

Terms of supply

Spare parts



I. General information

1. These terms of supply are valid for spare parts for MIKRON machines, if not otherwise expressly agreed in writing. Different or additional conditions requested by the buyer will only be valid if expressly accepted in writing by MIKRON. Execution of the delivery by MIKRON does not signify acceptance of other terms of the buyer. MIKRON considers the buyer's acceptance of the supply as acceptance of these terms of supply, even in the event that the buyer has expressly contested them in the past or has made reference to other terms in his order.
2. In the absence of other agreements, the "General conditions covering the sale and assembly of machines" apply to the supply of machines and accessories; the "Terms of assembly" and MIKRON price lists in force at the time of supply apply to assembly work.
3. For products and services in the "Product Support" and "Business Support" service levels the corresponding supplementary contracts apply, which have priority over the present terms of assembly.
4. The contract conditions, including those cited herein, are to be found in the home page of Mikron Holding, website www.mikron.com.

II. Drawing-up the contract

1. All of the legally relevant agreements and clarifications existing between the contracting parties must be drawn-up in writing, penalty their nullity, and will only be legally valid when received by the counterpart. Only written agreements will be binding for the agreed supply of goods and services and they substitute any promises that may have been made regarding such parts. Offers will only be considered binding if designated as such.
2. The documents included in the offer are purely indicative for the client and must not be considered as an agreement of the characteristics or as acceptance of a guarantee concerning the characteristics of the goods or services described and must not be transmitted to third parties.

III. Extent of supply

1. The supply of goods and services by MIKRON are definitively defined and detailed in the offer.
2. Deliveries are only carried out during MIKRON office hours. Partial deliveries are allowed.
3. MIKRON is authorised to carry out technical improvements as long as they do not cause a reduction in the performance or an increase in price.
4. Any requests from the buyer for modifications and/or variations must be submitted in writing. MIKRON reserves the right to accept the customer's request after checking for feasibility of the modifications and/or variations. The costs and charges necessary for making the modifications and/or variations shall be borne exclusively by the buyer. The parties shall determine the new installation completion date duly taking into account the times required for implementing the modifications and/or variations.

IV. Special parts, provisions and safety regulations in the destination location

1. All MIKRON spare parts conform with applicable regulations in force in the European Union. In the event of supplies outside of the EU or special parts, the buyer must inform MIKRON in writing, no later than the date in which the order is awarded, of any different rules and regulations. Any change requests submitted in good time will be carried out by MIKRON at the cost and risk of the client, as long as operational safety is maintained.
2. If the buyer fails to inform MIKRON of different rules and regulations in force or of the necessity to supply special parts or gives false information at the time in which the order is awarded, the buyer must bear the cost of any modifications, subsequent supplies or other corrective action that MIKRON may have to provide for. If the buyer employs a third party to make any modifications, MIKRON will no longer have any responsibility and the warranty will cease to be valid. In all cases, MIKRON will not be responsible for defects in conformity already known by the buyer or defects which the buyer could not have ignored when concluding the contract.

V. Prices and payments

1. Unless otherwise agreed, all MIKRON supplies will be invoiced at prices in conformance with the price list in force with MIKRON at the time of delivery.
2. In the absence of agreements regarding the applicable INCOTERM (2000 edition) clause, all prices are excluding packing, without value added tax, with delivery terms ex. our works and without assembly costs or extra expenses of any kind. The buyer will bear the costs of insurance and packaging, customs charges, taxes, expenses of any kind incurred outside of the country of manufacture and related to the supply; if MIKRON is asked to pay for any of these things, the cost must be reimbursed to MIKRON against presentation of the corresponding justificatives.
3. If not otherwise agreed and if established in the order confirmation, all expenses related to credits, bank guarantees, money collection, collection of documents, bill stamps etc. will be paid for by the buyer.
4. If not otherwise agreed in writing, the purchase price must be paid by the buyer to MIKRON without any deduction and in the currency in force with MIKRON, at the latest at the time in which MIKRON advises that the goods are ready for despatch.
5. In the event of partial deliveries, corresponding partial payments will be due.
6. If no advance payment was made, 10 days after the goods are despatched the buyer will fall into arrears with no further warning. The buyer who is in arrears with payments must pay interest on the amount due at the standard bank interest rate plus three percentage points starting from the agreed date of expiry. MIKRON are also released from fulfilling their commitments until the arrears have been paid.
7. If MIKRON is informed of a substantial deterioration in the client's economical situation or if detrimental factors arise concerning the client, they may request advance payment or guarantees, for the full amount or part of it, or rescind the contract and keep the advance payments received from the buyer by way of compensation for the service or

part of it already rendered, without prejudice to the demand for compensation for any damages suffered.

8. The buyer is not permitted to retain payments or compensate any set-offs contested by MIKRON or to claim retaining rights on the supply or related to the supply.
9. The partial payments made do not accrue interest and their deposit does not consist in a penalty authorising the buyer to rescind the supply contract.
10. If the buyer fails to honour payment of the instalments in credit agreements within the due dates, all of the remaining credit will become due immediately.

