

## Sutok Terms & Conditions of Sale - Products

Valid as of 1<sup>st</sup> of May,2021

These terms and conditions (“T&Cs”) apply to all of Sutok’s offers and sales of Products.

### 1. Definitions

As used herein, the following capitalized terms shall have the meanings ascribed to them below:

- 1.1. “**Applicable Laws**” shall mean all laws, rules, regulations and standards, including without limit, all those relating to health and safety and environmental protection that are applicable to a party due to the activities that it undertakes in connection with a Contract (as defined in Section 4 below) or due to its agreement under a Contract to be responsible for the compliance with any such laws, rules, regulations and standards.
- 1.2. “**Buyer**” shall mean the purchaser of the Products as will be identified on the PO.
- 1.3. “**Offer**” shall mean the written offer issued by Sutok to the Buyer setting forth the identity and any relevant specifications of the Products ordered and the business terms applicable to the Offer in addition to these T&Cs.
- 1.4. “**PO**” shall mean a purchase order for Products issued by the Buyer.
- 1.5. “**Products**” shall mean the materials ordered by the Buyer as more particularly detailed in the Offer.
- 1.6. “**Sutok**” shall mean Sutok Environmental Engineering Ltd. a company incorporated under the laws of Israel.

### 2. Applicability

- 2.1. All Offers issued by Sutok reference and incorporate these T&Cs automatically as if they are expressly repeated in the Offer.
- 2.2. If there is any discrepancy between any part of the Offer and these T&Cs, the terms of the Offer shall prevail, but only to the minimum extent necessary to put the terms of the Offer into effect.

### 3. Purchase Orders

- 3.1. The Buyer shall order the Products by signing and returning to Sutok the relevant confirmation and order part of the Offer and such signed part shall be deemed to be the PO. If a Buyer’s processes require issuance of separate POs, then such POs must be in writing and clearly:
  - 3.1.1. identify the Buyer by its legal name;
  - 3.1.2. identify the relevant Offer, quoting the unique Offer reference number;

- 3.1.3. identify the Products and quantities being ordered, which must reflect the Products and quantities quoted in the Offer;
  - 3.1.4. identify the price for the Products ordered as set out in the Offer; and
  - 3.1.5. confirm that the Offer and these T&Cs are the sole terms that apply to the Buyer's purchase of the Products from Sutok.
- 3.2. Any POs not conforming to the requirements set out in Section 3.1 above will be rejected by Sutok and Sutok will require a replacement PO that complies with the above. Notwithstanding the foregoing sentence, should the only non-conforming part of the PO be with respect to the requirement set out in Section 3.1.5 and Sutok accepts the PO, such acceptance shall not be deemed to indicate an acceptance of any variations to the T&Cs or to the Buyer's own terms or of any other terms of any kind ("**Other Terms**"). Any and all such Other Terms that the Buyer purports to impose on Sutok are hereby expressly rejected and under no circumstances will Other Terms be applicable to Sutok's sale of Products to the Buyer.
- 3.3. POs shall be transmitted to Sutok by email at the following address: maor@sutok.co.il.

#### **4. Formation of Contract.**

- 4.1. Until the Buyer signs the confirmation on the Offer or Sutok formally accepts a PO in the Buyer's own format by written notification to the Buyer, no Offer or PO is binding on Sutok and Sutok may withdraw the Offer at any time, also by written notice to the Buyer.
- 4.2. Following Buyer returning to Sutok the Offer with its signed confirmation or Sutok's acceptance of the PO in the Buyer's format, these T&Cs, together with the Offer and PO shall form an individual contract pursuant to which Sutok shall sell the Products to the Buyer and the Buyer shall pay for and take delivery of the Products (the "**Contract**").

