

Sojitz Europe plc – General Terms and Conditions of Purchase (Istanbul Branch)

These terms and conditions form part of every contract for the purchase of goods specified on the face hereof ("Goods") by Buyer from Seller except if expressly agreed otherwise with Buyer. No terms or conditions endorsed upon, delivered with or contained in Seller's quotation, acknowledgement or acceptance of order, specification or similar document shall form part of the Contract and Seller waives any right which it otherwise might have to rely on such terms and conditions.

Each order for Goods by Buyer shall be deemed to be an offer by Buyer to buy Goods subject to these terms and conditions. Such offer shall become a binding and enforceable contract ("Contract") against Seller when (i) signed or accepted by Seller or its agent, (ii) signed and delivered by Buyer to Seller unless Seller gives Buyer written notice of objection to its contents within ten (10) days after receipt hereof, (iii) any instructions have been given to Buyer as to payment or acceptance of the Goods, (iv) Seller has shipped any part of the Goods, (v) Seller has sent its sales confirmation to Buyer, or (vi) Seller has indicated in some other manner its acceptance of this Contract, whichever is earlier.

1. QUANTITY

The quantity of Goods stipulated on the face hereof shall be subject to a variation of plus or minus ten percent (10%) at Buyer's option.

2. COST

All customs, duties, taxes, fees, stamp duty and charges incurred on the Goods, containers and documents concerned herewith, including the certificates of origin, the consular invoices and any other documents required to import into the country of destination stipulated on the face hereof, in the country of shipment and/or origin and any other countries for transit shall be borne by Seller.

3. BANKING CHARGES

(1) In case of L/C payment terms, all banking charges such as acceptance commission, payment commission and/or confirming commission, if any, shall be borne by Seller.

(2) In case of payment terms other than L/C, such as D/P or D/A, all banking charges such as collecting commission, acceptance commission and/or stamp fees shall be borne by Seller.

4. INCREASED COST

All additional, new and/or increased customs, duties, taxes, fees, charges, freight, freight surcharges, insurance premiums; import and export surcharges and/or other extra expenses which become payable relating to the performance of the Contract after the date of the Contract, shall be borne by Seller.

5. SHIPMENT

The Goods shall be shipped strictly within the period stipulated on the face hereof. If under this Contract, Seller is required to arrange the shipping space, Seller shall ship the Goods by the usual route in a properly equipped seaworthy vessel owned and/or operated by a first class shipping company agreeable to Buyer; transshipment and partial shipment shall not be allowed; and notice of the particulars of the shipment shall be received by Buyer within three (3) days after the shipment thereof. If shipment or delivery is delayed in whole or in part by reason of acts of God, Buyer may extend the time of shipment or delivery for and to the extent prevented thereby, provided that, if shipment or delivery is so delayed more than twenty-one (21) days, Buyer shall have the right to cancel forthwith all or any part of this Contract at any time by giving notice of cancellation to Seller.

6. INSURANCE

If under this Contract Seller is required to provide insurance, as stipulated on the face hereof such insurance shall be provided with first class insurance companies satisfactory to Buyer for an amount equivalent to one hundred and ten percent (110%) of invoice amount, covering marine insurance of "All Risks" and "War and S.R.C.C. Risks," unless otherwise agreed. Any additional insurance shall be provided by Seller in favour of Buyer at Seller's cost upon the specific request of Buyer. If Buyer is required to provide insurance, Seller shall timely and accurately advise Buyer of shipping particulars so as to enable Buyer to provide necessary insurance. Should Seller fail to perform as stipulated above, Seller shall, notwithstanding the terms of shipment to the contrary, bear all risks on the Goods until delivery at destination stipulated on the face hereof.

7. INTELLECTUAL PROPERTY

Seller shall be liable for any infringement or claim with regard to intellectual property rights in relation to the Goods or containers, including patents, utility models, trademarks, tradenames, service marks, designs, copyright, and database rights, anywhere in the world. If any dispute or claim arises out of or in relation to any such intellectual property rights Buyer shall have the right to cancel forthwith all or any part of this Contract by giving written notice of cancellation to Seller, and Seller shall indemnify and hold Buyer harmless against any and all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) ("Losses") arising therefrom.

8. PRODUCT LIABILITY

Seller shall indemnify and hold Buyer harmless from any Losses arising from any product liability claims anywhere in the world. Notwithstanding clause 10 below, any claim under this clause may be made at any time after delivery of the Goods. If any dispute or claim arises out of or in connection with such product liability, Buyer shall have the right to cancel forthwith all or any part of this Contract by giving written notice of cancellation to Seller, and Seller shall be responsible for all loss and/or damage caused thereby or resulting therefrom.

