General Terms and Conditions of FSC Certification

This General Terms and Conditions for certification apply to agreements between the Organisations and MINSEN for the services and Certificate provided by MINSEN in connection with FSC certification.

1. Definition

MINSEN	MINSEN Certification (Asia) Limited
FSC	General term referring to all operational entities under the ownership of Forest Stewardship Council A.C, excluding the FSC accreditation body "Accreditation Services International".
FSC Accreditation Requirements	All normative rules and regulations applicable to FSC accredited certification bodies and to applicant certification bodies.
FSC Certification Requirements	All normative rules and regulations applicable to the certification of forest management organizations and/or chain of custody organizations.
FSC Normative Framework	The collection of FSC policies, standards, and procedures which are mandatory for FSC accredited certification bodies, certificate holders, and applicants to be followed.
License Agreement for the FSC Certification Scheme	An agreement, that each applicant for FSC certification and/or FSC certificate holder has to enter into with FSC Global Development, in order to be eligible for FSC certification.
Client	Applicants for FSC certification and FSC certified organizations
Certification Agreement	Formal and binding agreement between MINSEN and the Client whereby MINSEN is to perform the FSC certification work
Certificate	A document issued by MINSEN under the rules of a certification system, indicating that adequate confidence is provided that a duly identified product, process or service is in conformity with a specific standard or other normative document (ISO/IEC Guide 2:1991 paragraph 14.8 and ISO/CASCO 193 paragraph 4.5).
Witness audit	Evaluation of the performance and verification of the competence of an auditor on-site by a third party who is not part of the audit team.
Certification Committee	Comprised of senior management of MINSEN and other individuals separate from MINSEN which enables the participation of all parties significantly concerned in the development of policies and principles regarding the content and functioning of the certification system.

Appeal Committee	Comprised of the Chairman and a minimum of two additional members from the Certification Committee who have not participated in the evaluation or certification of the Organisation making the appeal.
Mark	MINSEN certification mark and other symbols which indicate that the Client is certified on FSC.

2. General

2.1 MINSEN is responsible to ensure that the functioning of MINSEN continuously meets FSC criteria for accreditation and other FSC documented requirements and that it complies with all of the program requirements for FSC certification.

2.2 MINSEN understands the importance of impartiality in carrying out its certification activities, manages conflict of interest and ensures the objectivity of its certification activities.

2.3 All certified Organisations shall operate in conformance with its certified FSC management, and to the applicable international standard or relevant normative documents.

2.4 Prior to MINSEN's acceptance of a certification application, the organization shall

(a) have a FSC management system that has been operational for at least 2 months.
(b) have developed a Manual describing its FSC management system in conformance with the applicable standards to be certified.
(c) have performed and documented an internal audit of the management system against the requirements of the relevant standards.
(d) have performed and documented a management review of its management system.

2.5 The Organisations that, through the application and audit processes and satisfy MINSEN that the conditions of the certification program are being met, shall be granted a FSC Certificate by MINSEN. The Certificate remains the property of MINSEN. Certificates are effective from the date of approval and valid for 5 years, providing the Organisation continually meets all the requirements of the FSC certification program as described herein. If a certified Organisation does not wish to continue its certification, it must notify MINSEN in writing 3 months prior to the anniversary date of the Certificate.

2.6 If the certified Organisation fails to comply with the General Terms and Conditions of Certification, MINSEN shall take appropriate action which may include

(a) suspending or withdrawing the Certificate.
(b) reducing its scope of certification.
(c) declining to reinstate, grant or extend the scope of a Certificate.

2.7 The certification program may be changed according to the requirements of the applicable international standards and accreditation body regulations. These changes shall not affect the right to use the Mark until the certified Organisation is notified in writing of these changes and granted a period by which compliance must be demonstrated.

2.8 A listing of all certified Organisations is available from MINSEN and will be provided when requested. A list of certified Organisations shall be provided to applicable accreditation bodies when requested.

2.9 The Organisation and MINSEN agree that the Certification Agreement is the complete and exclusive agreement between them. The Agreement shall be interpreted and governed by the law of Hong Kong and subject to the exclusive jurisdiction of the courts of Hong Kong.