#### **5. Sutok's Obligations**

- 5.1. Buyer understands and acknowledges that Sutok is not the manufacturer of the Products. Sutok sources the required Products and shall purchase them from the relevant suppliers and resell them to the Buyer.
- 5.2. In the event of any non-conformances with specifications or quantity of the Products discovered by the Buyer, Sutok's sole obligations to the Buyer shall be to notify the Product's supplier of the non-conformance so that the supplier will remedy the non-conformance. Supplier's terms normally provide that the supplier will refund the Buyer for the cost of the non-conforming material or refund the non-conforming material, at the supplier's sole discretion. If non-conformance is in the specifications and the supplier requires the non-conforming Products to be first returned to it or supplier requires access to the Products at the Buyer's facilities to inspect and confirm the non-conformance, then the Buyer shall be required to comply with such requests at its own cost

in order to obtain the relevant remedy. Refund of the costs of transportation and extraction of any waste are also at the supplier's sole discretion. Sutok shall pass to the Buyer any compensation received by it from the supplier for the non-conformance or otherwise notify the Buyer of delivery of replacement Products for which the Buyer shall be required to take delivery. Sutok shall not be responsible for any invalidation of supplier's obligations or warranties due to any actions or inactions on the part of the Buyer or any other third party. Where Sutok does not receive a notice of non-conformance from the Buyer within 60 business days of the date of the Products' entry into the Buyer's country, then the Products will be deemed accepted by the Buyer as-is and no remedy for non-conformances subsequently discovered are guaranteed by Sutok and shall be at the supplier's sole discretion.

- 5.3. Notwithstanding Section 5.2, variances in quantity of +/- 5% shall not be considered to be a non-conformance.
- 5.4. Where the Buyer is located in Israel, then unless the Offer states otherwise, Sutok shall be responsible for arranging the transport and import of the Products into Israel in compliance with Applicable Laws.

## **6. Buyer's Obligations**

- 6.1. In any case where the Offer states that Sutok is not responsible for importing the Products, the Buyer will be fully responsible for ensuring the Products are collected, handled, packaged, transported, exported from any point and imported into any destination in accordance with all Applicable Laws and the Buyer shall ensure that it obtains all appropriate license and permits for the same, all at Buyer's sole cost and expense.
- 6.2. Where delivery point is Israeli customs, the Buyer shall be responsible for presenting customs with any documents required for the Products to be released.
- 6.3. Sutok will provide the Buyer with details regarding the packaging, storing, handling and transportation of the Products up to the delivery point. The Buyer shall be solely responsible for arranging and ensuring that Products are properly packaged, stored and transported from the delivery point and on in accordance with all Applicable Laws.

## **7. Delivery; Title and Risk of Loss**

- 7.1. Sutok shall arrange for delivery of Products according to any delivery schedule set forth in the Offer, and if no delivery schedule is contained in the Offer, then within a reasonable period following formation of the Contract as provided in Section 4 above. Sutok shall notify the Buyer when the Products are to be delivered to the delivery point (the "**Delivery Notification**").
- 7.2. When delivery is made, Sutok shall send to the Buyer its invoice and any packing list, certificate of analysis, Material Safety Data Sheets (MSDS) or other appropriate document setting out the Product specifications that it has received from the supplier.

- 7.3. Risk of loss to the Products shall pass to the Buyer with delivery and any damages, losses, injury to the Products or to any property or person shall be the sole responsibility of the Buyer immediately following delivery.
- 7.4. Title to the Products shall only pass to the Buyer upon Buyer's completion of payment in full of the purchase price of the Products as set forth in the Offer. Nothing in Sutok's retaining title to the Products until receipt of full payment shall derogate from any of the Buyer's responsibilities and risks in connection with the Products as set forth in Section 6.

