

Terms and conditions for fitting work

- 1. Validity**
 - 1.1 On request, Mikron makes its fitting service available to perform commissioning, demonstration, overhaul and repair work on products delivered by Mikron.
 - 1.2 These General terms and conditions for fitting work apply to all work and services performed or provided by or on behalf of Mikron outside the Mikron business premises for the purpose of installation, commissioning, overhaul or repair of machinery and equipment. These conditions are binding in all cases if they were declared to be applicable when the Contract was concluded and save where Mikron has expressly agreed to different conditions in writing.
 - 1.3 Any commitments given by fitting personnel to the Client or to third parties for Mikron are binding only if they are in accordance with the Contract of sale or with the fitting Contract or have been confirmed in writing by Mikron.
 - 1.4 In addition to these Terms and conditions for Fitting work, the General conditions of sale and supply for plant and machinery of Mikron likewise apply (with particular reference to the guarantee, acceptance etc.).
- 2. Fitting charge rates**
 - 2.1 Mikron personnel are made available on the following conditions:
 - Travel and normal working hours: as per quotation.
 - Overtime and evening work: 25% supplement.
 - Night work: 50% supplement.
 - Work on Saturdays: 25% supplement.
 - Work on Sundays: 50% supplement.
 - Travel costs: see section 7 below.
 - Accommodation and subsistence expenses: according to Mikron rules on expenses.
 - Reimbursement of ancillary costs: according to Mikron rules on expenses.
 - 2.2 The above rates apply in normal circumstances. If unforeseen additional costs are incurred or if personnel demonstrably cannot cover their expenditure by applying the stated rates, these rates will be subsequently corrected. Index-linking is reserved.
- 3. Travel time**
 - 3.1 Travel time is the time needed for the outward and return journey to and from the fitting site and to occupy the accommodation and also time spent on travel between the place of accommodation and subsistence and the place of the fitting work, if they are separated by a significant distance.
- 4. Working time**
 - 4.1 The normal working time is 40 hours a week. Where a shorter timetable has to be respected for reasons not attributable to Mikron, the normal working time will still be invoiced as Mikron personnel are paid for this number of hours.
- 4.2 Overtime means working hours between 06.00 and 20.00 put in over and above the normal working hours.
- 4.3 Night work means working hours between 20.00 and 06.00.
- 4.4 Saturday work means working hours put in on Saturdays, while Sunday work denotes working hours on Sundays and cantonal holidays between midnight and the following midnight. The staff of Mikron has been instructed not to perform work on Sundays and public holidays except in urgent cases in agreement with the Customer and with our own approval.
- 5. Waiting time**
 - 5.1 Where fitting personnel are prevented from performing their work for reasons not attributable to Mikron or are retained after the completion of the fitting work, the resulting hours shall be regarded as waiting time and billed as normal working hours. The same provision applies to working hours necessitated by cantonal holidays.
- 6. Leave**
 - 6.1 The leave dates and the corresponding wage and travel costs must be agreed separately.
- 7. Travel costs**
 - 7.1 Travel costs comprise the outward and return travel price, together with local travelling expenses at the place of fitting, freight, insurance and customs duties for baggage and tools and if necessary also the costs of obtaining identity papers, protective vaccinations etc. necessitated by the circumstances prevailing in the country in which the fitting work is performed. Travel in Switzerland is normally effected by car and in other countries by car, railway, aircraft or ship. For railway journeys, 1st class tickets will be billed with a supplement for a 2nd class sleeping car if overnight travel is necessary. For travel by air and ship, we invoice the economy class unless special circumstances make the use of a higher class necessary. Travel with our company cars or using a personal vehicle is covered by our in-house cost and reimbursement rates.
- 8. Subsistence expenses**
 - 8.1 Subsistence costs comprise the payment of meals plus ancillary costs (beverages served with meals, gratuities, laundry, and petty cash), commensurate with the professional status of the person concerned.
 - 8.2 If the accommodation and subsistence are provided by the Customer – by prior agreement with Mikron -, he must pay the fitting personnel a daily allowance equivalent to about 30% of the normal local daily rates in the local currency to cover the ancillary costs.
- 9. Illness and accident**
 - 9.1 Mikron fitters are insured against illness and accident under Swiss law.
