

## GENERAL DELIVERY TERMS

### I.

#### General Provisions

These general delivery terms apply to the sale of goods and equipment (hereinafter "Goods" and "Equipment") by Messer Technogas s.r.o. (hereinafter "MTe") to customers, as well as to the installation, commissioning and maintenance of Equipment by MTe in connection with deliveries of Goods by MTe to customers, with the exception of sales of Goods made based on Framework Purchase Contracts concluded between MTe and the customer. Other terms and conditions, oral agreements or amendments, revocation and supplementation of the existing terms are only valid if they are confirmed in writing by both contracting parties.

### II.

#### Delivery Terms

- Individual deliveries of Goods to the customer are made based on written orders of the customer that were confirmed in writing by MTe. In the event an offer is sent by MTe to the customer, this offer becomes an order upon written confirmation from the customer. An order must contain a precisely-defined range of Goods, quantity and the desired delivery date. Orders must be submitted well in advance of the desired delivery date; MTe is not obliged to deliver Goods to customers sooner than three working days after receipt of an order. Offers by MTe can be altered, if they are not expressly designated as binding offers.
- The place of delivery of the Goods to the customer is the MTe sales point, unless the parties agree otherwise. The handover of Goods to the customer is realized through the handover of the Goods directly to the customer or to a carrier designated by the customer for transport to the customer or a carrier designated by MTe. By accepting the Goods the risk of damage to the Goods transfers to the customer. If the customer or the designated carrier does not take the Goods by the deadline specified in the order, MTe fulfills its obligation to deliver Goods to the customer by enabling the customer to take the Goods at the MTe sales point. In such a case, the risk of damage to the Goods is transferred to the customer at the moment MTe enables the customer to receive the Goods.
- With each individual delivery MTe is obliged to hand the customer a delivery note or a handover record.
- In the event MTe undertakes to send Goods to the customer, it will arrange the sending of Goods in the appropriate packaging. The sending of Goods is realized without insurance for the consignment, unless the customer requests insurance for a consignment in an order. The costs of sending and any insurance are paid by the customer and will be billed over and above the purchase price for the Goods. The effects of handing the Goods over to the buyer will occur upon handover to the carrier. The risk of damage to the Goods is transferred to the customer at the moment the Goods are handed over to the carrier.
- At the customer's request specified in an order, MTe is entitled, on behalf of and on the account of the customer, to conclude a transport contract for the carriage of the Goods to the customer's place of business that the customer specified in the order through a contractual carrier of MTe for a price in accordance with the valid transport price list of the selected carrier. The selection of the carrier is up to MTe. The customer, based on an aforementioned request, will authorize MTe to arrange carriage for Goods in the aforementioned manner and is aware and agrees that the price for the carriage will be billed directly to it by the carrier.

### III.

#### Terms of Payment

- MTe is entitled to issue a tax document – an invoice for the purchase price of the Goods after the Goods are handed over. MTe issues a tax document – an invoice for payment for Goods with a maturity of 14 days after the invoice date. The purchase price is paid on the day the relevant amount is charged to the MTe account. Upon handover of Goods for a total purchase price not exceeding CZK 5,000 (including VAT), the customer is obligated to pay the purchase price in cash upon acceptance of the Goods. The customer is only entitled to raise any objections to the amount invoiced for the purchase price fifteen days after receipt of the invoice.
- If the customer defaults on any payment due to MTe, the interest on late payment is agreed at 0.05% per day of delay. If the customer defaults on any payment, MTe is entitled not to make further deliveries, unless the customer pays the price of the Goods delivered in advance, or in cash upon delivery of the Goods.
- MTe is entitled to request the payment of the purchase price in advance, based on an advance invoice. In the event an advance invoice is issued, MTe is not obligated to hand the Goods over to the customer before the customer pays the advance invoice in full.
- MTe is entitled to bill and request from the customer the payment of the ADR charge, tolls and other charges for the Goods, in accordance with MTe's price list valid at the time the Goods are handed over.
- The customer is entitled to set off its receivables from MTe against MTe's receivables from the customer only if they are legitimately recognized by a court.