9. WARRANTY

Seller warrants that any and all of the Goods shall be of satisfactory quality and fit for the particular purpose for which such Goods are sold and used. Seller further expressly warrants that any and all of the Goods shall be free from defects in materials and workmanship and shall strictly conform to the applicable specifications, instructions, drawings, data and samples. Any inspection of or payment for Goods by Buyer shall not constitute a waiver of Buyer's remedies for any breach by Seller of any warranty whether express or implied. Seller shall indemnify and hold Buyer harmless from any Losses arising from any alleged defect in the Goods or any other similar claim arising from the sale and/or use of the Goods. If Buyer should find any defect in the Goods and notify Seller of that fact, Seller shall immediately replace, repair and/or compensate for any defective Goods at Seller's own risk and expense upon the request of Buyer. Buyer shall not lose its right to claim for any loss and damage, including consequential and incidental damage and damage caused to any customer purchasing the Goods from Buyer, caused thereby in spite of such replacement, repair and/or compensation.

10. CLAIM

Any or all claims of any nature whatsoever arising out of or in relation to this Contract shall be sent to Seller within ninety (90) days after Buyer became aware of such claim. Such claim shall be deemed to have been notified to Seller on the fifth (5th) business day after being sent and such claim shall be deemed to have been accepted by Seller unless Seller objects in writing within fifteen (15) days after being notified. Even after the expiration of the above mentioned ninety (90) day periods, Seller shall indemnify and hold Buyer harmless from any Losses suffered by Buyer's customer and/or any other third party due to any defect, unfitness or unsuitability of the Goods sold hereunder.

11. CANCELLATION

Notwithstanding any of the provisions of this or any other contract between Seller and Buyer, in the event Seller fails to obtain any export license or the like or to perform any of its obligations under this or any other contract with Buyer, or in the event of the change of control, death or insolvency of Seller, or if any proceeding in relation to the credit standing of Seller, such as bankruptcy, reorganization, rehabilitation or composition is instituted by or against Seller, or any receiver or trustee is appointed for Seller, or in case of transformation of Seller, such as transfer of any or all of its business or important assets, winding-up, liquidation, dissolution or modification of partnership of Seller;

(I) Buyer shall have the right (i) to cancel forthwith any or all of this and/or any other contract with Seller by giving notice of cancellation to Seller, (ii) to stop and/or suspend the performance of any or all of its obligations under this and/or any other contract with Seller without giving any notice, and/or (iii) to reject the receipt of all or any part of the undelivered Goods, and

(II) any and all sums payable by Seller to Buyer, together with the interest thereon and any other indebtedness owing to Buyer, under this and any other contract with Seller, shall at Buyer's discretion immediately become due and payable.

Should this Contract be cancelled, Seller shall immediately refund all money already paid by Buyer for the Goods together with interest thereon from the date of payment at the rate of rediscount interest determined by the Turkish Central Bank, and Buyer shall have the right to dispose of the Goods already received by Buyer on Seller's own account and risk. In any such case, Seller shall be liable to Buyer for any loss and damage, including consequential and incidental damage, caused thereby.

12. SET-OFF

Buyer may at any time set-off any debts payable to Seller with credits receivable from Seller.

13. SUSPENSION

Buyer may cancel or suspend the performance of all or any part of this Contract in the event of closing of the foreign exchange, prohibition of import, refusal of issue of import licenses, or restriction by laws, regulations, ordinances, rules, governmental orders or directions, or administrative guidance, without any liability whatsoever.

14. FORCE MAJEURE

Buyer shall not be responsible for or liable for any failure or delay to perform any part of this Contract if and to the extent caused (directly or indirectly) by the occurrence of events beyond Buyer's control, including acts of God, war, riots, marine strike or other incidents of force majeure. Should such condition continue for more than ninety (90) days, Buyer shall have the right to cancel forthwith all or any part of this Contract at any time by giving notice of cancellation to Seller, without any liability for any loss or damage caused thereby.

15. GOVERNING LAW

The formation, validity, construction and performance of this Contract shall be governed by and construed under the laws of the Republic of Turkey excluding the Convention of International Sale of Goods (CISG). The trade terms under this Contract as stipulated on the face hereof shall be the Incoterms prevailing at the date of the shipment of the Goods hereunder.

16. JURISDICTION

The courts of Istanbul, Turkey shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Contract, including any question regarding its existence, validity or termination. Nothing in this clause shall limit Buyer's right to take proceedings against Seller in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

17. ASSIGNMENT

No assignment of this Contract or of any right or obligation accruing hereunder shall be made, in whole or in part, by Seller without prior written consent of Buyer.

18. NO WAIVER

The waiver by Buyer of any breach of any of Seller's obligations under this Contract shall not be construed as a waiver of any other prior or subsequent breach and Buyer's rights shall not be affected by any delay, failure, or omission to enforce any obligation of Seller.

19. INVALID PROVISION

The provision of this Contract shall be deemed to be severable, and any invalidity of the whole or any part of any provision of this Contract shall not affect the validity of the remaining provisions of this Contract.

20. HEADING

The headings used in this Contract are for the purpose of reference and convenience only, and shall not limit or effect the meaning of provisions to which they refer.

21. ENTIRE AGREEMENT

This Contract constitutes the entire agreement between Buyer and Seller. Each Party acknowledges that in entering into this Contract it has not relied on any statement, representation, assurance or warranty other than as expressly set out in this Contract.