- 9.2 In the event of illness or accident (non-occupational or occupational accident not attributable to a fault on the part of the Customer), Mikron is responsible for paying the replacement salary and the expenses of health care; in other cases, the Customer is required to pay. The Customer must take the necessary protective measures at the fitting site to prevent accidents and if necessary, arrange for the admission of the person who is ill or the victim of an accident to a hospital run on modern principles and inform Mikron without delay.
- 9.3 If repatriation of the person who is ill or the victim of an accident becomes necessary, the related costs and the travel costs of a replacement (see section 7 above) will be borne by Mikron unless the event is attributable to a fault on the part of the Customer.
- 10. Taxes and equivalent charges**
 - 10.1 Where a tax liability of any kind whatsoever arises in the country in which fitting work is performed on the occasion of the secondment of fitters, or if any obligation is incurred to pay charges of any kind, the relevant taxes and charges are to be paid by the Customer.
- 11. Regulations at the destination**
 - 11.1 The Customer must call the attention of Mikron to the statutory, official, and other regulations applicable on site, which relate to the performance of the fitting work and to plant operation and the avoidance of illness and accidents.
- 12. Preparatory work**
 - 12.1 Mikron supplies dimensioned drawings of the ordered objects free of charge on the basis of which the Customer must prepare professionally and at his own expense the necessary place of installation with all the connections. To enable fitting work to begin and continue unimpeded as soon as the Mikron personnel arrive, the products supplied by Mikron and the materials and appliances needed for fitting work and to be delivered by the Customer must be brought to the place of use in time and all the necessary preparatory work must have been fully completed.
 - 12.2 The Customer shall obtain at his own expense all the necessary residence, work and other permits for the fitters. He must also take out the special insurance prescribed at the place of Installation at his own expense.
- 13. Assistants, tools, aids and installation materials**
 - 13.1 Mikron makes available to its personnel the hand tools required for fitting work. For the safe keeping of his equipment, the fitter must have access to a lockable room. Insurance against theft, fire and water damage is a matter for the Customer. On completion of the fitting work, the tools and objects made available by Mikron must be returned by the Customer carriage paid to Boudry station.

- 13.2 The Customer must on request make available at his own expense to the Mikron fitters assistants, lifting tools and any other tools and materials that may be needed. The Customer shall have full responsibility for accidents, the sequels of accidents and material damage caused by the insufficient quality of the aids made available by him or caused by his own staff. Where special allowance must be made for other operations, the Customer must call the express attention of Mikron staff to this fact.
- 14. Fitting period**
- 14.1 A time limit for the completion of fitting work is binding only if it has been expressly confirmed in writing by Mikron. This period begins to run as soon as the fitting personnel start their journey when they are called by the Customer; it shall be deemed to have been respected if the fitted equipment or equipment are ready for operation when it comes to an end.
- 14.2 The fitting period shall be extended appropriately:
- if Mikron does not receive in good time the information needed for the performance of the fitting work or if the Customer subsequently amends such information, thereby delaying the fitting work;
 - if obstacles occur which are beyond the control of Mikron, regardless of whether they are attributable to Mikron, the Customer or to a third party;
 - if the Customer is late in the performance of the work which is his responsibility or in discharging his contractual obligations, in particular if he fails to meet the payment terms or makes insufficient or unsuitable assistants or insufficient aids available.
- 14.3 A contractual penalty for late completion of fitting work must be the subject of a special written agreement. It may only be enforced if the late performance is demonstrably due to a fault of Mikron and the Customer can provide proof of prejudice.
- 14.4 The Customer has no entitlement to any compensation or cancellation of the Contract on grounds of late completion of fitting work.
- 15. Verification and acceptance of fitting work**
- 15.1 The installed equipment or equipment are ready for acceptance when they are fit to perform useful work. This likewise applies if insignificant components are missing, reworking is necessary, or the assembled equipment and equipment cannot be brought into service for reasons that are not attributable to Mikron.
- 15.2 As soon as notification is given to the Customer that the assembled equipment or equipment are ready for acceptance, he must immediately check the fitting work in the presence of the responsible fitting manager and notify any defects to Mikron in writing without delay. If he fails to do so, the fitting work shall be deemed to have been approved.