2.10 In the event of any litigation between the parties arising under the Contract, the only proper venue for such litigation shall be Hong Kong.

3. Exclusion of Liability

3.1 Subject to the Control of Exemption Clauses Ordinance (Cap.71) MINSEN shall not be liable to an Organisation for any loss or damage whatsoever or howsoever caused arising directly or indirectly in connection with the certification of an Organisation under the certification scheme or the sale of products or rendering of services to the public by an Organisation (whether or not by reference to the Mark) and notwithstanding the generality of the foregoing MINSEN expressly excludes liability for consequential loss or damage suffered by an Organisation including any loss or damage resulting from claims brought by any clients or customers of an Organisation, or for loss of profit, business, revenue, goodwill or anticipated savings.

3.2 Subject to Clause 3.1 above all conditions and warranties on the part of MINSEN implied by statute, Common Law or otherwise are expressly excluded.

3.3 Without prejudice to clauses 3.1 and 3.2 and in the event that the courts of Hong Kong consider a complete exclusion of liability hereunder to be unreasonable, MINSEN's liability in contract, tort or otherwise to an Organisation with respect to any claim arising in connection with its acts or omissions in assessing and/or certifying an Organisation and/or operating the certification scheme shall be limited to no more than ten times the fees received by MINSEN from an Organisation in the year in which the alleged liability arose or HK$100,000 whichever is the less.

4. Indemnity

4.1 An Organisation shall be liable for and shall indemnify MINSEN against any and all liability, loss, damages, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by MINSEN in connection with the Organisation’s Certification or Use of Certification Mark.

5. Confidentiality

5.1 MINSEN shall be responsible for the management of all information obtained or created during the performance of certification activities. Information is considered proprietary and shall be regarded as confidential, except for information that the client makes or is required to

make publicly available, that FSC and ASI NA are entitled to access, or when agreed between the CB and the client (e.g. for the purpose of responding to complaints).

6. Obligation of the Client

6.1 A MINSEN's Client shall

(a) comply with the all applicable certification requirements;

(b) conform with any conditions set by MINSEN for granting or maintaining certification;

(c) disclose current or previous application or certification with FSC and/or other forestry certification schemes in the last five years;

(d) agree to the conduct of evaluations at the required intervals, including MINSEN's right to carry out unannounced or short notice audits; .

(e) agree to witness audits of ASI NA;

(f) agree, that specified information is published, as indicated in the applicable FSC normative documents;

(g) consider the participation of observers as specified in FSC-PRO-01-017;

(h) agree, that a complaint is first handled according to MINSEN's dispute resolution procedure and if not resolved referred to ASI NA and ultimately to FSC, in case of disagreement with audit findings related to FSC normative documents;

(i) making claims regarding certification consistent with the scope of certification and not making any claims of conformity (or near conformity) with FSC certification requirements until and unless certification is granted;

(j) not use its certification in such a manner as to bring MINSEN, FSC or ASI NA into disrepute and not make any statement regarding its certification that may be considered misleading or unauthorized;

(k) keep a record of all complaints made known to it relating to conformity with certification requirements and make these records available to MINSEN when requested, and:
i. take appropriate action with respect to such complaints and any deficiencies found in products that affect conformity with FSC certification requirements;
ii. document the actions taken.

(l) inform MINSEN within ten (10) days of changes in the ownership, structure of the organization (e.g. changes in key managerial staff), certified management systems or circumstances which relate to the implementation of FSC certification requirements;

(m) agree, that in case of reduction, suspension or withdrawal of the scope of MINSEN's FSC accreditation, the certification of the affected clients will be suspended within six (6) months

after the date of reduction, suspension or withdrawal of the respective scope of FSC accreditation;

(n) agree, that MINSEN has the right to delay or postpone its decision on certification, in order to take account of new or additional information which has not already been considered in its audit report and which, in the opinion of MINSEN, could affect the outcome of its evaluation;

(o) agree, that MINSEN shall not be obliged to grant or maintain certification, if activities of the client conflict with the obligations of MINSEN as specified in its accreditation contract with ASI NA, or which, in the sole opinion of MINSEN, reflect badly on the good name of MINSEN;

