

These general terms and conditions of sale ("GTCS") apply to any purchase order and constitute an integral part thereof ("PO") placed by an entity ("Buyer") to MERSEN ("Seller") for the provision of Seller's products, equipment, systems, and parts (individually and collectively, the "Good(s)") and/or services, such as repair services, field services, and engineering services (the "Service(s)"). Buyer and Seller are referred to herein individually as "Party" and collectively as "Parties".

1. OTHER TERMS AND CONDITIONS

ANY ADDITIONAL OR CONTRADICTIONARY TERMS AND CONDITIONS OF BUYER SHALL NOT APPLY, UNLESS EXPRESSLY AGREED IN WRITING BY BOTH PARTIES. SELLER'S ACCEPTANCE OF A PO SHALL NOT BE DEEMED AS AN ACCEPTANCE OF ANY ADDITIONAL OR CONTRADICTIONARY TERMS AND CONDITIONS OF BUYER.

2. OFFER, ORDER AND ACCEPTANCE

- 2.1 Seller's offer includes at least the description of the Good(s) and/or Service(s) and its price (hereinafter the "Offer") communicated in writing, by e-mail or by any other means of electronic transmission and unless otherwise specified, the Offer shall be valid for one (1) month from its date of issuance. Buyer shall place an Order by any agreed written means. In addition to any mandatory information, Buyer shall indicate in the PO (i) Seller's Offer's reference and those of the Goods and/or Services, (ii) the Goods' quantity, delivery place and date, and (iii) the Price (as defined in Section 5) and payment terms. For Goods, Buyer shall also indicate on the Order the quantity of Goods and the INCOTERMS® (ICC Edition 2020) as defined in Section 3.2.
- 2.2 For any PO of less than a thousand (1000) EURO, Seller reserves the right to either reject such PO or charge for supplementary costs (e.g. logistic costs, transportation costs).
- 2.3 Seller shall be bound by a PO only upon occurrence of either (i) Seller's express written acceptance or (ii) performance of the PO.
- 2.4 A PO, which has been confirmed by Seller, constitutes a firm order which cannot be cancelled without prior acceptance by Seller.
- 2.5 Unless otherwise expressly stated in the firm PO, and to the fullest extent permitted by applicable law, the resale of Goods is strictly prohibited.

3. SHIPMENT, RISK OF LOSS, AND DELIVERY

- 3.1 Seller shall use reasonable efforts to meet any performance dates specified in the PO and any such dates shall be estimates only.
- 3.2 Unless otherwise mutually agreed by the Parties, Goods shall be delivered or made available to Buyer according to the EXW INCOTERMS ® (ICC 2020 Edition) and at the agreed delivery place. Risk of loss or damage transfers according to the applicable INCOTERMS®.
- 3.3 Delivery of quantities that differ from the quantity specified in the PO shall not relieve Buyer from its obligation to accept delivery of the Goods as well as the balance of the PO.
- 3.4 Changes in delivery schedules, special shipping or packaging, handling conditions requested by Buyer are subject to an adjustment of the Price. If Buyer requests that delivery be postponed or if the delivery and/or shipment is delayed or becomes impossible due to reason not attributable to Seller, the Goods may be stored at Buyer's expense and risk.
- 3.5 Seller shall not be liable for any loss, damage, or penalty for delay in shipment or delivery.

4. INSPECTION

- 4.1 Buyer shall within three (3) days of receipt (i) carefully inspect the Goods on collection against any non-conformity to the PO such as erroneous goods, quantity (if applicable), and (ii) notify Seller of any apparent damage or loss in a timely manner.
- 4.2 Buyer's inspection and/or acceptance tests shall not exceed the inspection and/or test procedures customary in the industry for the furnished Goods and shall be carried on at Buyer's expense.
- 4.3 If Buyer wants to return the Goods, Buyer shall request in writing a return material authorization and return the Goods in the original shipping packaging and all packing materials.

5. PRICE, PAYMENT AND TRANSFER OF TITLE

- 5.1 Price.
The price of the Goods or Services (the "Price") is the one offered by Seller to Buyer for the sale of the Goods and/or the provision of Services and specified accordingly in the applicable firm PO.

