

**Sutok Terms & Conditions**  
**for**  
**Treatment and Disposal of Materials**  
**(Including Hazardous Materials)**

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

These terms and conditions (“**T&Cs**”) apply to all of Sutok’s offers and provision of Services and Ancillary Services in connection with the Treatment and Disposal of various materials, including without limit, hazardous materials.

**1. Definitions**

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

- 1.1. "**Ancillary Services**" shall mean all services ordered by the Customer that are ancillary to the Treatment and Disposal of Material and any Sale of Sellable Material (where applicable), such as providing project management services, advising and assisting the Customer to obtain export licenses and permits and providing assistance with various other matters, all as specified in detail in the Offer.
- 1.2. "**Applicable Laws**" shall mean the Basel Convention and 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.
- 1.3. "**Basel Convention**" shall mean the Basel Convention on the Control of Transboundary Movements Of Hazardous Wastes And Their Disposal.
- 1.4. "**Customer**" shall mean the purchaser of the Services and any Ancillary Services as will be identified on the PO.
- 1.5. "**Disposal**" shall mean the disposal of Material and Waste, as set out in the relevant PO and in full compliance with Annex IV of the Basel Convention and with all other Applicable Laws.
- 1.6. "**Material**" shall mean the specific materials in respect of which the Services are ordered, as specified in the Offer.
- 1.7. "**Offer**" shall mean the written offer issued by Sutok to the Customer setting forth the Services and any applicable Ancillary Services offered in respect of Materials specified therein and the business terms applicable to the Offer in addition to these T&Cs. The Specifications provided by the Customer prior to preparation of the Offer will be attached to and form part of the Offer.
- 1.8. "**PO**" shall mean a purchase order for Services and any applicable Ancillary Services issued by the Customer.
- 1.9. "**Sellable Material**" shall mean any materials and substances that are obtained from Treatment of the Material and that have resale value or the Material itself where that Material has a resale value “As-Is” prior to treatment.

- 1.10. **“Sale”** shall mean the sale of Sellable Materials on commercially reasonable terms and in full compliance with all Applicable Laws.
- 1.11. **“Services”** shall mean those services ordered by the Customer as set out in the Offer and which may include the Treatment and Disposal of the Materials and Sale of Sellable Material, all as specified in detail in the Offer.
- 1.12. **“Specifications”** means a full written description of the Material, including its chemical and other relevant properties in sufficient detail for Sutok to be able to provide the Services.
- 1.13. **“Sutok”** shall mean Sutok Environmental Engineering Ltd. a company incorporated under the laws of Israel.
- 1.14. **“Treatment”** shall mean the recycling, reclaiming, regeneration of Material and other treatment of the Material, in the case of hazardous Material, the Treatment is intended to result in the Material losing all of those properties that caused it to be deemed to be hazardous material under all Applicable Laws and where the Offer includes the sale of Sellable Material, then Treatment shall include any process required to convert Material into Sellable Material or to separate Sellable Material from Waste, all as required in order for the Sellable Material to be sold in full compliance with all Applicable Laws.
- 1.15. **“Waste”** shall mean the material and substances that are left after Treatment of the Material has been completed and which is not Sellable Material.

## **2. Applicability**

- 2.1. All Offers for Services and applicable Ancillary Services 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 Customer shall order the Services and any applicable Ancillary Services 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 Customer's processes require issuance of separate POs, then such POs must be in writing and clearly:
  - 3.1.1. identify the Customer by its legal name;
  - 3.1.2. identify the relevant Offer, quoting the unique Offer reference number;
  - 3.1.3. identify the Material confirming the Specifications attached to the Offer, together with details of quantities subject to the PO, which must reflect the Material and quantities quoted in the Offer; and