- 15.3 If fitting work proves on acceptance not to have been performed in the contractual manner, the Customer must give Mikron an immediate opportunity to remedy the defects as quickly as possible. If this repair proves unsuccessful or only partially successful, the Customer shall only be entitled to a reasonable price reduction.
- 15.4 No right of the Customer to any compensation or cancellation of the Contract on grounds of defective fitting work can be entertained.
- 16. Work beyond the scope of the Contract**
- 16.1 The Customer shall not use the fitting personnel to perform work that is not covered by the fitting Contract without the written authorization of Mikron.
- 17. Guarantee**
- 17.1 When fitting work is performed after deliveries by Mikron, the latter guarantees professional and careful performance of the work entrusted to it. The duration and content of the warranty shall be determined by the provisions of the delivery Contract or of the General conditions of sale and supply for plant and machinery of Mikron.
- 17.2 In all other cases, Mikron undertakes to perform the work carefully but accepts no guarantee for doing so.
- 17.3 Any entitlement of the Customer to any compensation or termination of the Contract on grounds of defective work is excluded.
- 18. Liability**
- Mikron undertakes to perform the fitting work in compliance with the Contract and to meet its warranty obligations (see Section 17 above). It declines all further liability to the Customer for secondary damage and damage to assets of all kinds, e.g. for loss of production, loss of use, loss of orders, loss of profit, for failure to perform or effective breach of Contract or any compensation claims made to seek redress and all other direct and indirect damages, subject, however, within the liability included in the Mikron GTC Plant.
- 19. Additional provisions for fixed price fitting work**
- 19.1 If the Customer wishes fitting work to be performed at fixed prices (fitting at agreed prices or at a flat-rate), a special written agreement must be reached. However, in this case too, the above General terms and conditions for fitting work shall apply, unless they are expressly excluded.
- 19.2 The flat-rate price only covers the contractually specified services. It presupposes unimpeded performance of the work, completion on time of the preparatory work to be performed by the Customer (see section 12) and the availability of a sufficient number of suitable qualified assistants, tools, aids and installation materials (see section 13).
- 19.3 If a flat-rate price is agreed for the fitting work, it shall be based on the normal working time stipulated in section 4.1. If the personnel have to respect a shorter working timetable, the resulting extension of the fitting time including daily expenses shall be charged to the Customer. The Customer shall likewise be billed if the fitters are impeded in the efficient performance of their work or otherwise detained after its completion on any grounds whatsoever, for reasons which are not attributable to Mikron.
- 19.4 The flat-rate price will be augmented by any taxes or other charges that may be payable (see section 10), save where otherwise agreed in writing.
- 20. Payment terms**
- 20.1 The place of payment is Boudry. Payments must be made to Mikron by the Customer in freely disposable Swiss Francs without the deduction of discounts, expenses, taxes and charges of any kind whatsoever.
- 20.2 The fitting costs shall be invoiced monthly or on completion of the fitting work at the discretion of Mikron. Mikron reserves the right to require partial or complete advance payment of presumed fitting costs.
- 20.3 The retention or reduction of payments by reason of complaints, claims or counterclaims of the Customer which are not acknowledged by Mikron is prohibited. The payments must still be made if the fitting work is delayed or rendered impossible for reasons not attributable to Mikron.
- 20.4 If the Customer fails to respect the payment dates, he shall be required to pay interest on the arrears from the time at which payment falls due and without special warning, said interest to be determined by the habitual interest rates at the Customer's domicile, subject to a minimum of 6 per cent per year. The payment of interest on arrears does not cancel the obligation to make contractual payment.
- 21. Place of jurisdiction and applicable law**
- 21.1 For all claims arising out of the business relationship between the Customer and Mikron, the place of performance shall be Boudry, Switzerland.
- 21.2 Contractual relations between the parties shall be governed by Swiss law, excluding the rules of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and any rules on conflict of laws.
- 21.3 The exclusive place of jurisdiction for all claims resulting from the business relationship with the Customer shall be the place of performance if the Customer is an entrepreneur, a legal entity under public law or an asset under public law. Mikron is also authorized, however, to sue the Customer at Customer's general place of jurisdiction.
- 22. Severability clause**
- 22.1 Should one or several provisions of these general terms and conditions for fitting work be or become fully or partly invalid, the validity of the remaining provisions shall remain unaffected.

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