of \$200,000 thousand per year or at least 5% of such organization's consolidated gross revenues, shall not be considered "independent" until three years after falling below such threshold.

Term. Directors are elected annually to three-year terms.

Retirement Policy. A Director will not be re-nominated for election by the Board if he or she would be 75 or older at the time of the election.

Other Directorships. It is the expectation of the Board that every member has sufficient time to commit to preparation for attendance at Board and Committee meetings. Therefore, it is in this sense no Director should serve on more than four other boards of publicly traded companies unless the Director demonstrates to the Corporate Governance and Nominating Committee that such additional service will not interfere with his or her performance as a Director of Ecoark Holdings, Inc. additionally that, no member of the Audit Committee may serve on more than two other audit committees of publicly traded companies, unless the Board determines that such simultaneous service would not impair the ability of such member to effectively serve on the Ecoark Audit Committee. Directors should advise the Chairperson of the Corporate Governance and Nominating Committee and the Chairman of the Board in advance of (i) accepting an invitation to serve on another board of directors, or (ii) significant commitments involving affiliation with other businesses or governmental units. Service on boards and/or committees of other organizations should be consistent with Ecoark's conflict of interest policies as set forth in Ecoark's Code of Ethics.



Director Responsibilities

Oversight of Ecoark Holding Inc., The business and affairs of the Company shall be managed by or under the direction of the Board in accordance with Nevada law. In performing their duties, the Directors hold the primary responsibility of exercising their business judgment in the best interests of the Company. The Board has developed a number of specific expectations of Directors, set forth in these Guidelines, to promote the discharge of this responsibility and the efficient conduct of the Board's business.

In performing its functions, the Board and its Committees, as necessary and appropriate, have access to and are entitled to rely on the advice, reports and opinions of management, legal counsel, accountants, auditors and other expert advisors.

Directors may contact the CEO at any time to discuss any aspect of the Company's business. Directors also have complete access to other members of management, including legal counsel, internal auditors, and accountants; provided, however, Directors should avoid interfering with the day-to-day effectiveness of management. The Board expects that there will be frequent opportunities for Directors to meet with the CEO and other members of management in Board and Committee meetings and in other formal or informal settings. Further, the Board encourages senior management to, from time to time, bring managers into Board meetings who: (a) can provide additional insight into the items being discussed because of personal involvement and substantial knowledge in those areas, and/or (b) are managers with future potential that senior management believes should be given exposure to the Board.

Commitment, Attendance and Participation. Directors are expected to attend Board meetings and meetings of Board Committees of which they are members and the Annual Meeting. Directors should devote appropriate time to Board materials in advance of meetings and be sufficiently familiar with Ecoark's business (including financial statements, capital structure, risks and competition) to facilitate active and effective participation in Board and Committee deliberations. The Company will make appropriate personnel available to answer Directors' questions about aspects of Ecoark's business and to provide assistance to the Board and its Committees.

Loyalty and Ethics. Directors should comply with their duty of loyalty to the Company in accordance with Nevada law. Certain portions of Ecoark's Code of Ethics, discussed deal with activities of Directors, particularly with respect to transactions in the securities of the Company, potential conflicts of interest, the taking of corporate opportunities for personal use, and competing with the Company. Directors should devote appropriate time to familiarize themselves with the Code's provisions in these areas and should consult with the Company's legal counsel in the event of any issues.

Confidentiality. The proceedings and deliberations of the Board and its Committees are confidential. Each Director shall maintain the confidentiality of information received in connection with his or her service as a Director.

Board Meetings. The Board sets the schedule for regular Board meetings which will be held as frequently as needed. In addition to regularly scheduled meetings, special Board meetings may be called in accordance with the Bylaws at any time to address specific needs of the Corporation. The Board may also take action in writing, and without a meeting, if all the members of the Board sign a written consent.



Management will seek, to the extent practical, to provide to all Directors appropriate materials three to five days in advance of meetings; although, the Board recognizes that this will not always be consistent with the timing of transactions, and the operations of the business and that in certain cases, due to the sensitive nature of the matter, it may not be appropriate. Materials presented to the Board or its Committees should provide the information needed for the Directors to make an informed judgment.

Lead Director. The Lead Director shall be selected by the non-management Directors from among the Committee Chairpersons to serve a three-year term, provided that no Director may serve two consecutive terms as Lead Director.

The Lead Director shall preside at meetings of the Board at which the chairman is not present and at executive sessions of the non-management Directors. The Lead Director shall have the authority to call meetings of the non-management Directors and shall prepare the agenda for such meetings. Any Director may request the Lead Director add an item to the agenda for an executive session.

The Lead Director shall approve the agenda for each Board meeting. The Lead Director shall also approve meeting schedules to ensure there is sufficient time for discussion of all agenda items. Each Board member is free to suggest the inclusion of items on the agenda.

The Lead Director shall act as the principal liaison between the non-management Directors and the Chairman, and shall coordinate the activities of the non-management Directors when acting as a group. The Lead Director may require information relating to any matter be distributed to the Board.

The Lead Director, if requested by major stockholders, shall ensure that he or she is available for consultation and direct communication and shall act as a contact for other interested persons. Letters and other contacts received by the Lead Director should be shared with other Directors as the Lead Director deems appropriate. The Lead Director should contact management to obtain such additional information relating to contacts by interested persons as the Lead Director may require from time to time.