(p) agree, that MINSEN and FSC have the right to revise the requirements of certification within the period of validity of the certification, including the revision of costs and fees;

(q) agree, that MINSEN, FSC and ASI NA have the right to access confidential information, examine documentation deemed necessary, and access to the relevant equipment, location(s), area(s), personnel, and bodies providing outsourced services to clients;

(r) agree, that MINSEN has the right to use information which is brought to its attention, to follow up on misuses of the FSC trademarks and of the intellectual property rights held by FSC;

(s) acknowledge the title of the FSC's intellectual property rights and that FSC retains full ownership of the intellectual property rights and that nothing shall be deemed to constitute a right for the client to use or cause to be used any of the intellectual property rights;

(t) agree, that MINSEN has the right to suspend and/ or withdraw its certification with immediate effect if, in the sole opinion of MINSEN, the client is not in conformity with the conditions specified for the maintenance of certification;

(u) meet the following obligations on suspension or withdrawal of certification:
i. immediately cease to make any use of any FSC trademarks, or to sell any products previously labeled or marked using the FSC trademarks, or to make any claims that imply that they conform with the requirements for certification;
ii. identify all existing certified and uncertified customers, inform those customers of the suspension or withdrawal in writing within three (3) days of the suspension or withdrawal, and maintain records;
iii. cooperate with MINSEN and with FSC in order to allow MINSEN or FSC to confirm that these obligations have been met.

(v) meet the following additional obligations on withdrawal of certification:
i. return the certificate to MINSEN or destroy the original, and commit to destroy any electronic copies and printed copies in their possession;
ii. at its own expense remove all uses of FSC's name, initials, logo, certification mark or trademarks from its products, documents, advertising or marketing materials.

7. Obligation of MINSEN

7.1 MINSEN shall

(a) schedule, perform and review audits.

(b) notify a certified Organisation of any changes in the certification program requirements and give a practical period of time to revise their management system to meet the new requirements.

(c) not disclose any information concerning the certified Organisation other than information which is

(i) in public domain, except to its accreditation bodies, whose requirements MINSEN must meet, which shall not disclose the information.
(ii) disclosed to a third party with the written consent of the Organization.
(iii) disclosed to a third party required by the law. In such case the Organization shall be informed of the information provided, as permitted by the law.

(d) provide to the certified Organisation of complaints relating to the certification program, quality of its products, processes or services.

(e) review the proposed changes to the Organisation's management system or any other changes which may affect conformance to the requirements of certification. This includes changes relating to

(i) legal, commercial, ownership or organisational status.
(ii) organisation and management, e.g. key managerial, decision making, or technical staff.
(iii) contact address and major sites.
(iv) scope of certified management system.
(v) name of the certified product.

MINSEN shall also decide to accept the changes, reject the changes or perform an audit or carry out further investigation with respect to the changes. The certified organization shall be notified of MINSEN's decision concerning the acceptability of the proposed changes.

8. Suspension of Certification

8.1 A certified Organisation's certification may be suspended for up to 6 months if any of the following conditions exist:

(a) MINSEN identifies a major nonconformity that questions the implementation of the Organisation's management system, but is not serious enough to require withdrawal, and if the Organisation's corrective action plan results in improper or insufficient corrective action.

(b) MINSEN identifies information of the occurrence of a serious incident or breach of regulation necessitating the involvement of the competent regulatory authority, in cases where it can be demonstrated that the system seriously failed to meet the OH&S certification requirements, but is not serious enough to require withdrawal.

(c) The Organisation is found improperly using their Certificate or Mark and their corrective action regarding the improper use of the same is not acceptable to MINSEN.

(d) The certified organisation does not allow surveillance or renewal audits to be conducted at the required frequencies.

(e) The certified organisation has voluntarily a temporary suspension.

(f) Any other violation of MINSEN's General Terms and Conditions of Certification.

9. Withdrawal of Certification

9.1 A certified Organisation's certification may be withdrawn if any of the following conditions exist:

(a) If the Organisation's certification is suspended and no corrective action is implemented.

(b) If MINSEN identifies major nonconformities which may cause improper implementation of the management system standard or Product Conformity Certification Scheme requirements.