VI. Risk transfer, insurance, acceptance

1. The supplies are carried out in accordance with the agreed INCOTERM (2000 Edition) clauses. If not otherwise agreed, the risk for the object sold is transferred to the buyer at the same time in which the advice that the goods are ready for despatch is sent. This also applies if the despatch is delayed upon request of the buyer or for other reasons not caused by MIKRON.
2. From the moment of risk transfer the buyer must insure the supply, which will be stored by MIKRON on behalf of the buyer but at the buyers risk and peril.
3. The objects delivered must be accepted by the buyer irrespective of any warranty rights. The buyer is bound to check the packaging on receipt of the goods, ensure proof and immediately report any visible defects to MIKRON in writing. If the above-mentioned procedure is not followed, the supply will be considered accepted in relation to the condition and completeness.
4. If the packaging is damaged, the buyer must adopt all necessary measures to prevent further imminent damage and to limit any damage already caused. The loss or deterioration of the goods after transfer of the risks to the buyer shall not exempt the latter from payment of the price.

VII. Terms of delivery

1. The contractually agreed date never starts before the production of all of the approvals, the permissions and authorisations, before complete receipt of all of the buyer's data and documents necessary for completing the contract (in particular the technical specifications, the data regarding the power supply, etc.) and in any event not before the receipt of a partial payment that may have been agreed on and the presentation of a payment guarantee in conformance with the contract.
2. The terms of delivery are considered to have been respected if, by that date, the ready for despatch or acceptance note has been sent.
3. MIKRON is only bound to respect the date of delivery if the buyer has complied with all of the commitments deriving from the contracts stipulated with MIKRON. The date of delivery will be proportionally extended when the buyer is in moratorium with the fulfilment of his commitments. In the event of failure in payment, MIKRON reserves the right not to proceed to the delivery of the product under the contract until full payment of the amount due, or to rescind the contract and keep the advance payments received from the buyer by way of compensation for the service or part of it already rendered, without prejudice to the demand for compensation for any damages suffered.
4. The date of delivery will be suitably extended in case of impediment owing to force majeure or exceptional circumstances, or when obstacles arise that are out of MIKRON's control, whether they may occur with MIKRON, the buyer or third parties. These types of obstacles include epidemics, mobilization, events of war, revolts, industrial unrest, natural events during operation, institutional provisions, bans on import, export, transit, etc. The consequences and deriving costs shall be subdivided in proportion to the damage incurred by both parties. The beginning and end of significant impediments will be communicated to the buyer by MIKRON in the shortest time possible.
5. In the event of delayed delivery, in principle the buyer has no right to compensation for damages or the resolution of the contract. If the delay is due to a serious fault by MIKRON, the buyer is authorised to request, on the delayed parts of the supply, compensation for direct damage (with the exclusion of further rights or consequent damages). This amounts to 0.25% for every complete week of delay, or a maximum of 5% of the value of the part of the supply or on the entire supply that, due to the delay, was not delivered in conformance with the contract. No penalties will be paid for the first four weeks of delay.
6. No penalties will be paid for delays in deliveries from third party suppliers prescribed by the buyer.
7. If the delivery is delayed due to causes attributable to the buyer, the buyer must still make the payments on the basis of the terms of delivery foreseen originally. In such an event MIKRON will be authorised to store the supply and may invoice a storage fee of 0.5% of the sales price per month. MIKRON is authorised to request increased prices, supplying suitable justificatives.
8. Every time that the buyer is late in fulfilling his contractual commitments, MIKRON is authorised, in addition to exercising his rights in accordance with figure VII.7, to use the supply for other ends and/or supply the buyer within a suitably extended delivery date and/or to rescind the contract and request compensation for damages suffered from the breach of contract. Damage is considered to be an amount equal to 20% of the order value; further damage must be demonstrated. Damages will be compensated using the partial payment made. This rule also applies in the event of cancellation of an order already in execution.

VIII. Warranty, responsibility for defects

1. The warranty, sub-section VIII 6, presumes that spare parts will be assembled by MIKRON or by MIKRON authorised technical staff, and that any defects are immediately reported to MIKRON in writing.
2. If the client omits to present an immediate written report, the work carried out by MIKRON and/or the parts supplied by them will be considered as accepted, excluding cases in which the defect was not visible at the time of inspection.
3. The warranty period is for 12 months or 2500 hours of operation. This starts from the date in which MIKRON gives the ready for despatch note:

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a) of the machine under the original sales contract or else

b) of the spare parts to be supplied once the warranty period for the machine under the original sales contract has elapsed.

In all cases, the warranty period shall start, at the very latest, from the date of the buyer receiving the goods under the supply. If despatch, acceptance and assembly are delayed for reasons not attributable to MIKRON, the warranty period expires in any case 18 months after the date in which the goods ready to be despatched note was sent.