- 3.1.4. confirm that the Offer and these T&Cs are the sole terms that apply to the Customer's purchase of the Services and any applicable Ancillary Services 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 3.1.4 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 Customer's own terms or of any other terms of any kind ("**Other Terms**"). Any and all such Other Terms that the Customer purports to impose on Sutok are hereby expressly rejected and under no circumstances will Other Terms be applicable to Sutok's provision of the Services and applicable Ancillary Services to the Customer.
- 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 Customer signs the confirmation on the Offer or Sutok formally accepts a PO in the Customer's own format by written notification to the Customer, no Offer or PO is binding on Sutok and Sutok may withdraw the Offer at any time, also by written notice to the Customer.
- 4.2. Following Customer returning to Sutok the Offer with its signed confirmation or Sutok's acceptance of the PO in the Customer's format, these T&Cs, together with the Offer and PO shall form an individual contract pursuant to which Sutok shall provide the Services and any applicable Ancillary Services to the Customer and the Customer shall pay for the Services and perform its other obligations under the PO and these T&Cs (the "**Contract**").

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

- 5.1. Sutok shall be responsible for providing the Customer with the Services. However, Customer understands and acknowledges that Sutok will subcontract the provision of the Services to a provider of the required Services that Sutok will identify as having the requisite skills, experience, knowledge, facilities and infrastructure in order to provide the Services with respect to the Material to a professional standard and in full compliance with all Applicable Laws ("**Subcontractor**").
- 5.2. Sutok shall provide the Customer with all Ancillary Services in a timely manner as is required for the Services and to a professional standard that is commensurate to accepted industry practices and in compliance with all Applicable Laws. In providing the Ancillary Services, Sutok may also use subcontractors for various activities.

- 5.3. Where required under Applicable Law, Sutok will provide the Customer with a document for transboundary movements/shipments of waste which will be stamped and signed by the Customer.

## **6. Customer's Obligations**

- 6.1. Customer shall timely provide Sutok, upon request, all information regarding the Customer and the Material that Sutok may require in order to provide the Services and all Ancillary Services in accordance with all Applicable Laws. Such information shall be provided in writing and where required, in response to any questionnaire provided by Sutok. The Customer shall be fully responsible for all information provided to Sutok under this Section 6.1 and Sutok shall have no liability whatsoever arising from any errors, inaccuracies or omissions of any kind in relation to the information provided by the Customer.
- 6.2. Except where specified otherwise in the applicable Offer, Customer shall be responsible at its cost, for obtaining export licenses as provided in Section 6.8 below, arranging packaging, transportation and delivery of the Material directly to the Subcontractor's facilities as set out in the Offer or as otherwise notified to the Customer by Sutok. The Customer shall provide Sutok with notice of delivery at least 30 days in advance. Prior to executing delivery, the Customer shall wait for Sutok to confirm that Subcontractor has received all permits and documentation it is required to receive under Applicable Laws in order to import the Material and perform the Services and has confirmed it has the capacity to receive the Material on the intended date of receipt.
- 6.3. Risk of damage or loss to the Material shall be the Customer's until delivery to the Subcontractor is completed. Where the Services do not include the Sale of Sellable Material, then title to the Material shall pass to the Subcontractor upon completion of delivery. Unless stated otherwise in the Offer, where the Services do include the Sale of Sellable Material, then title to the Material shall pass to Sutok upon delivery and title will pass from Sutok to the Subcontractor in accordance with the agreement between Sutok and the Subcontractor.
- 6.4. Customer shall deliver in good time to Sutok copies of any relevant MSDS, chemical analysis and other documents required according to the Offer.
- 6.5. Customer shall ensure that the Material is as described in the PO, including without limit with respect to Specifications, any required MSDS and quantity and matches any sample supplied by the Customer any time prior to delivery. If Material is not as described in the Specifications, relevant MSDS, chemical analysis or quantity is not as stated in the PO, or if the Material does not match any sample. The Customer shall also fully reimburse Sutok for all extra costs and expenses that may arise from the non-conformance of the Material to Specifications, MSDS, chemical analysis or quantities.
- 6.6. Should the Subcontractor reject the Material due to the non-conformances, Customer shall be responsible, at its cost, to collect the non-conforming