(c) MINSEN identifies information of the occurrence of a serious incident or breach of regulation necessitating the involvement of the competent regulatory authority, in cases where it can be demonstrated that the system seriously failed to meet the OH&S certification requirements.

(d) Formal request of the Organisation.

(e) If the management system standard or Product Conformity Certification Scheme requirements change and the Organisation will not or cannot ensure conformance to the new requirements.

(f) If the Organisation ceases to supply the defined product, process or service.

(g) If the Organisation fails to pay fee in due time.

(h) On any other grounds specifically provided for under the system rules or formally agreed to between MINSEN and the Organisation.

10. Termination of Certification

10.1 A certified Organisation may terminate the agreement between MINSEN and the Organisation by giving 3 months' written notice. Termination of the agreement shall lead automatically to termination of the Certificate.

10.2 On termination of the Certificate (whether through the request of the certified Organisation, withdrawal by MINSEN or Certificate expiry), the Organisation shall

(a) immediately discontinue use of the Mark and the Certificate.

(b) remove all reference to such from all advertising, literature or documents which contain Mark or the status of being a certified Organisation.

(c) return the Certificate (and all copies) to MINSEN.

10.3 The Contract shall terminate immediately without notice if the Organisation files a petition in bankruptcy or is adjudicated a bankrupt or insolvent, or makes an assignment for the benefit of creditors, or an arrangement pursuant to any bankruptcy law, or if the Organisation discontinues its business or a receiver is appointed for the Organisation or for the Organisation's business and such receiver is not discharged within 30 days.

11. Appeal, Complaint and Dispute

11.1 In the event an applicant or certified Organisation wishes to appeal a decision made by MINSEN and based on this certification program, they shall do so in writing to the Managing Director of MINSEN within 30 days of being notified by MINSEN's decision to refuse to grant or continue a certification. The decision of MINSEN shall stand until such time that the Appeal Committee can meet and formally hear the Organisation's appeal.

11.2 The Organisation has a right to object to any member forming part of the Appeal Committee. The Certification Committee shall then select a different Appeal Committee constitution. A meeting of the Appeal Committee shall be held within 30 days of receipt of the appeal notice and the appellant shall be given at least 7 days notice of the time and place of the meeting. At the meeting the appellant is entitled to be heard in confidence.

11.3 A certified Organisation may appeal to MINSEN any decision to suspend or withdraw certification.

11.4 The Organisation filing the appeal shall be notified of the decision, including the reasons for the decision reached, within 14 days of the decision made by the Appeal Committee.

11.5 The Organisation may, at any time, make a complaint about the service provided by MINSEN. Complaints may be made orally, or in writing to MINSEN.

11.6 If a dispute arises during an audit, the Organisation may contact MINSEN orally or by writing on the dispute.

11.7 The senior management who has not been involved in the subject case is responsible for the investigation and conclusion of a complaint / dispute. The organization will be notified of the results by writing. If there is disagreement with the result, the Organisation may appeal to MINSEN.

12. Fees

12.1 MINSEN shall charge the Organisation fees for the services and Certificate provided. The fee rates shall be according to MINSEN's quoted prices for the service concerned.

12.2 The Organisation shall pay the application fee upon signing the Certification Agreement. The pre-assessment (optional), certification audit and follow up audit fees shall be payable in advance. For surveillance and renewal audits, fees shall be payable in 30 days from the date of invoice.

12.3 All audits shall be charged according to the actual mandays which is determined by MINSEN to be fair and appropriate.

12.4 All fees are non-refundable.

12.5 For certification work outside Hong Kong, the fees of travel and accommodation will be charged at cost.

12.6 Fees may be revised from time to time by MINSEN without prior notice.

13. Use of MINSEN Mark and FSC Trademark

13.1 The Organisation shall use the MINSEN Mark and FSC Trademark in a manner which is not misleading and in compliance with MINSEN requirements in Use of MINSEN Certification Mark (FSC Certification) (Doc. No. 103-2) for FSC certification.

14. Revisions

14.1 MINSEN reserve the right to revise the General Terms and Conditions of Certification. Any such revisions will not immediately jeopardize the right of a certificated Organisation to use the Mark as they will be given 6 months to comply with any new revision.