Unless otherwise agreed in writing, the Price includes standard packaging but is exclusive of any freight, handling, and shipping insurance charges. The Price does not include any national, or local sales, use, value added, import, export or other taxes. Buyer shall pay any such taxes, if applicable. Buyer shall bear sole responsibility for any withholding tax liabilities.

5.2. Payment.

- 5.2.1 Buyer shall pay all invoices within thirty (30) days net from the date of invoice. All payments shall be in EURO, unless otherwise agreed in writing. Payment is deemed to be made at the time Seller's bank account is credited with the full amount corresponding to the invoice.
- 5.2.2 In case of late payment, Seller will be entitled to apply a late payment penalty on the day following the payment date indicated on the invoice, equal to the interest rate applied by the European Central Bank in its most recent refinancing operation, plus 10 percentage points, plus a lump sum of forty (40) EURO. In addition, Seller shall further be entitled to claim damages for any further loss caused by non-payment, including the costs for recovering the amount due. Lastly, for the following PO, Seller reserves the right to request payment prior any starting execution of a firm PO.
- 5.2.3 If, at any time, Seller reasonably determines that Buyer's financial condition or creditworthiness is inadequate or unsatisfactory, or that Buyer is subject to sanctions or embargoes' measures, then in addition to Seller's other rights under these GTCS, Seller may, without liability or penalty, take one or more of the following actions: (i) on ten (10) day's prior written notice, modify the payment terms specified in Section 5.2.1 for future POs; (ii) reject any PO received from Buyer and not yet accepted; (iii) withhold any further shipment of the Goods to Buyer or performance of the Services; (iv) stop delivery of any Goods in transit and cause such Goods in transit to be returned to Seller; and/or (v) terminate any PO.
- 5.2.4 In no event, shall Buyer be entitled to set-off any amount claimed to be due by Seller against any amount due to Seller under these GTCS, without the written express approval of Seller.
- 5.3 **Retention of Title. Transfer of title to the Goods is subject to full and complete payment of the Price.**

6. WARRANTIES AND REMEDIES

- 6.1 Seller warrants that all Goods will be free from defects in design (unless such design is provided or requested by Buyer), material, and workmanship for a period of twelve (12) months from the delivery date unless indicated otherwise in Seller's Offer ("Warranty Period"). Notwithstanding the foregoing, Seller's warranty for any tools, accessories or goods, which are not manufactured by Seller but sold by Seller in connection with the provision of the Goods or Services hereunder, shall not exceed the terms and period of warranty granted by its suppliers or manufacturers to Seller. Seller warrants to Buyer that it shall perform the Services using personnel of required skill, experience and qualifications in accordance with generally recognized industry standards for similar services. To the extent permitted by applicable law, the warranties stated in this Section are sole and exclusive, to the exclusion of any other implicit warranty, such as warranty of fitness for any specific purpose. Buyer shall be responsible the choice of Goods and/or Services and for ascertaining their suitability for their intended purposes/needs.
- 6.2 **Warranty Exclusions : The warranties set forth in Section 6.1 do not apply to and Seller makes no representations or warranty whatsoever with respect to defects caused by: (i) normal wear and tear, (ii) improper transportation, handling, storage by Buyer or its contractors, (iii) installation and/or maintenance not operated as per recommendation or instructions provided by Seller, or by skilled personnel, if applicable (iv) defects in products or equipment not supplied by Seller in which the Goods have been incorporated, (v) the Goods operated beyond their respective performance rates as per agreed specifications, or (vi) any repair or replacement of the defective part of the Goods by Buyer or a third party, without Seller's prior written authorization. The warranties set forth in this Section 6 do not apply when the Goods are delivered as samples for testing purposes only, in which case the Goods are provided "As is".**
- 6.3 The warranties set forth in Section 6.1 apply provided that (a) Seller is notified in writing by Buyer within thirty (30) days after discovery of faults or defects; (b) at Seller's option, Buyer returns