### IV.

#### Installation, Commissioning and Maintenance of Equipment

- In the event that the installation, commissioning and maintenance of Equipment in connection with a delivery of Goods by MTe to the customer based on an order is not entrusted to MTe, MTe is not liable for any defects caused by incorrect installation, commissioning and/or maintenance of the Equipment caused by non-compliance with MTe's instructions for installation, commissioning and maintenance of the Equipment.
- In the event MTe is entrusted by the customer with checking the commissioning of the Equipment at the customer's place of business, MTe is responsible for the following activities:
  - Check and verification of evident construction and assembly defects;
  - Verification whether the current specifications are in accordance with the Equipment's basic properties;
  - Supervision of the startup of the Equipment;
  - First instruction for responsible employees in relation to use of the Equipment, regular maintenance, repairs and regular checks on functioning of the Equipment.
- In the event MTe is entrusted with the installation, commissioning and maintenance of the Equipment, the customer shall provide MTe with all the necessary co-operation for complying with MTe's obligation related to the installation, commissioning and maintenance of the Equipment.

### V.

#### Liability for Defects

- Unless these terms and/or the pertinent contract concluded between the customer and MTe state otherwise, MTe is liable to the customer for defects in Goods delivered under Section 2099 to Section 2112 of Act No. 89/2012 Coll., the Civil Code, as amended (hereinafter the "CC" or "Civil Code"); the contracting parties have agreed that the provisions of Section 2108 of the CC shall not apply.
- The customer is obliged to inspect the Goods when accepting them. Defects with the quality and quantity of Goods handed over and the technical state of Equipment that could not be ascertained upon handover shall be notified by the customer at the handover point no later than within 3 days of acceptance, otherwise the buyer's rights under such defects in the Goods cease to exist.

- If, according to MTe's findings, Goods are defective, MTe can repair or exchange the defective Goods, as it sees fit. The customer's claims are limited to the purchase price of the delivery in question.

#### VI.

##### **Circumstances Precluding Liability for Damages**

Should a contracting party breach the obligations hereunder, the obligation to pay compensation shall be waived if it can be proven that it was temporarily or permanently prevented from meeting its obligations by an extraordinary, unpredictable and insurmountable obstacle arising beyond its control. Circumstances negating the obligation to cover damages are primarily (but not only) strikes and lockouts, power and transport failures, etc.

#### VII.

##### **MTe's Obligations**

- In the event that, in connection with any delivery of Goods to the customer, MTe is liable to the customer for damage incurred, which is not caused deliberately or by gross negligence, the contracting parties agree that MTe will pay the customer compensation for any damage incurred during each year of the contractual relationship between MTe and the customer at a maximum of the amount of the indemnity from MTe's liability insurance for damage or CZK 50,000, whichever is lower, with the proviso that this amount is also the maximum amount that MTe pays the customer as compensation for a loss resulting from a partial damage event. The contracting parties consider the aforementioned limits to be the maximum foreseeable loss.
- In the event of the customer in any way physically using the Goods supplied by MTe in aviation and aerospace operations, the customer and MTe have agreed to suspend MTe's obligation to compensate for detriment incurred that is not caused deliberately or by gross negligence.