4. For parts substituted or repaired the warranty period starts afresh and lasts 6 months from the date of substitution, conclusion of the repair or the acceptance, unless the original warranty period has a longer remaining time.
5. The warranty ceases to be valid in the event that the buyer or third parties assemble, use or modify the spare parts either improperly or irregularly or they carry out repairs or if they do not give MIKRON the possibility to take action to eliminate the damage. The buyer must also take action to prevent the damage from worsening.
6. MIKRON undertakes, on written request from the buyer, to repair or substitute in the shortest time possible, at their own choice, spare parts that within the warranty period become defective or unusable due to poor material or defective execution, if such facts can be demonstrated.
7. Particular suitability of use or the promise of a determined functionality are only guaranteed if such a guarantee is issued contractually or expressly and directly and if it enters within the scope of proper use of the machine and its accessories. The guarantee applies at the most until the end of the warranty period. If the operational characteristics are not satisfied or are only partially satisfied, the buyer only has the right to immediate repair by MIKRON. For this purpose the buyer must concede MIKRON with the chance and the time necessary.
8. The warranty does not cover damages that cannot be proved to be due to the use of poor materials, bad construction or defective execution, for example those caused by natural wear, improper maintenance, failure to comply with the instructions for use and/or safety regulations, excessive loads, improper means of operation, chemical or electrolytic agents, assembly or construction work not carried out by MIKRON or their sub-suppliers and damage deriving from other causes not attributable to MIKRON.
9. For the supply of goods and services from sub-suppliers prescribed by the buyer, MIKRON is only responsible for warranty commitments of the latter.
10. The contract and the "extension of the warranty to 24 months" formula does not include, in the warranty, those prices subject to normal wear and tear such as, for example without this being intended as limited, cam followers, belts, clamping jaws as well as collets. In all cases, the warranty period of the spindles remains for the duration of 12 months or 2500 running hours, and shall take effect from the goods ready for despatch note regarding the machine according to the original sales contract by MIKRON and in all cases, within and not beyond the date of the buyer receiving the machine.

IX. Conclusive regulations regarding compensation

1. All cases of breach of contract and the relative legal consequences as well as all of the buyer's rights, whatever the legal reason is that they are based on, are definitively regulated by these terms of supply. In particular, all rights to compensation for damages, reduction, termination, cancellation or rescission of the contract that are not expressly mentioned are excluded.
2. In any event the buyer has no right to compensation for damages of any type that are not directly related to the subject of the supply, including suspension of the production, deprivation of enjoyment, loss of orders, loss of profit and other direct or indirect damages.
3. This exclusion of guarantee also applies to cases of malice or serious fault of the auxiliary personnel and in cases in which, according to the law regarding product responsibility, in the presence of errors in the object of the supply no responsibility is foreseen for damage to people or things for objects destined for private use. This exclusion of responsibility does not apply to cases of malice or serious fault of MIKRON.

X. Breach of contract by MIKRON

1. The buyer can only rescind the contract before the transfer of risk if MIKRON is definitively unable to supply the whole service and if for this reason the buyer has a justified interest in refusing the complete supply of these products. Otherwise, the buyer may request the proportional reduction in value of the counter-supply after providing MIKRON with due proof of the damage suffered.
2. If MIKRON incurs delays and if the buyer, after the agreed date of delivery has elapsed, has conceded various extensions of at least 14 weeks together with the explicit declaration that, in the event that the delivery date elapses fruitlessly, the supply will not be accepted, if the last extension is also not respected, the buyer will be authorised to rescind if the object of the supply does not fulfil the contractually agreed supply. However, if the object of the supply essentially fulfils the supply agreed, MIKRON will only be bound to compensate for damages for a maximum of 10 percent of the price contractually agreed for the object in question.
3. In the event that the buyer rescinds, they have a right to compensation for direct damages that they can prove to have suffered, accounting for the obligation to reduce the damage by the substitution of goods. If the rescission is not caused by malice or severe fault of MIKRON, further rights to compensation of damages are excluded.

XI. Software

1. If the extent of the supply also includes the supply of software, the non-exclusive right to use the software supplied is conceded to the client, including the relative documentation. This right is conceded for exclusive use only for the object of the supply. It is forbidden to use it for more than one system. It is forbidden to concede sub-licenses.
2. The client may only reproduce, re-elaborate, translate the software or convert the object code to source code for uses permitted by the law. The client must not remove the manufacturer's indications, in particular the copyright references, and must not modify them without explicit prior consent from MIKRON.

3. All other software and documentation rights, copies included, are the property of MIKRON or the software supplier.

XII. Validity

1. In the event that the single provisions of these conditions are null or if there are any omissions in these conditions, the validity of the other provisions will remain valid. In the event of the nullity of a provision, both parties will try to commonly agree to find another regulation that comes closest to the objectives pursued by these terms.

XIII. Place of jurisdiction

1. This contractual relationship is governed exclusively by Swiss law.
2. Swiss law is applicable. The place of jurisdiction is Lugano.

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