- Material from the Subcontractor and make alternate arrangements to dispose of the non-conforming Material or return it to Customer's premises, all in strict compliance with all Applicable Laws. Sutok may find an alternate Subcontractor able to provide the Services with respect to the non-conforming Material, but that will be subject to a new Offer from Sutok and new PO referring to the new Offer and meeting the other conditions of Section 3 above.
- 6.7. Customer understands that Sutok does not physically receive, handle, package, transport, export or import into any destination, the Material and Sutok is not responsible in any way for any of the foregoing.
  - 6.8. The Customer shall be solely responsible for obtaining all export licenses, permits and approvals of any kind required under all Applicable Laws. Under no circumstances whatsoever shall Sutok be considered or named as the exporter of record and Sutok shall not have any involvement or responsibility in connection with such export. Should Ancillary Services provided by Sutok include Sutok advising and assisting the Customer to obtain the export licenses and any other required permits and approvals, this shall not derogate from the Customer's responsibilities under this Section 6.8. In such cases, Sutok's sole responsibility shall be to provide the Customer with professional standard services, but success of securing the relevant licenses, permits and approvals is not guaranteed and in any event, Customer shall not export the Material or take any other action in connection with the Material until it has obtained the appropriate licenses, permits and approvals.
  - 6.9. The Customer shall ensure that the Material is packaged and transported in accordance with any instructions contained in the Offer or subsequently received from Sutok. Absent any such instructions, the Material shall be packaged and transported in accordance with industry accepted norms for the Material and in full compliance with all Applicable Laws.
  - 6.10. Where required under the Basel Convention, the Customer shall enter into the Basel Convention's Notification Contract with the Subcontractor and provide a copy thereof to Sutok.

## **7. Price and Payment Terms.**

### Where Services are for Disposal of Waste Only

- 7.1. Where Services do not include Sale of Sellable Material, then the fees payable to Sutok for the Services and Ancillary Services provided shall be as set out in the Offer. Payment terms are also as set out in the Offer. Where the Offer provides that any payment of fees must be made in advance of completion of the Services, or the provision of any guarantees is required prior to commencement of the Services, then the Customer shall ensure that such payments and guarantees, in formats prior approved by Sutok, are so made and provided in the times required. VAT shall be added to the quoted fees where applicable.

- 7.2. Where the fees for any of the Ancillary Services are charged at an hourly rate, Sutok shall provide the Customer with a report of the time spent on providing the relevant Ancillary Services together with the invoice.
- 7.3. If the Customer defaults on payment of any part of the fees 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 Customer of the default and the Customer 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 Customer in accordance with the terms of the relevant guarantees.
- 7.4. 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 Customer 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.

#### Where Services include Sale of Sellable Material

- 7.5. Sutok shall pay the Customer for the Material the price stated in the Offer (“**Customer Sale Price**”). The Customer Sale Price shall be paid according to the payment terms set out in the Offer, following which the Customer shall issue to Sutok an appropriate tax invoice for the amounts received from Sutok. Where applicable, VAT shall be added to the Customer Sale Price.
- 7.6. Where the Offer provides for variances in the Customer Sale Price depending on final determination by the Subcontractor of the quantity, quality and contents of the Material and any other variables set out in the Offer, and the Customer Sale Price is adjusted after Sutok paid has paid the Customer, then if the Customer Sale Price has been adjusted upward, then Sutok shall pay the Customer the additional amount required and if the Customer Sale Price is adjusted downward, then the Customer shall refund the appropriate amount to Sutok.
- 7.7. If any fees are payable to Sutok for Ancillary Services in connection with Sale of Sellable Material, then Sections 7.1 to 7.4 shall apply to the payment of such fees.

#### Additional Costs

- 7.8. The Customer understands that due to the unpredictable nature of Material requiring Treatment, provision of the Services sometimes results in the incursion of costs to the treatment plant that were not specified in the Offer, such as for example and without limit, damage caused to plant equipment

arising from unexpected chemical reactions in the Material (“**Additional Costs**”). The Customer shall reimburse Sutok for all such Additional Costs arising as a result of the Material and the Services provided in connection therewith, upon presentation to the Customer of appropriate receipts, invoices or other proof of payment by Sutok or the Subcontractor.