- the defective Goods at its expenses to Seller, or provides Seller with access to the Goods on Buyer's site as stated in Section 6.4; (c) and Seller's inspection of these Goods confirms that these defects do not correspond to a case of exclusion of warranty.
- 6.4 Any Goods or Services found defective by Seller shall result, at Seller's sole discretion, in either repair or replacement of the Goods or correction of the Services, at Seller's expenses, or reimbursement to Buyer of the Price of the Goods or Services. The terms of the express limited warranties shall apply to any repaired or replacement Goods or corrected Services supplied by Seller for the remaining term of the relevant Warranty Period. In case Seller elects to inspect and/or repair the Goods or correct Services on Buyer's site, Buyer shall provide Seller with all necessary data, documentation, access, including access to facilities, tools, and qualified personnel.
- 6.5 **TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, REMEDIES SET FORTH IN SECTION 6.4 ARE THE SOLE AND EXCLUSIVE ONES FOR THE WARRANTIES SET IN SECTION 6.1 AND BUYER WAIVES ANY OTHER RIGHT OR REMEDY.**
7. **INTELLECTUAL PROPERTY**
- 7.1 Each Party shall remain the owner of all information and intellectual property rights which belong to it, in particular its patents, trademarks, models, copyrights, drawings, and know-how ("IPR"). The acceptance and execution of the PO do not entail any assignment of IPR from one Party to the other. Seller shall keep any and all IPR it owns to the Goods and Services, without limitation, including on drawings, plan, samples, specifications made or developed, etc. Buyer shall not attempt to disassemble or reverse engineer the Goods. All IPR in any improvements or modifications to the Goods shall vest solely with the Seller. Any IPR held by Buyer that may be made available to Seller in connection with the performance of the PO shall not entail any transfer to Seller.
- 7.2 Buyer warrants that it owns or has a license right to all IPR necessary to enable it to transmit data, files, and documents to Seller for the performance of the PO and shall hold harmless and indemnify Seller against any claim or demand by a third party in respect thereof.
8. **LIMITATION OF LIABILITY**
- 8.1 Neither Party shall be liable to the other Party and any third party under these GTCS and any PO hereunder for any indirect damages including pure economic losses, such as loss of profits, loss of data, loss of production, loss of revenue and business interruption losses, arising out of or relating to these GTCS.
- 8.2 Seller shall be liable for direct duly justified damages and costs resulting from the breach of its obligations under the PO and shall not be held liable for any and all damages arising from or in connection with the misuse of the Goods or Services by Buyer, its employees, customers or others.
- 8.3 To the fullest extent permitted by the applicable law, the total cumulative contractual liability of Seller and its agents or employees, arising from or in connection with the PO for any cause whatsoever, shall, in no event and under no circumstances, exceed one hundred percent (100%) of the Price of the PO.
9. **CONFIDENTIALITY**
- 9.1 "**Confidential Information**" means all information, processes, know-how, ideas, specifications, and documentation which either Party may have imparted to the other relating to the Goods or Services or to each Party's business and which relates to the subject matter of the PO and includes among others, the Price, specifications, and the design of the Goods, information relating to the personnel, policies, clientele or business strategies of either Party, and any information relating to the terms upon which the Goods or Services are to be sold under the PO. Notwithstanding the foregoing, shall not be considered as a Confidential Information hereunder any information that: (i) is already in possession of the receiving Party at the time of disclosure by the disclosing Party and continues to be held in confidence in accordance with the terms on which it was obtained; (ii) is or subsequently comes into the public domain through no fault or action or failure to act on the part of the receiving Party; (iii) is lawfully obtained by the receiving Party from a third party having the right to disclose it; or (iv) is independently developed by the receiving Party without use of any Confidential Information of the disclosing Party.
