

'Drink Without Waste'
An initiative by the
Single-Use Beverage Packaging Working Group

Terms of Reference for Strategy Realisation

These Terms of Reference outline the mandate and purpose of the Single-Use Beverage Packaging Working Group (“**Working Group**”), including its composition, the financing of the group, the guidelines for participation, discussion and decision making in meetings, for the period following publication of the Research Paper and Positioning Statement in December 2018 until such time as the Hong Kong Legislative Council passes into law the relevant Extended Producer Responsibility Schemes (the “**Strategy Realisation**”).

Unless otherwise specified, defined terms used in these Terms of Reference have the same meaning as in the Working Group’s original Terms of Reference.¹

1. Background

1.1 The aim of the Working Group is to bring together a broad coalition of stakeholders in Hong Kong to focus on the management and reduction of single-use beverage packaging going to waste and the environment. The Annex to these Terms of Reference sets out the current Participants (as may be amended from time to time in accordance with these Terms of Reference).

1.2 Following publication of the Research Paper and Positioning Statement in December 2018, the Participants now want to work together to bring about effective implementation of the proposed strategies. The Working Group plans to work with Government, and consultants and other third parties as required, to achieve those goals and to help bring reform of beverage packaging and waste management in Hong Kong to fruition.

2. The Initiative

2.1 The Working Group meets to:

(A) establish and implement a strategy to realise the objectives set out in the Positioning Statement, including the following key goals:

(i) reduce single-use beverage packaging, such as through actively promoting the installation of beverage dispensers, engaging and monitoring public feedback, identifying obstacles and risks, and lobbying Government for solutions;

(ii) redesign single-use beverage packaging, such as through studying and proposing eco-design standards and regulations, taking voluntary

¹ Available at <https://drinkwithoutwaste.org/wp-content/uploads/2018/11/Single-Use-Beverage-Packaging-Working-Group-Terms-of-Reference-10-January-2018-Final.pdf>

measures to bring about change, encouraging Government-led legislation and regulation, and promoting the identified standards;

(iii) recover single-use beverage packaging in Hong Kong, such as through the research, testing, creation of and support for packaging return schemes, and the lobbying of Government to implement effective solutions; and

(iv) recycle single-use packaging, such as through studying the feasibility of recycling facilities and the effectiveness of recycling solutions, and the lobbying of Government and stakeholders for solutions and support;

(B) engage the community and collect data and feedback for consideration, and engage third party consultants as required to help achieve the goals above; and

(C) work with Government to formulate Extended Producer Responsibility Schemes (EPRS) and other relevant legislation for beverage packaging that effectively brings reform of packaging and waste management in Hong Kong to fruition.

2.2 The Strategy Realisation phase of the Initiative shall continue until such time as the Hong Kong Legislative Council passes into law relevant EPRS, or any other such time as the Working Group decides is appropriate in accordance with the decision-making procedures contained in these Terms of Reference.

3. Participation and composition

3.1 The Working Group is comprised of stakeholders from across different industries in Hong Kong, including private sector entities involved in the beverage industry, non-governmental organisations and trade associations, and other interested parties.

3.2 The Participants and Observers have been invited to represent a balanced cross-section of stakeholders relevant to the Strategy Realisation Process. Participants have voting rights. Observers may participate in meetings and access information, but have no voting rights. Guests may be invited to join a meeting or part thereof.

3.3 The Participants may circulate nominations for additional Participants or Observers. When no objections have been received within 5 working days of the nomination, the proposed new Participant or Observer will be invited to join the next Working Group meeting.

