

PROCEDURE FOR IDENTIFYING AND REVIEWING REGULATED AND NON-REGULATED RELATED-PARTY AGREEMENTS

(Approved by the Board of Directors on December 19, 2019)

INTRODUCTION

This procedure has been drawn up pursuant to the provisions of Article L.225-39, paragraph 2 of the French Commercial Code (*Code de commerce*) as amended by Act 2019-486 of May 22, 2019 on business growth and transformation (the “Pacte” Act).

Its purpose is to give a brief overview of the framework governing regulated related-party agreements and to describe the procedure for identifying them and distinguishing them from non-regulated or “arm’s length” agreements, which are subject to regular review under the Pacte Act.

This procedure was approved by the Company’s Board of Directors on December 19, 2019.

A) DEFINITIONS

The purpose of the Pacte Act is to prevent conflicts of interest in business and to dissuade directors or major shareholders of a company from entering into a contract with the company in order to obtain rights or benefits that could be prejudicial to the company’s interests.

i. Regulated agreements

Regulated agreements are those referred to in Article L. 225-38 of the French Commercial Code, and include:

Agreements entered into directly or through an intermediary between **MERSEN SA** and:

- one of its corporate officers (chief executive officer, deputy chief executive officers, directors);
- a shareholder holding over 10% of the voting rights (or, in the case of a corporate shareholder, the company that controls it within the meaning of Article L. 233-3 of the French Commercial Code);

or any agreements in which one of the persons referred to in points one and two above has an indirect interest.

"A person not party to an agreement is considered to be indirectly involved in that agreement if, by virtue of his or her links to the parties and of his or her powers to influence their conduct, he or she derives or is likely to derive a benefit from it." (AMF Recommendation 2012-05).

- another entity of which the Chief Executive Officer, a Deputy Chief Officer or a director of **MERSEN SA** is the sole proprietor, unlimited partner, legal manager, director or, generally, an executive officer

ii. Non-regulated agreements

Non-regulated agreements are compulsorily entered into both in the ordinary course of business and on an arm's length basis.

They are not subject to prior authorization as defined in Article L. 225-38 of the French Commercial Code. However, they must be reviewed regularly to ensure that they continue to pass the ordinary course of business and arm's length test in light of current case law and CNCC guidance (French National Institute of Statutory Auditors).

➤ Ordinary course of business

“Ordinary course of business” refers to routine transactions carried out by the Company on a regular basis in the ordinary course of its business, in particular with regard to its corporate purpose.

The following factors should be considered when assessing whether a transaction is in the ordinary course of business:

- whether it is routine and repetitive in nature;
- the type of transaction and its duration;
- the circumstances and reasons for entering into the agreement;
- the legal substance or economic consequences of the transaction;
- the usual practices for companies in a similar position.

➤ Arm's length

“Arm's length” transactions refers to transactions carried out on the terms habitually practiced by the Company in its dealings with non-related parties, such that the other party to the agreement does not derive a benefit that could not be obtained by a non-related party.

The terms¹ routinely applied by other companies with the same business activity should also be considered when assessing whether an agreement is at arm's length.

Whether or not a transaction is at arm's length is assessed by reference to:

- its financial terms: the price must be a market price or a price routinely practiced by companies in the same business sector;
- more generally, its legal terms must be balanced and customary for the type of transaction.

Examples of non-regulated agreements:

- trademark licenses;
- intra-group support services (IT, legal, financial, HR, etc.) entered into on an arm's length basis;
- tax consolidation agreements;
- cash management agreements.

iii. Prohibited agreements.

Some agreements are strictly prohibited. Directors who are not legal entities, executive officers and their spouses or lineal ascendants and descendants may not under any circumstances obtain an overdraft facility from the Company or a current account facility or a guarantee for a commitment to a third party.

¹ Mainly purpose, price, payment terms and guarantees.

B) PROCEDURE FOR IDENTIFYING AND REVIEWING NON-REGULATED AGREEMENTS

This procedure does not apply to agreements between MERSEN SA and Group companies that are directly or indirectly wholly owned² by MERSEN SA, which are by their very nature excluded from the regulated agreements referred to in Article L. 225-39, paragraph 1 of the French Commercial Code.

In practice, this only applies to agreements between MERSEN SA and joint ventures in which it holds a direct or indirect interest.

i. Identifying agreements and annual review

The Finance and Legal Departments review all proposed related-party agreements on a case-by-case basis to determine whether they qualify as regulated agreements, are agreements with a wholly owned² subsidiary, or satisfy the ordinary course of business and arm's length test described above.

They then notify the Audit Committee or, as applicable, the Appointments and Remuneration Committee of all agreements they consider to be regulated, for review and approval by the Board of Directors.

Each year, before the financial statements for the prior year are signed off, the Finance Department provides the Audit Committee with a list of non-regulated agreements between MERSEN SA and subsidiaries that are not wholly owned together with any comments.

If, during its annual review, the Audit Committee believes that an agreement previously considered as non-regulated no longer satisfies the requisite conditions, it refers the matter to the Board of Directors. If necessary, the Board will reclassify it as a regulated agreement, ratify it and submit it to the next shareholders' meeting for ratification based on a special report prepared by the Statutory Auditors, in accordance with the provisions of Article L.225-42 of the French Commercial Code:

ii. Abstention of persons with a direct or indirect interest

Any person with a direct or indirect interest in an agreement may not take part in its review or, where applicable, in any discussions and votes on its authorization, in the following cases:

- the review of an agreement by the Board at its own initiative;
- the Board's reclassification of an arm's length agreement as a regulated agreement.

iii. Report on the annual review

The annual corporate governance report contains a description of this procedure and its implementation.

² Less, as applicable, the minimum number of shares required to satisfy legal requirements.

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