- 9.2 The Parties shall refrain from disclosing and prevent their employees, agents, or legal successors from revealing to any third party any Confidential Information regarding the other Party, without its prior written approval. Each Party shall solely use the other Party's Confidential Information to perform the PO.
- 9.3. The provisions of this Section 9 will remain in force for a period of five (5) years from the date of expiration or termination of the PO.
10. **FORCE MAJEURE - HARDSHIP**
- 10.1 A Party shall not be liable for delay or failure to perform in whole or in part its obligations under the PO due to causes beyond the reasonable control of such Party and/or any event of Force Majeure. "**Force Majeure**" means any cause existing or future, which is beyond a Party's reasonable control, or unavoidable or unpredictable, including but not limited to acts of God, storm, fire, flood, earthquake, strike, lock-out, steelworks stoppages, shortages of raw materials, interruptions of and/or delay in transportation or power, energy failures, telecommunication breakdowns, embargo, prohibition of trade, sabotage, all epidemics and/or pandemics (such as the Coronavirus pandemic), outbreaks of infectious disease or any other public health crisis, including quarantine or other employee restrictions, interference by civil or military authorities, regulations or orders of any governmental authority, acts of war (declared or undeclared), hostilities. The Party alleging Force Majeure shall notify the other Party within a reasonable time by any practicable means (email or letter). The period of performance for the Party affected by such Force Majeure shall be extended by the duration of said cause, provided, however, if any such delay shall continue for more than three (3) months, either Party may cancel the affected PO by written notice to the other Party at any time, without incurring any liability.
- 10.2 As a departure from the provisions of Article 1195 of the Civil Code, the Parties agree that in the event of a material increase in Seller's costs, such as those of materials, transportation, production costs, exchange rates, taxes and customs duties, which jeopardizes the balance of the PO and renders its performance impossible in reasonable economic conditions to Seller, they shall negotiate a change in the PO to remedy the situation. If no agreement is reached within thirty (30) days, Seller may terminate the PO by registered mail without right of indemnity or remedy by the other Party, provided that thirty (30) days' notice is given.
11. **COMPLIANCE AND ETHICS**
- 11.1 Buyer shall fully comply with all applicable laws and regulations regarding compliance, ethics and import, transport, storage, use, release, resale and re-export of the Goods (the "**Laws**") and shall obtain and maintain in effect all licenses and permits it may need therefor. Buyer acknowledges that the Goods, including any software, documentation, and any related technical data included with, or contained in, such Goods, (collectively "**Regulated Goods**") may be subject to US export control Laws, including the Export Administration Regulations and the International Traffic in Arms Regulations, as well as EU or other export control Laws. Buyer shall not, and shall not permit any third parties to, directly or indirectly, export, re-export, or release any Goods to any jurisdiction or country to which, or any party or person to whom, the export, re-export, or release of any Goods is prohibited by applicable Laws. Buyer shall complete all required undertakings (including obtaining any necessary export license or other governmental approval). Buyer shall be liable for any breach of this Section by its parent, affiliates, employees, officers, directors, partners/members/shareholders, customers, agents, distributors, resellers, or vendors and those of its successors and permitted assigns.
- 11.2 Buyer acknowledges that Seller is part of an international group of companies which is subject to laws and regulations which may have extra-territorial effect. Therefore, Buyer represents that it is not, and none of its directors or officers or affiliates is, a person whose name appears on any Sanctions List and shall not use the Good or Service in violation of any Sanctions Laws. For the purpose hereof: (i) "**Sanctions Law(s)**" means the applicable sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by the European Union, any European Union Member State, the United Kingdom, the United States of America;