3.4 Participants are expected to:

(A) act with integrity, respect for confidentiality (at all times in accordance with the NDA signed by the Participant) and respect for all applicable laws and regulations (including strict adherence to the Competition Compliance Policy, a copy of which will have been provided to each Participant);

- (B) conduct themselves in a collaborative manner, taking time to give due consideration to the aims and input of each Participant and bearing in mind the common environmental objectives at all times;
 - (C) communicate in an open and transparent manner to foster trust and cooperation amongst the Participants;
 - (D) act in the public interest, and in accordance with the due process;
 - (E) review any materials provided in advance of the Working Group meetings, to be able to participate actively; and
 - (F) work in a constructive and proactive manner that aims at achieving consensus on the topics of discussion.
- 3.5 Participants commit to attending Working Group meetings in Hong Kong and to plan sufficient time to prepare for meetings and review materials in order to meet the Initiative's deadlines.
- 3.6 If a Participant is absent from three consecutive Working Group meetings, and fails to participate through correspondence or proxy, that Participant shall cease to be a Participant and shall become an Observer with effect from the end of the third Working Group meeting from which the Participant is absent. An Observer can be given Participant status by decision of the Working Group.
- 3.7 The quorum necessary for all Working Group meetings shall be no less than 50% of the Participants.
- 3.8 Participation is voluntary. There is no fee or compensation associated with participation in the Working Group. Participants may withdraw from the Working Group at any time with a written notice to all Participants.
- 3.9 The Working Group may agree to amend these Terms of Reference from time to time. Any such amendments shall be recorded in the minutes of the meeting at which such amendments are agreed.

4. Removal of a Participant

- 4.1 In the event of a breach by a Participant of the NDA, a serious breach of the Terms of Reference, or a breach of the Competition Compliance Policy:
- (A) The Participant shall be notified in writing, or verbally and recorded in the minutes of the Working Group meeting, by the Chair that the Working Group is aware of an alleged breach (such notification or minutes to include a description of the alleged breach);

- (B) The Participant shall have the right to respond to such a notification, either in the Working Group meeting in which the notification is given, or in writing within two business days following receipt of the notification; and
- (C) The Working Group shall consider at its earliest convenience the response of the relevant Participant to the allegations and shall come to a decision, in accordance with these Terms of Reference, whether to remove the Participant from the Working Group or take any other actions as the Working Group deems appropriate.

5. Sub-committees

- 5.1 The Working Group shall form sub-committees as necessary to carry out specific functions of the Working Group. The decision to form a sub-committee shall be made in accordance with the decision-making process set out in these Terms of Reference.
- 5.2 Any Participant may volunteer to join a sub-committee, on the understanding and expectation that this will require additional commitment of time and resources on the part of the Participant. However, it may be necessary for Participants with declared interests in packaged beverages to be excluded from certain sub-committees in order to ensure compliance with the Competition Compliance Policy. A Participant has the right to challenge the joining or exclusion from a sub-committee of a Participant or Observer provided any challenge is supported with good reasons. The ultimate decision of whether a Participant or Observer is permitted to join or is to be excluded from a sub-committee shall be made by the Chair of the Working Group.
- 5.3 Each sub-committee shall appoint a chairperson who shall be responsible for reporting back to the Working Group.
- 5.4 Conduct and decisions of a sub-committee shall be carried out, where applicable, in accordance with these Terms of Reference, including the conduct of Participants in meetings (paragraph 3.4), quorum (paragraph 3.7) and the role of the Chair (paragraph 7.3).
- 5.5 A unanimous decision of a sub-committee shall be discussed and approved by the Working Group, provided 50% or more of the Participants present in that Working Group meeting vote in favour of the sub-committee's decision.

6. Finances

- 6.1 Each Participant may, on a voluntary basis and at its own discretion, contribute funds, personnel and other resources to the Initiative, subject to all applicable laws, regulations, and policies and in accordance with the budget as approved by the Working Group.
- 6.2 Any costs directly incurred by a Participant arising from the activities contemplated in these Terms of Reference are to be borne by the Participant that incurs them, unless other arrangements are agreed in advance with the Working Group.

6.3 For the avoidance of doubt, no Participant will contribute funds, personnel, and other resources for the purposes of influencing the Initiative or its outcome.

