

Terms and Conditions

1. Application of Terms and Conditions

- 1.1. The Consultancy shall supply and the Customer shall purchase Services in accordance with the Customer Proposal provided to the Customer which shall be subject to these Terms and Conditions; and..
- 1.2. The Contract shall be to the exclusion of any other terms and conditions subject to which any such Customer Proposal is accepted or purported to be accepted, or any such order is made or purported to be made, by the Customer.

2. The Basis of Sale and Service

- 2.1. Only the Consultancy is authorised to make any representations concerning the Services and no other representations can be relied upon unless confirmed by the Consultancy in writing. In entering into the Contract the Customer acknowledges that it does not rely on, and waives any claim for breach of, any such representations which are not so confirmed.
- 2.2. No variation to these Terms and Conditions shall be binding unless agreed in writing between the Customer and the Consultancy.
- 2.3. Sales literature, price lists and other documents issued by the Consultancy in relation to the Services are subject to alteration without notice and do not constitute offers to supply the Services which are capable of acceptance. No contract for the sale of the Services shall be binding on the Consultancy unless the Consultancy has issued a Customer Proposal which is expressed to be an offer to sell the Services or has accepted an order placed by the Customer by whichever is the earlier of:
 - 2.3.1. the Consultancy's written acceptance;
 - 2.3.2. provision of the Services; or
 - 2.3.3. the Consultancy's invoice.
- 2.4. Any typographical, clerical or other accidental errors or omissions in any sales literature, Customer Proposal, price list, acceptance of offer, invoice or other document or information issued by the Consultancy shall be subject to correction without any liability on the part of the Consultancy.

3. The Services

- 3.1. With effect from the Commencement Date the Consultancy shall, in consideration of the price being paid in accordance with Clauses 6 and 7, provide the Services expressly identified in the Customer Proposal.
- 3.2. The Consultancy will use reasonable care and skill to perform the Services identified in the Customer Proposal.
- 3.3. The Consultancy shall use its reasonable endeavours to complete its obligations under the Contract.

4. The Price

- 4.1. The price of the Services shall be the price listed in the Consultancy's Customer Proposal or such other price as may be agreed in writing by the Consultancy and the Customer.
- 4.2. The price quoted shall be valid for six months only or such lesser time as the Consultancy may

specify.

- 4.3. The Consultancy reserves the right, by giving written notice to the Customer at any time before or during provision, to increase the price of the Services to reflect any change in the scope or specifications for the Services which are requested by the Customer, or any delay caused by any instructions of the Customer or failure of the Customer to give the Consultancy adequate information or instructions.
- 4.4. Except as otherwise stated under the terms of any Customer Proposal of the Consultancy, and unless otherwise agreed in writing between the Customer and the Consultancy, all prices are exclusive of the Consultancy's charges for travel and expenses, which will be agreed in advance of any travel costs or expenses being incurred.
- 4.5. The price is exclusive of any applicable value added tax, excise, sales taxes or levies of a similar nature which are imposed or charged by any competent fiscal authority in respect of the Services, which the Customer shall be additionally liable to pay to the Consultancy.

5. Payment

- 5.1. The Customer shall pay the price of the Services, without any other deduction, credit or set off, as detailed in the Customer Proposal.
- 5.2. All payments shall be made to the Consultancy as indicated on the form of acceptance or invoice issued by the Consultancy.

6. Intellectual Property

- 6.1. The Customer does not have any right, title or interest in:
 - 6.1.1. Intellectual Property rights in the Consultancy's methodologies or proprietary information;
or
 - 6.1.2. Intellectual Property rights in the Consultancy's systems, processes and methodologies developed or created through the provision of the Services; or
 - 6.1.3. Copyright in publications or other work produced by or on behalf of the Consultancy.

7. Delivery and Performance

- 7.1. With effect from the planned Commencement Date the Consultancy shall, in consideration of the price being paid in accordance with these Terms and Conditions and the Customer Proposal, provide the Services expressly identified in the Customer Proposal.

8. Non-Delivery of Services

- 8.1. If the Consultancy fails to provide the Services or any part of them from the Commencement Date other than for reasons either outside the Consultancy's reasonable control, or the Customer's or its representatives fault, then the Consultancy shall have no liability in respect of such late or non-delivery; beyond the value of the Consultancy's agreed price (or part of them as appropriate).

9. Assignment

- 9.1. The Consultancy shall not be entitled to assign a part of the Contract or any part of it to any person, firm or company without the prior written consent of the Customer.
- 9.2. The Customer shall not be entitled to assign the Contract or any part of it without the prior written consent of the Consultancy.