## **8. Change Request**

- 8.1. Prior to delivery of the Products, the Buyer may submit a request to make changes to the PO, whether the changes are to quantity, delivery schedule, Product specifications or to any other part of PO (the "**Change Request**"). The Change Request shall be set out in writing and in sufficient detail so that Sutok may analyse the request and respond.
- 8.2. Sutok shall make reasonable efforts to respond to the Change Request as soon as reasonably possible. Sutok's response (the "**Change Proposal**") shall set out in writing either: (i) the changes to the terms of the Contract that will be required in order to implement the changes requested by the Buyer, including without limit, changes to price and delivery terms and any amounts payable to Sutok in respect of costs already incurred by Sutok prior to receipt of the Change Request; or (ii) the reasons the requested changes are not possible and if possible any alternative suggestions.
- 8.3. Until Sutok and the Buyer sign a Contract amendment setting out all varied terms of the Contract arising from a Change Request, no changes will be incorporated in the Contract and the then existing Contract will remain in full force and effect and binding on both parties, save that any delivery schedule shall be frozen until the parties have either signed a Contract amendment or ceased discussions relating to the Change Proposal.

## **9. Price and Payment Terms.**

- 9.1. Price for purchase of the Products from Sutok and the payment terms is as set out in the Offer. Sutok's costs and expenses incurred in packaging, storage, handling, transportation, importation of the Products and any other items specified in the Offer will be added to the price of the Products. Where the Offer provides that any payment must be made in advance of the delivery, or the provision of any guarantees is required prior to delivery, then the Buyer shall ensure that such payments and guarantees, in formats prior approved by Sutok, are so made and provided in time for delivery.
- 9.2. VAT shall be added to the quoted prices where applicable.
- 9.3. If the Buyer defaults on any payment by more than 5 Israeli business days, Sutok will be entitled to interest on the amount in default at the rate of 5% for every day of the delay unless the maximum legal interest rate under applicable law is lower, in which case the lower rate shall apply. To claim interest for late

payments, Sutok shall first notify the Buyer of the default and the Buyer fails to make up the payment in the next 5 Israeli business days. Without prejudice to the foregoing, Sutok shall also have the right to exercise any payment guarantees received from the Buyer in accordance with the terms of the relevant guarantees.

- 9.4. If prices in Offers are quoted in a currency other than New Israeli Shekels (ILS), then where any payment is made in default of more than 10 days, then in addition to any other remedies available to Sutok, if changes to the relevant representative rate of exchange result in a drop by more than 2% in ILS received by Sutok from what Sutok would have received had the fees been paid on time, then the Buyer must make up the difference so that Sutok will receive the same amount in ILS it would have received had the fees been paid on time.

## **10. Confidentiality; Non-Solicitation**

- 10.1. The Buyer shall treat as strictly confidential all documentation and other information provided by Sutok to the Buyer in connection with the Products, including the Offer and the Contract, whether or not the same was provided in tangible or intangible form and regardless of when the same was provided (collectively, the “**Confidential Information**”). The Buyer shall not disclose any Confidential Information to any other party or use it in any manner other than as strictly permitted by Sutok. If Sutok and the Buyer have entered into a separate non-disclosure agreement that specifically relates to the sale of the Products as described herein, then such non-disclosure agreement shall continue to apply and shall prevail over any discrepancies contained in this Section 10.1.
- 10.2. Without derogating from the generality of the foregoing, the Buyer understands and acknowledges that Sutok invested considerable expense, time and effort and utilized its expertise and experience in order to identify its supplier of Products as a suitable supplier of the Products for the Buyer’s requirements (the “**Sutok Supplier**”). Therefore, the Buyer agrees to treat the identity of the Sutok Supplier as Confidential Information of Sutok and not to solicit orders for Products or other materials directly from the Sutok Supplier or any of its affiliates without the prior written approval of Sutok. This non-solicitation undertaking by the Buyer shall continue to apply for a period of at least 60 months from the date of the last PO for Products issued to Sutok by the Buyer.
- 10.3. This Section 10 shall survive any termination of the Contract and shall remain in full force and effect to the maximum extent permitted by applicable law.