6.4 An Observer or a supporter of the Initiative may, on a voluntary basis and at its own discretion, contribute funds, personnel and other resources to the Initiative, subject to all applicable laws, regulations, and policies, and subject to paragraphs 6.2 and 6.3 (as applied to the relevant Observer or supporter of the Initiative).

7. **Chairperson**

7.1 The Working Group will vote to elect a chairperson for the Strategy Realisation period (the “**Chair**”). Each Voting Individual (as defined in paragraph 9.1 below) will have one vote when electing the Chair, and the Chair will be appointed by a majority vote.

7.2 The Chair should be an independent person with previous relevant professional experience with chairpersonship, and be able to commit sufficient time to fulfil the role.

7.3 The Chair will be responsible for facilitating discussions in a fair and objective manner, with the aim of reaching decisions by consensus. The Chair should at all times act impartially and may not be a Voting Individual (as defined in paragraph 9.1 below). For the avoidance of doubt, when the Participant represented by the Chair is represented by two individuals, the Participant will retain the ability to vote through the second individual represented at a Working Group meeting.

7.4 The Chair shall be authorised to enter into and execute all agreements or other documents on behalf of the Working Group.

7.5 The specific responsibilities of the Chair include:

- (A) chairing the Working Group meetings;
- (B) progressing the Initiative according to the timeline agreed by the Working Group and encouraging full cooperation of the Participants to commit to this timeline;
- (C) proposing the budget for the Initiative to be approved by the Working Group;
- (D) commissioning consultants or other third party service providers as required;
- (E) signing relevant agreements and documents on behalf of the Working Group;
- (F) ensuring that all Participants are able to express their viewpoints, and that all positions and views are given equal attention and treatment;
- (G) taking the lead in helping to reach consensus where opinions are divided;
- (H) ensuring that all points of view expressed and decisions are adequately summarised so that they are understood by all Participants present at the meeting; and

(l) acting proactively and communicating diplomatically.

7.6 In case of unforeseen unavailability of the Chair at a meeting, a session chairperson may be elected by the Participants by a majority vote for the purposes of chairing the particular meeting.

8. Bidding to provide services to the Working Group

8.1 The Chair of the Working Group and the chairs of sub-committees will not be permitted to bid to provide paid-for services to the Working Group.

8.2 If a Participant bids to provide paid-for services to the Working Group, for example as a consultant, ("**Bidding Participant**") it must withdraw from the Working Group prior to any discussions regarding the evaluation criteria or scoring methodology of the tender. If the Bidding Participant is unsuccessful in its bid, it shall be permitted to re-join the Working Group.

8.3 If applicable, Participants are required to declare to the Chair as soon as possible their intention to bid to provide services to the Working Group, for example as a consultant.

9. Meetings

9.1 Each Participant will be represented at a meeting by no more than two individuals, of which only one will have the right to cast a vote in a Working Group Meeting ("**Voting Individual**").

9.2 All Participants are required to have signed the NDA, including agreeing to comply with the Working Group Competition Compliance Policy, a copy of which will have been provided to the Participant in advance attending a Working Group meeting. For the avoidance of doubt, an NDA signed during the period covered by the Working Group's original Terms of Reference continues to apply in all respects during the period covered by these Terms of Reference.

9.3 Working Group meetings are not open to the public except for Observers and invited guests.

9.4 The Chair will chair and facilitate the meetings, in accordance with paragraph 7.3 above.

9.5 Meeting agenda and materials will be typically circulated to the Working Group at least five working days in advance of each meeting by the Secretariat (as defined in paragraph 10.3 below).

9.6 The Secretariat will send draft minutes of the meeting to the Participants three working days after the relevant Working Group meeting. The Participants will be given five working days after receipt of a draft to provide their comments. The minutes will be approved at the next Working Group meeting.

