

# General terms and conditions of sale and supply for cutting tools

## 1. General

1.1 These General terms and conditions of sale and supply for cutting tools (hereinafter referred to as "GTC Tool") shall apply to all existing and future legal relationships, including any contracts, offers, order acknowledgment, order acceptances of sale, deliveries and any other services and performances, between any Mikron Tool corporate as listed at Sec. 19.1 ("MIKRON TOOL") and the Customer, relating to the design, implementation, manufacture, delivery and sale of MIKRON TOOL's cutting tools and/or services (the "Tool").

1.2 These GTC Tool are also available on the website of Mikron Group under [www.mikron.com](http://www.mikron.com) under "general terms and conditions for customers - Mikron Tool" and under [www.mikrontool.com](http://www.mikrontool.com)

1.3 These GTC Tool shall apply exclusively, save as varied by express individual agreement accepted in writing by both parties. Any general terms and conditions which deviate from, contradict or supplement these GTC Tool, in particular any Customer's terms of purchase, are objected to and will not be binding upon MIKRON TOOL, unless and insofar as their validity is explicitly agreed and confirmed by MIKRON TOOL in writing (if so, their validity is accepted for the current legal relationship or Contract only); this requirement of confirmation by MIKRON TOOL applies in any case, even if MIKRON TOOL renders delivery without reservation while being aware of any deviating, contradicting or supplementing general terms and conditions of the Customer.

1.4 The Customer shall not transfer his contractual rights to third parties without the MIKRON TOOL prior written consent.

## 2. Scope of supply

2.1 The deliveries and services to be provided by MIKRON TOOL are listed in the quotation and/or in the order confirmation (the "Contract"), together with any attachments thereto, in the quotation submitted by MIKRON TOOL, in so far as reference is made thereto in the order confirmation, in these GTC Tool (see Sec. 1.1).

2.2 All agreements and relevant declarations of the parties, as well the modifications to the scope of supply, must be in writing and signed by MIKRON TOOL in order to be valid and binding upon MIKRON TOOL.

2.3 Partial deliveries are permitted.

2.4 MIKRON TOOL reserves the right to make any changes or modification in the specifications of the Tool (i) which are required to conform with any applicable statutory requirements, or (ii) to the extent that such changes or modification do not substantially impair the purpose of the Contract, the quality and the performance of the Tool. Any price increases or changes of the delivery deadline shall be agreed upon between MIKRON TOOL and the Customer.

2.5 Any requests by the Customer for changes and/or additions to the specifications, quantity of the Tool subsequent to the conclusion of the Contract ("Change Requests") shall be set forth in writing. MIKRON TOOL reserves the right to either accept or turn down the Customer's requests upon checking out the feasibility of such changes and/or additions.

If the Change Request is accepted by MIKRON TOOL, MIKRON TOOL and the Customer shall – prior to beginning its implementation- agree in writing on any consequences on the delivery deadline and on the costs. The costs and charges required in order to implement such Change Requests shall be borne solely by the Customer and billed on the basis of MIKRON TOOL quoted price and rates as they apply from time to time.

2.6 Customer at convenience can require in written form (official request form of Mikron Tool) that Tool stored at its warehouse, are repurchased by MIKRON TOOL at the conditions below and provided that MIKRON TOOL at its own discretion, confirms in writing the Customer's request:

- Tool must be related to a valid Contract issued not later than six (6) months before the Customer's written request of purchase back;
- Tool must be the standard's Tool in MIKRON TOOL'S portfolio. Purchase back is not applicable to Tool of NS Tool;
- Tool must be in their original packaging and in the same conditions as at date of shipping by MIKRON TOOL;
- The price applied and for which the Customer will be solely entitled with exclusion of any other compensation or indemnification, it shall be the original invoiced price minus the fifteen percent (15%) or other percentage according to MIKRON TOOL discretion;
- Any repurchase of Tool shall be DAP (delivered at Place) at MIKRON TOOL relevant warehouse (ref. Sec. 19.1) and payment will be due 30 (thirty) days after invoice, net of offset for any amounts due to MIKRON TOOL by Customer;
- Any applicable value added tax, any costs for bank or payment transactions or postal charges and any other charges for packaging, shipping and transport, insurance, taxes and customs duties in relation to the purchase back shall be borne by the Customer.