Executive Sessions of Non-Management Directors. The non-management Directors will meet in executive session, (i.e., with non-management Directors or management personnel present), no less frequently than quarterly, as determined by the Lead Director, or when a Director makes a request of the Lead Director. Executive sessions shall be chaired by the Lead Director. The Lead Director will prepare the agenda for the meetings of the non-management Directors. When and to the extent appropriate, a portion of each such session may include dialog with the Chairman of the Board.

Contacting the Lead Director or the Board of Directors. Interested persons may contact the Lead Director or the non-management Directors by sending their letters or written comments to Brad Hoagland, CFA at bhoagland@ecoarkusa.com. In addition, in the event a person desires to submit a concern or complaint regarding accounting, internal accounting controls or auditing matters, they may do so by using various confidential methods provided by Ecoark. Depending on the significance of the matter, Brad Hoagland, CFA will either summarize submissions for the relevant Directors, keeping the originals available for inspection by the Directors, or he will forward the original materials as addressed. Submissions will be kept confidential if requested.



Committees

Board Committees. The Board has established the following primary Committees: Audit Committee, Corporate Governance & Nominating Committee, and Compensation Committee. Each of these Committees has a written charter setting forth its responsibilities, duties and authorities. The Board may add new Committees or remove existing Committees as it deems advisable for purposes of fulfilling its primary responsibilities.

Committee Composition. Each primary committee: Corporate Governance & Nominating Committee, the Audit Committee and the Compensation Committee is composed of at least three Directors, and each such Director is independent in accordance with the listing standards of the NASDAQ Capital Markets and any additional independence requirements of the Board. In addition, no member of the Audit Committee may receive any consulting, advisory, or other compensatory fee from Ecoark, other than fees for serving on the Board or a Committee.

Assignment of Committee Members. The Corporate Governance and Nominating Committee is responsible, after consultation with the Chairman of the Board and other Directors, for the recommendation to the Board of assignment of Board members to various Committees and appointment of Chairpersons.

Committee Agendas. The Chairperson of each Committee, in consultation with management and members of the Committee, as appropriate, will develop the Committee's agenda for each meeting. All Directors, whether members of a Committee or not, are invited to make suggestions to a Committee Chairperson for additions to the agenda of his or her Committee or to request that an item from a Committee agenda be considered by the Board.

Committee Reports. After a Committee meets or otherwise takes action, it shall, as soon as practicable, make a report of its activities at a meeting of the Board.

Director Orientation and Continuing Education

Management, working with the Corporate Governance and Nominating Committee, will provide an orientation process for new Directors, including the Directors' reference manual and other background material on Ecoark's operations and business plans, and meetings with senior management. Periodically, management will prepare additional educational sessions for Directors on matters relevant to Ecoark's operations and plans.

Compensation

Evaluating and Approving Compensation for the CEO. In accordance with The NASDAQ Capital Markets requirements, the Compensation Committee evaluates the performance of the chief executive officer against Ecoark's goals and objectives and, after consulting with the Board, approves the compensation level of the chief executive officer, and then reports its actions to the Board.

Director Compensation. The Board, using the recommendations of the Corporate Governance and Nominating Committee, conducts a review on an annual basis of the components and amount of Board compensation (including benefits) in relation to other similarly situated companies to ensure that Board compensation is consistent with market practices. Based on that review, the



Board adjusts compensation as appropriate. Directors who are also employees of Ecoark, or its subsidiaries, receive no separate compensation for serving as Directors or as members of Board Committees.

Director Stock Ownership. The Board believes that, in order to align the interests of Directors and stockholders, Directors should have a financial stake in the Company. In furtherance of this policy, the Board believes that each Director who has served on the Board for at least three years should own shares of common stock (including deferred shares and stock units where the value is based on the price of the common stock) equal to at least 1-2 times the annual base retainer. The Board will evaluate whether exceptions should be made in the case of any Director who, due to his or her unique financial circumstances, would incur a hardship by complying with this requirement.

Management Succession

At least annually, the Corporate Governance & Nominating Committee shall review and make recommendations to the Board regarding the management succession plan, addressing the policies and principles for CEO selection and performance review, as well as policies regarding succession in the event of emergency or retirement.

Annual Performance Evaluation of the Board

Through a formal survey or other appropriate means, the Corporate Governance and Nominating Committee shall lead the Board through an annual self-evaluation process to determine whether it and its Committees are functioning effectively. As soon as possible following completion of each annual self-evaluation, the Corporate Governance and Nominating Committee shall report the results of the self-evaluation process to the Board.

Each Committee shall conduct a self-evaluation at least annually and report the results to the Corporate Governance and Nominating Committee for further report to the Board. Each Committee's evaluation should compare the performance of the Committee with the requirements of its written charter.

Public Interactions and Code of Ethics

Board's Interaction with Institutional Investors, Press, Customers, etc. The Board believes that the management speaks for the Company. Individual Board members may, from time to time at the request of the management, meet or otherwise communicate with various constituencies that are involved with the Company. If comments from the Board are appropriate, they should, in most circumstances, come from the Chairman of the Board.

Code of Ethics. The Board has adopted a Code of Ethics applicable to members of the Board of Directors and to the officers and employees of Ecoark and its consolidated subsidiaries.



Amendments

We are committed to continuously reviewing and updating our policies, and therefore reserve the right to amend this Policy at any time, for any reason, subject to applicable law.