- 9.7 In accordance with the NDA, Working Group meeting materials are confidential and shall not be distributed to anyone outside the Working Group without prior permission from the Working Group.
- 9.8 Subject to paragraph 5.5 above, the Working Group seeks to reach decisions (including approval of the budget and funding arrangements) by consensus. Each Participant (through the Voting Individual) will have a single vote and that vote will be given equal weight in the decision-making process. Where unanimity cannot be achieved, majority and minority opinions are documented for further discussion in a separate Working Group meeting, with the aim of reaching consensus in a cooperative and constructive manner. A Participant should report to the Chair and seek guidance whenever it requires further advice in order to advance the Initiative or reach consensus.
- 9.9 Where a sub-committee has adopted a unanimous decision that is tabled for discussion at a Working Group meeting, approval of such decision by the Working Group shall not require unanimity, provided 50% or more of the Participants present in that Working Group meeting vote in favour of the sub-committee's decision.
- 9.10 In accordance with the NDA, Participants will not be permitted to disclose any decision reached in a Working Group meeting prior to any release of such decision by the Working Group.

10. Project management

- 10.1 The Chair will be responsible for overall project management and implementation of the Initiative according to due process.
- 10.2 Legal advisor have been appointed by the Working Group to assist the Chair and Participants in relation to legal matters ("**Legal Advisor(s)**")
- 10.3 A secretariat has been appointed by the Working Group to assist the Chair and Participants ("**Secretariat**"), including:
- (A) preparing venues, meeting agendas, meeting materials and meeting minutes, for all Working Group meetings;
 - (B) providing logistical support for in-person Working Group meetings and teleconferences;
 - (C) producing working versions of documents to be published by the Working Group, for approval by the Participants, based on the Participants' input;
 - (D) assisting the commissioning and managing of any consultants engaged by the Working Group;
 - (E) preparing and monitoring the budget;
 - (F) receiving and expending funds; and

(G) managing all internal and external communications about the Initiative and its outcomes; including formatting and production (as well as the stylistic and grammatical presentation) of documents to be published by the Working Group.

10.4 The Working Group may appoint advisors from time to time, to assist the Chair and Participants in relation to various matters, including technical matters such as (but not limited) to the provision of data room development services (“**Technical Advisor(s)**”).

ANNEX (SUBJECT TO CHANGE FROM TIME-TO-TIME)

Participants

A.S. Watson Group (**)
ADM Capital Foundation Limited
ALBA Group (Asia) Limited (*)
Baguio Waste Management & Recycling Limited (*)
Business Environment Council (BEC)
Coordinate4u
Designing Hong Kong Limited
EcoDrive
Environmental Association Limited
Friends of the Earth (HK) Charity Limited
Green Power Limited
Hong Kong Retail Management Association
John Swire & Sons (HK) Limited
Link Asset Management Limited
Plastic Free Seas Limited
Secure Information Disposal Services Limited (SSID) (*)
Steven Molyneaux-Webb
SUEZ NWS R&R (Hong Kong) Limited (*)
Swire Coca-Cola Limited (**)
Swire Waste Management Limited (*)
The Coca-Cola Company (**)
The Dairy Farm Company Ltd. (**)
The Green Earth
The Hong Kong Beverage Association Limited (**)
The Hong Kong Jockey Club
Veolia Asia Limited (*)
Vitasoy International Holdings Limited (**)
WWF – Hong Kong
WYNG Foundation

Observers

Airport Authority Hong Kong
Civic Exchange
Deloitte Advisory (Hong Kong) Limited
Executive Counsel Limited
Hong Kong Polytechnic University
Hung Fook Tong Holdings Ltd. (**)
Lee Hysan Foundation
MTR Corporation Limited
New Life Plastics Ltd. (*)
Ocean Recovery Alliance
WYNG43 Social Investment Limited

Advisors

EPAM Systems (Hong Kong) Ltd
Lewis Silkin
Slaughter and May
Stephenson Harwood
William Davies

Secretariat

ADM Capital Foundation (Funds and Contracts)
Designing Hong Kong Limited (Other secretarial and project management duties)
Drink Without Waste Limited

* Declared interest in resource recovery

** Declared interest in packaged beverages