## **11. Representations and Warranties of the Buyer**

The Buyer hereby represents and warrants to Sutok as follows, understanding that Sutok provided its Offer and accepts the PO in reliance on such representations and warranties:

- 11.1. the Buyer is fully authorized to issue the PO, enter into the Contract and perform its obligations under the Contract. The Contract will constitute valid and binding obligations on the Buyer, enforceable against the Company in accordance with its terms and by issuing the PO and entering into the Contract, the Buyer will not be acting in breach of (i) any contract or legal obligation of any kind with any third party, (ii) any applicable law, rule and regulation, or (iii) any order of any court or governmental or regulatory authority;
- 11.2. the Buyer is familiar with all Applicable Laws relevant to its obligations as set out in these Terms and the Buyer has the infrastructure, facilities, equipment, experienced personnel and all permits and licenses required in order to fully comply with all of the same and with all terms of the Contract and the Buyer is not in breach and shall not, upon taking delivery and title to the Products, be in breach of any Applicable Laws applicable to the Products and to materials and goods that are similar to the Products; and
- 11.3. from the delivery point, the Buyer will at all times hold, store, transport and use the Products in full compliance with all Applicable Laws, licenses, permits, authorizations and approvals.

## **12. Indemnification; Insurance**

- 12.1. The Buyer hereby agrees to fully indemnify and hold Sutok, its shareholders, directors, officers, employees and other representatives harmless from and against any and all liability, damages, fines, expenses or loss of any kind from any investigations, claims, actions, suits, judgments, proceedings, demands, recoveries or expenses, including, but not limited to, court costs and reasonable attorneys' fees, arising out of, based on, or caused in connection with: (i) any breach of the Buyer's representations and warranties contained in Section 11; (ii) any breach by the Buyer of any other terms of the Contract; or (iii) in any other way related to the Buyer's purchase and use of the Products
- 12.2. In addition to any insurances that the Buyer purchases against losses and damage to the Products from the point of transfer of risk, the Buyer shall obtain professional insurance advice regarding any insurances that is advisable for the Buyer to purchase in connection with the Products and the Buyer shall purchase and maintain all such insurances on such terms and for such coverages (including without limit, general liability insurance) from reputable first ranking insurance companies and the Buyer shall fully comply with all the terms of such policies. The limits of coverage on the insurance purchased shall not be deemed a limitation on the Buyer's indemnification liability under Section 12.1 above. Sutok shall be named as an additional insured under the Buyer's policies and the insurance companies shall have waived any rights of subrogation against Sutok. The Buyer shall provide Sutok with copies of the insurance policies, upon request and with certificates evidencing the policies remain valid and in full force and effect. Without derogating from Section 12.1 above, the Buyer hereby expressly agrees that it shall not have any claims, demands or actions against Sutok or anyone on its behalf, concerning damage

with respect to which it is entitled to receive indemnification under any of the insurance policies it purchases and the Buyer hereby waives, relieves and holds Sutok and anyone on its behalf harmless from and against any liability for such damage.

### **13. LIMITATION OF LIABILITY**

IN NO CIRCUMSTANCES WILL SUTOK BE LIABLE TO THE BUYER, OR ANY OF BUYER'S SHAREHOLDERS, DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, DISTRIBUTORS, REPRESENTATIVES, CUSTOMERS OR ANY OTHER PARTY FOR ANY INDIRECT OR CONSEQUENTIAL CLAIMS OR DAMAGES ARISING FROM THE CONTRACT AND THE PRODUCTS, INCLUDING WITHOUT LIMITATION, CLAIMS FOR DAMAGES FOR LOSS OF USE, REVENUE OR PROFIT, WHETHER OR NOT SUTOK WAS ADVISED OF THE POSSIBILITY THEREOF. IN ALL CIRCUMSTANCES, SUTOK'S MAXIMUM LIABILITY TO THE BUYER ARISING FROM A CONTRACT SHALL BE THE TOTAL AMOUNT THAT THE BUYER PAID TO SUTOK FOR THE RELEVANT PRODUCTS. NO CLAIM MAY BE MADE AGAINST SUTOK WHERE THE FACTS GIVING RISE TO THE CLAIM AROSE MORE THAN 12 MONTHS PRIOR TO THE CLAIM BEING MADE.