#### VIII.

##### **Other Arrangements**

- In the event of repeated negotiating of the contracting parties' commitment to collect Goods, the orders under these conditions shall be construed as references.
- The Goods remain MTe's property until the payment in full of the purchase price, even in the case of built-in Goods or fixing to the ground. If a third party interferes with MTe's ownership right to the Goods before the payment in full of the purchase price, the customer shall promptly notify and is obliged to provide the necessary support and assistance in protecting its property.
- The customer agrees that, as a subrogor, MTe is entitled to transfer its rights and obligations under a contractual relationship between MTe and the customer in part or in full to a third party. With regards to the customer, subrogation is effective when MTe notifies the customer about the subrogation.
- The contractual relationship between MTe and the customer to which these terms apply and other facts not set out by these terms shall be governed by Czech law, in particular the relevant provisions of the Civil Code.
- When or if any provision of these terms or a contract concluded between MTe and the customer becomes invalid or unenforceable, it shall not affect the other provisions of these terms or a concluded contract, which shall remain in full force and effect unless the law provides otherwise.
- Both contracting parties regard the contents of these terms and all contracts concluded between MTe and the customer as confidential and undertake to maintain confidentiality about their content regarding third parties, even after the termination of the contractual relationship between MTe and the customer. Providing information requested by the authorized bodies is not considered a breach of confidentiality.
- Unless a contract states otherwise, any notices or other correspondence that are required or permitted under these terms shall be carried out in writing and shall be deemed duly delivered if delivered personally or 7 days after dispatch by registered mail or with a return receipt and addressed to the addresses of the contracting parties listed in an order or to another address, as specified in a contracting party's written notice delivered to the other contracting party pursuant to this provision.
- If any MTe offer to conclude any contract is accepted by the customer with any amendment or deviation, including amendments or deviations that do not significantly alter the content of the offer to conclude a contract, MTe, in accordance with Section 1740 (3) CC, precludes the acceptance of the offer with the amendment or deviation and the concluding of a contract.
- Any other terms and conditions or similar documents that were not accepted expressly and in writing by MTe, including the customer's business conditions, are not a part of any contract concluded between MTe and the customer and shall not be applied to the contractual relationship between the MTe and the customer. In accordance with Section 1751 (2) CC, MTe excludes the conclusion of any contract between MTe and the customer in the event that the customer attaches its terms and conditions to a proposal for the conclusion of a contract or order, unless MTe expressly accepts the customer's terms and conditions in writing.
- The customer acknowledges that MTe processes their personal data specified in the contract and other information specified in the Information Notice regarding processing of personal data (hereinafter the "Information Notice") for purposes of this contract and other purposes specified in the Information Notice. By accepting these general delivery conditions the customer confirms that they accept the Information Notice which forms an annex hereto. The provisions of this paragraph apply only to natural persons.
- MTe hereby, in accordance with Section 14 of Act No. 634/1992 Coll., on consumer protection (hereinafter the "Act"), informs a customer that is a consumer that, in the event a dispute arises between MTe and a customer that is a consumer, the entity that has jurisdiction for the extrajudicial resolution of such consumer dispute under Section 20d et seq. of the Act, concerning Goods or services of MTe and arising under a purchase contract or a contract on provision of services concluded between MTe and a customer that is a consumer, is the Czech Trade Inspection Authority, website: [www.coi.cz](http://www.coi.cz)

#### IX.

##### **Code of Conduct for Business Partners**

In the event of MTe is committed to high standards of integrity and has defined these along with its values and principles in the Messer Code of Conduct. MTe expects all its customers to help fulfill this commitment by actively supporting and respecting Messer's values and principles. Customers therefore commit to adhere to [Messer's Code of Conduct for Business Partners](#). Both the Messer Code of Conduct and the Code of Conduct for Business Partners describe key elements that MTe considers particularly important in its business relationships and form an integral part of this agreement. Link to the full text of the document: [www.messer.cz/compliance-kodex-obchodni-partnery-messer](http://www.messer.cz/compliance-kodex-obchodni-partnery-messer).