- the United Nations (including the respective governmental authorities of any of the foregoing) ("**Sanctions Authorities**");
- (ii) "**Sanctions List**" means all applicable sanctions lists maintained by any of the competent Sanctions Authorities as amended, supplemented, or substituted, including but not limited to OFAC's Specially Designated Nationals and Blocked Persons ("**SDN**") List, Sectoral Sanctions Identification ("**SSI**") List, and the Foreign Sanctions Evaders ("**FSE**") List; BIS's Entity List, Unverified List and Denied Persons List; the Consolidated List of Financial Sanctions Targets issued by Her Majesty's Treasury and the UK Sanctions List; and the EU Consolidated list of persons, groups and entities subject to European Union financial sanctions.
- 11.3 Committed to sustainability and responsible commercial practices, Seller and its group attach great importance to labour, fair competition, anti-corruption and money-laundering legislations and have joined the United Nations Global Compact. Buyer shall maintain a corporate policy showing adherence to ethics standards at least equivalent to the ones contained in Seller's Code of Ethics ([Code of Ethics & Compliance](#)) including the commitments of the United Nations Global Compact. It shall ensure that itself, its affiliates, and its own suppliers and customers apply the ten principles of the Global Compact regarding Human Rights, Labor Laws, Environment and anti-corruption ([White Paper Principles SDGs.pdf](#)). To further consult these principles, visit the following website: <http://www.unglobalcompact.org>.
- 11.4 Buyer's failure to comply with the terms of this Section 11 or breach of representation in Section 11.2 shall constitute a contractual material breach entitling Seller to (i) terminate any PO by right with immediate effect; (ii) reject any PO received from Buyer and/or (iii) stop delivery of any Goods or performance of any Services.
12. **TERMINATION**
In addition to any rights or remedies available under these GTCS, either Party shall have the right to terminate a PO at any time by giving notice in writing to the other Party with immediate effect, if the latter:
- (i) commits a material breach of any of its obligations under the PO which is not capable of remedy, or in case of a material breach capable of remedy, if such material breach has not been remedied within a period of thirty (30) days following receipt of written notice to do so;
- (ii) (a) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due, (b) files or has filed against it, a petition for bankruptcy or otherwise becomes subject to any proceeding under any domestic or foreign bankruptcy or insolvency law.
13. **DATA PROTECTION**
Buyer undertakes to comply with applicable regulations on Personal data protection. The data provided by Seller shall be processed solely for contractual purposes and for the fulfillment of the related legal requirements and shall be stored in secure environments. Buyer also undertakes to ensure compliance of any transfers of such data outside the European Union, to accede to requests of the persons concerned by such data and to delete the latter at the end of the periods prescribed by the regulations. The data will be processed by Buyer's employees and not be transferred to any third parties except to comply with a legal obligation.
14. **GOVERNING LAW AND JURISDICTION.**
- 14.1 **THE PO SHALL BE CONSTRUED AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF FRANCE, WITHOUT REGARDS TO ITS CONFLICTS OF LAW. THE PO WILL NOT BE GOVERNED BY THE U.N. CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS, THE APPLICATION OF WHICH IS EXPRESSLY EXCLUDED BY THE PARTIES AND DOES NOT APPLY TO THE INTERPRETATION OR ENFORCEMENT OF THE PO.**
- 14.2 **THE PARTIES AGREE THAT ALL DISPUTES, ACTION, CLAIM, CONTROVERSIES WHICH MAY ARISE OUT OF OR IN CONNECTION WITH THE INTERPRETATION OR PERFORMANCE OF THE PO SHALL BE EXCLUSIVELY SUBMITTED TO THE RELEVANT JURISDICTION OF THE COMPETENT COURTS OF PARIS (FRANCE).**
15. **MISCELLANEOUS**
- 15.1 These GTCS (and the accompanying PO/Offer/confirmation of sale/ invoice) embody the entire understanding between the Parties and supersede all previous agreements, understandings, or representations whether in writing or orally regarding its subject matter. All agreed addition or modifications to these GTCS shall be made in writing and signed by duly authorized representatives of both Parties, failing which such modifications and amendments shall be deemed null and void.
- 15.2 The PO may be executed in counterparts, each of which shall be deemed an original, but all such counterparts taken together constitute one and the same agreement. An executed copy of the PO transmitted by email or other means of electronic transmission shall be deemed legally enforceable as the original signed copy of the PO.
- 15.3 The invalidity, in whole or in part, of any Section or provision of these GTCS or any PO shall not affect the remainder of such Section or provision or any other Section or provision hereof, which shall remain in full force and effect.
- 15.4 In no event, a Party may assign any of its rights, interests, or obligations under the PO without the other Party's prior written approval. Notwithstanding the foregoing, the Seller may assign its rights and obligations hereunder to any of its affiliates.
- 15.5 The failure of a Party to enforce a provision, exercise a right or pursue a default of the PO shall not be considered a waiver. The express waiver of a provision is to be effective only in the specific instance, and as to the specific purpose, for which it was given.
- 15.6 The Parties' rights and obligations which by their sense and context are intended to survive any termination or expiration of the PO shall so survive, including but not limited to Sections 1, 5, 6, 7, 8, 9, 11, 13, 14, and 15.
- 15.7 Any translation of these GTCS in any other language other than French shall be deemed for courtesy purposes only. In case of discrepancy of the courtesy translation with respect to the French version the latter shall prevail.