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

- 8.1. The Customer shall treat as strictly confidential all documentation and other information provided by Sutok to the Customer in connection with the Services and Ancillary Services, 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 Customer 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 Customer have entered into a separate non-disclosure agreement that specifically relates to the Services and Ancillary Services as described herein, then such non-disclosure agreement shall continue to apply together with this Section 8.1.
- 8.2. Without derogating from the generality of the foregoing, the Customer understands and acknowledges that Sutok invested considerable expense, time and effort and utilized its expertise and experience in order to identify its plants that are able to provide the Services in the manner required under this Agreement and to negotiate suitable terms with them to act as Subcontractors. Therefore, the Customer agrees to treat the identity of the Subcontractor as Confidential Information of Sutok and not to solicit orders for identical or similar Services directly from the Subcontractor or any of its affiliates without the prior written approval of Sutok. This non-solicitation undertaking by the Customer shall continue to apply for a period of at least 60 months from the date of the last PO for Services issued to Sutok by the Customer.
- 8.3. This Section 8 shall survive any termination of the Contract and shall remain in full force and effect to the maximum extent permitted by applicable law.

## **9. Representations and Warranties of the Customer**

The Customer 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:

- 9.1. the Customer 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 Customer, enforceable against the Company in accordance with its terms and by issuing the PO and entering into the Contract, the Customer will not be acting in breach of (i) any contract or legal obligation of any kind with any third party, (ii) any Applicable Law, or (iii) any order of any court or governmental or regulatory authority; and

- 9.2. the Customer is familiar with all Applicable Laws relevant to the packaging, transportation and export of the Material in the manner required of the Customer hereunder and the Customer has the infrastructure, facilities, equipment, experienced personnel and all permits and licenses required to fully comply with all of the Applicable Laws and all terms of the Contract.

## **10. Indemnification; Insurance**

- 10.1. The Customer 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 Customer's representations and warranties contained in Section 9; (ii) any breach by the Customer of any other terms of the Contract; or (iii) due to Customer providing any incorrect, inaccurate or incomplete information regarding the Material.
- 10.2. The Customer shall obtain professional insurance advice regarding any insurances that is advisable for the Customer to purchase in connection with the Material and the transactions contemplated by the relevant PO and the Customer 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 Customer 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 Customer's indemnification liability under Section 10.1 above. Sutok shall be named as an additional insured under the Customer's policies and the insurance companies shall have waived any rights of subrogation against Sutok. The Customer 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 10.1 above, the Customer 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 Customer hereby waives, relieves and holds Sutok and anyone on its behalf harmless from and against any liability for such damage.

## **11. LIMITATION OF LIABILITY**

IN NO CIRCUMSTANCES WILL SUTOK BE LIABLE TO THE CUSTOMER, OR ANY OF CUSTOMER'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 MATERIAL, INCLUDING WITHOUT LIMITATION, CLAIMS FOR DAMAGES FOR LOSS OF



USE, REVENUE OR PROFIT, WHETHER OR NOT SUTOK WAS ADVISED OF THE POSSIBILITY THEREOF IN ADVANCE. IN ALL CIRCUMSTANCES, SUTOK'S MAXIMUM LIABILITY TO THE CUSTOMER ARISING FROM A CONTRACT SHALL BE THE TOTAL AMOUNT THAT THE CUSTOMER PAID TO SUTOK FOR THE SERVICES OR THE CUSTOMER SALE PRICE IN CONNECTION WITH THE SERVICES RELATED TO THE CLAIM (AS APPLICABLE). 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.

## **12. Bankruptcy.**

In the event of (i) any proceedings, voluntary or involuntary, in bankruptcy or insolvency by or against the Customer, or (ii) the appointment with or without the Customer's consent of an assignee for the benefit of creditors or of a receiver, or (iii) the Customer 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 Customer 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.

## **13. 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.

## **14. General**

- 14.1. 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.
- 14.2. 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 14.2.

- 14.3. 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.
- 14.4. No amendment to any part of the Contract shall be valid unless 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 Customer. 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 Customer is advised to review the T&Cs prior to issuing each and every PO
- 14.5. The Customer 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.
- 14.6. 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 Customer shall be as provided in the PO.