**INFORMATION NOTICE REGARDING PROCESSING OF PERSONAL DATA FOR BUSINESS PARTNERS OF MESSER TECHNOGAS S.R.O.**  
provided in accordance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data ("GDPR")

**Controller of personal data**

The controller of your personal data is **Messer Technogas s.r.o.** Co. ID No. 40764788, registered office: Zelený pruh 99, no. 1560, 140 00 Prague 4, entered in the the Commercial Register kept at the Municipal Court in Prague, Section C, Entry 3638 (hereinafter the Controller)

**Contact information for the controller:** [www.messer.cz](http://www.messer.cz)

**e-mail:** [osobniudaje.cz@messergroup.com](mailto:osobniudaje.cz@messergroup.com)

**Scope of personal data processing:** Without the consent of the business partner as the data subject, the controller processes personal data in the following scope: i) identification and contact data (name and surname/company, date of birth, home/registered address, e-mail address, phone number), bank account, Company Id. No and Tax Id. No.) ii) data following from the contractual relationship (order history, leased packaging account, etc.) The controller does not process any personal data on the basis of consent of the business partner.

**Purpose and method of personal data processing:** Without the consent of the business partner as the data subject, the controller may process the above specified data for the following purposes: i) meeting business contracts and relationship; ii) meeting legal obligations regarding the business activities of the controller; iii) protection of rights and justified interests of the controller (namely property rights of the controller); iv) CRM (Customer Relationship Management) and internal reporting.

**Consequences of not providing personal data:** The provision of personal data is voluntary. However, if the business partner does not provide the required personal data, they cannot be identified as a contractual party and the framework agreement therefore cannot be concluded.

**This parties that may be provided your personal data:** Your personal data may be provided to third parties in relation to the performance of legal obligations, upon request from state administration bodies or in order to execute the rights and justified interests of the controller. Personal data may also be provided to processors who provide partial activities within data processing, namely IT, for the controller. The main processor is Messer Information Services GmbH.

**Transfer of personal data abroad:** Personal data are transferred for processing only within the EU.

**Duration of personal data processing:** The controller processes personal data for the duration of the contractual relationship and for 10 years after its termination or the last service provision, whichever occurs later, yet at least until mutual rights and obligations are settled. Personal data processed for purposes of legal obligations are processed as long as required by the relevant legal regulation

**What are your rights and how can you exercise them?**

You have the following rights in relation to processing of personal data:

**Right to access:** At any time can you ask us for a confirmation of whether your personal data are or are not processed and if they are, in what scope, for what purpose, who has access to these data, how long they will be processed by the controller, whether you have the right to rectification, erasure, restriction or to object, where we obtain the data and whether automatic decisions are made during the processing of your data, including profiling. You are also entitled to make copies of your personal data, whereas the first copy is for free and the controller may charge a reasonable administration fee for any additional copies.

**Right to rectification** You have the right to ask the controller to correct or complete your incorrect or incomplete personal data.

**Right to erasure:** The controller is obligated to erase your personal data if (i) they are no longer required for the purposes for which they have been collected or otherwise processed, (ii) their processing is illegal, (iii) you raise an objection against processing such data and there are no overriding legitimate grounds for the processing, or (iv) we are required to do so by a legal regulation.

**Right to restriction of processing:** Until the controller resolves any issues regarding the processing of your personal data, they are required to restrict the processing of your data to only storing the data or using them in order to determine, execute or defect legal claims.

**Right to object:** You have the right to object against processing of your personal data processed by the controller on grounds of a justified interest.

**Right to file a complaint at the supervisory authority:** You have the right to file a complaint the The Office for Personal Data Protection if you believe the processing of your data was in conflict with GDPR.

You can also send any questions or suggestions regarding the processing of personal data and application of rights of a business partner in writing to the collector's address or by email at: [osobniudaje.cz@messergroup.com](mailto:osobniudaje.cz@messergroup.com).

**Securing of personal data:** The controller has implemented organizational and technical measures to ensure maximum protection of processed personal data against unauthorized access or transfer, their damage or loss and any misuse. All persons who have access to personal data within their work and contractual obligations are bound by legal or contractual non-disclosure obligation.

**Final provisions:** This information notice enters into effect on 25 May 2018. The information notice is available at [www.messer.cz](http://www.messer.cz), ("Personal data protection" tab).

May 25, 2018 Prague