10. Customer's Default

- 10.1. If the Customer fails to make any payment on the due date then, without prejudice to any other right or remedy available to the Consultancy, the Consultancy shall be entitled to:

- 10.2. suspend any further provision of Services to the Customer;
- 10.3. charge the Customer interest (both before and after any judgement) on the amount unpaid, at the rate of 4% per annum above National Westminster Bank base rate from time to time, until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
- 10.4. This condition applies if:
- 10.4.1. the Customer fails to perform or observe any of its obligations hereunder or is otherwise in breach of the Contract; or
 - 10.4.2. the Customer becomes subject to an administration order or makes any voluntary arrangement with its creditors (within the meaning of the Insolvency Act 1986) or becomes bankrupt; or
 - 10.4.3. an encumbrancer takes possession, or a receiver is appointed, of any of the property or assets of the Customer; or
 - 10.4.4. the Consultancy reasonably apprehends that any of the events mentioned above is about to occur in relation to the Customer and notifies the Customer accordingly.
- 10.5. If sub-Clause 13.2 applies then, without prejudice to any other right or remedy available to the Consultancy, the Consultancy shall be entitled to cancel the Contract or suspend any further supply under the Contract without any liability to the Customer, and if the Services have been delivered but not paid for the price shall become immediately due and payable notwithstanding any previous agreement or arrangement to the contrary.

11. Liability

- 11.1. If the Consultancy fails to perform the Services with reasonable care and skill it will carry out remedial action at no extra cost to the Customer.
- 11.2. Neither party shall be liable to the other party for consequential loss.
- 11.3. The Consultancy shall not be liable for any damages, costs, claims or expenses resulting from the use or implementation of any intellectual property such as but not limited to studies, reports, recommendations and plans, which have been transferred from the Consultancy to the Customer and where the Consultancy has not been directly involved in that use or implementation.

12. Communications

- 12.1. All notices under these Terms and Conditions and under the Contract shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 12.2. Notices shall be deemed to have been duly given:
- 12.2.1. when delivered, if delivered by courier or other messenger (including registered mail) during the normal business hours of the recipient; or
 - 12.2.2. when sent, if transmitted by facsimile or e-mail and a successful transmission report or return receipt is generated; or
 - 12.2.3. on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
 - 12.2.4. on the tenth business day following mailing, if mailed by airmail, postage prepaid.
- 12.3. All notices under this Agreement shall be addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.

13. Force Majeure

13.1. Neither Party shall be liable for any failure or delay in performing their obligations where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

14. Waiver

14.1. The Parties agree that no failure by either Party to enforce the performance of any provision in these Terms and Conditions or under the Contract shall constitute a waiver of the right to subsequently enforce that provision or any other provision. Such failure shall not be deemed to be a waiver of any preceding or subsequent breach and shall not constitute a continuing waiver.

15. Severance

15.1. The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions or the Contract are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (and, by extension, the Contract). The remainder of these and the Contract shall be valid and enforceable.

16. Third Party Rights

16.1. A person who is not a party to the Contract shall have no rights under the Contract.

17. Law and Jurisdiction

17.1. These Terms and Conditions and the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of Hong Kong.

17.2. Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or to the Contract (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of Hong Kong.

18. Definitions and Interpretation

18.1. In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

“Business Day”	means any day other than a Saturday, Sunday or public holiday;
“Commencement Date”	means the commencement date for the Contract as set out in the Customer Proposal or such other day as the parties agree.
“Confidential Information”	means, in relation to either Party, information which is disclosed to that Party by the other Party pursuant to or in connection with this Agreement (whether orally or in writing or any other medium, and whether or not the information is expressly stated to be confidential or marked as such);

“Contract”	means the contract for the purchase and supply of the Services under these Terms and Conditions;
“Contract Price”	means the price stated in the Contract payable for the Services;
“Customer”	means you as the person who accepted a Customer Proposal or offer of the Consultancy for the supply of the Services, or whose order for the Services is accepted by the Consultancy;
“Services”	means the Supply Chain Consulting Services to be provided to the Customer as set out in the Customer Proposal; and
“Consultancy”	means Simon Pearson and Associates of .

18.2. Unless the context otherwise requires, each reference in these Terms and Conditions to:

- 18.2.1. “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
- 18.2.2. a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
- 18.2.3. “these Terms and Conditions” is a reference to these Terms and Conditions and any Schedules as amended or supplemented at the relevant time;
- 18.2.4. a Schedule is a schedule to these Terms and Conditions; and
- 18.2.5. a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule.
- 18.2.6. a “Party” or the “Parties” refer to the parties to these Terms and Conditions.
- 18.2.7. The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 18.2.8. Words imparting the singular number shall include the plural and vice versa.
- 18.2.9. References to any gender shall include the other gender.