### **14. Bankruptcy.**

- 14.1. In the event of (i) any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the Buyer, or (ii) the appointment with or without the Buyer's consent of an assignee for the benefit of creditors or of a receiver, or (iii) the Buyer ceases to conduct its operations in accordance with accepted business practices (including an inability to meet its obligations as they mature), then Sutok shall be entitled to cancel any part of the Contract without any liability whatsoever and the Buyer shall reimburse Sutok for any out-of-pocket expenses it has incurred in the performance of its obligations hereunder up to the date of cancellation. Delivery of Products to the Buyer under such circumstances shall only be executed if Sutok receives additional assurances and guarantees as it may deem necessary in its sole discretion, that the Buyer, in its financial condition, will still be able to collect, transport, export, import, store and handle the Products in accordance with all Applicable Laws, licenses, permits and approvals.
- 14.2. Failure by the Buyer to provide Sutok with such assurances as it may require within 5 Israeli business days shall entitle Sutok to locate an alternate buyer for the Products, return the Products to the supplier or take any other action that Sutok deems appropriate in its sole discretion and without the requirement to refund the Buyer in respect of any payment received from the Buyer.

### **15. Governing Law; Dispute Resolution**

The Offer, PO and Contract shall all be governed by the laws of the State of Israel without reference to its conflicts of laws principals. The courts of appropriate jurisdiction of Haifa, Israel shall have the **sole and exclusive** jurisdiction to hear and decide upon any disputes arising between the Parties in connection with any Offer, PO and Contract.

## **16. General**

- 16.1. These T&Cs, any Offer, PO and all Contracts do not create any relationship between the parties other than that of independent contractors and no employee, agency, distributorship or other relationship shall be implied. Nothing hereunder shall be deemed to prevent Sutok from entering into any business relationship of any nature with any other party.
- 16.2. Neither party shall be liable with respect to the non-performance or partial non-performance of any of its undertakings hereunder where such non-performance or partial non-performance was caused by an event of force majeure, such as, without limitation, earthquakes, floods, pandemics and other acts of God, general shortages of raw materials, general strikes, wars and terrorism, provided however that the party prevented from performing shall notify the other party in writing of the force majeure event, the obligations that the party is prevented from performing and the reasons therefor. Each party shall exert commercially reasonable efforts to mitigate the consequences of the force majeure event. Should a force majeure event continue for more than 3 months, either party shall be entitled to terminate the contract by providing written notice thereof to the other party. For the avoidance of doubt and without derogating from the generality of the foregoing, it is hereby agreed that delays caused by the Covid-19 pandemic shall be treated as a force majeure event under this Section 16.2.
- 16.3. If any part of the Contract is held by any competent court of jurisdiction to be invalid or otherwise unenforceable, then such part shall be deemed removed from the Contract as if not included upon formation of the Contract and the remaining parts of the Contract shall continue to be valid and in full force and effect. To the extent that such is possible, the invalid part shall be replaced with a new part that as closely as possible reflects the original intention of the parties without also being invalid or unenforceable.
- 16.4. No amendment to any part of the Contract shall be valid unless made in accordance with Section 8 above or if otherwise is made in writing and signed by both of the parties. Neither party shall be deemed to have waived any of its rights hereunder unless it made the waiver in writing and signed it. However, Sutok shall be entitled to make changes to these T&Cs at any time and without prior approval of the Buyer. Such unilateral changes to T&Cs shall be effective with respect to all POs issued after the date that the revised T&Cs have been published on Sutok's website and the Buyer is advised to review the T&Cs prior to issuing each and every PO.
- 16.5. The Buyer shall not assign any of its rights or obligations under any Contract without Sutok's prior written agreement. Sutok shall be entitled to assign all



Contracts or any part thereof to any affiliate of Sutok or to any purchaser of all or substantially all of its business.

- 16.6. Notices shall be in writing and shall be effectively delivered personally, or by registered mail, or by fax or email (provided that receipt of the fax or email can be confirmed). Address and other contact details for delivering notices to Sutok shall be as provided in the Offer and to the Buyer shall be as provided in the PO.