MIKRON TOOL reserves all rights to verify that the Tool fulfil the conditions under this section.

### 2.7 Quantity

For custom-made tools, the Contract quantity may vary as follows:

- for Contracts up to 20 pieces: by +/- 2,
- for Contracts from 21 up to 39 pieces: by +/- 3; and
- for Contracts of 40 pieces or more: by max +/- 10%,
- for Contracts of 200 pieces or more: by max +/- 5%.

Billing is based on the quantity effectively delivered and on the prices for each individual item agreed upon at the time of the Contract.

### 2.8 Blanket order / Recall order

In addition to the terms under these GTC Tool the following provisions apply to any blanket order.

A minimum quantity of fifty (50) Tool per order position respectively per item, is mandatory to place a blanket order.

Regrinding services cannot be ordered with a blanket order.

Upon the order confirmation of a blanket order (the "Contract"), MIKRON TOOL has the right

but not the obligation, to produce in a single lot all the quantity set out in the Contract.

The Customer shall recall the entire quantity as set out in the Contract within one year from the date of issue of such Contract. This term for the recall is of essence. In the event of missed recall by the Customer, MIKRON TOOL has the right to invoice the due balance which shall be paid by the Customer pursuant to terms in Sec. 6.

In case of cancellation of the blanket order respectively of the Contract, the Customer shall take delivery of the entire Tool in stock and all the Tool already in the manufacturing process. The Customer shall pay and indemnify in full MIKRON TOOL for all work done until cancellation.

If the Tool ordered are not completely produced because of cancellations or partial reduction in quantities requested by the Customer, an additional cost will be charged. Such cost will be calculated on the basis of the difference between the quantity stated in the blanket order respectively in the Contract and the quantity of Tool effectively delivered.

### 2.9 Online purchase

In addition to the terms under these GTC Tool the following provisions apply to any purchase of Tool and services from the MIKRON TOOL web [www.mikrontool.com](http://www.mikrontool.com) (the "MWeb").

Purchase of Tool and services from the MWeb is forbidden to MIKRON TOOL's employees. The purchase of Tool from the MWeb may only be used for operating purposes of the Customer and may not be resold to or traded with any third party.

Customer must register the account in the private area of the MWeb, prior the ordering of Tool, products and/or services online. Account's registration instructions and policy are included in the MWeb and can be amended time by time by MIKRON TOOL. Customer's account such as the username, the password and other business information are confidential information and shall not be transferred or otherwise communicated by the Customer to any third party.

MIKRON TOOL, as administrator, reserves the right to block the Customer's account and the related private area, in cases such as of improper use, suspected improper use, missed payment of MIKRON TOOL's invoices, or in the event of use of an invalid credit card.

The order placed by the Customer using the order form in the private area of the MWeb can be confirmed or declined by MIKRON TOOL at its own discretion.

In the event of confirmation, an email is sent to the Customer as order confirmation by MIKRON TOOL (the "Contract"). The Contract is available at the MWeb Customer's private area in PDF Acrobat Reader format.

The Customer is not entitled to cancel or terminate for any reason the Contract.

Purchased products shall be shipped to the place of destination indicated during the purchasing process in the MWeb and as set out in the Contract. Shipment shall be performed by the carrier chosen in the list available in the MWeb and solely at Customer's risk and expense.

Customer shall be responsible for the costs set forth in Sec. 6.1, including shipping costs, for items sent inland or abroad. For any shipment

of products from MIKRON TOOL to the Customer, the Customer may request that MIKRON TOOL purchase shipping insurance. In the event of such a request, the Customer shall be responsible and it will borne for the costs and expenses associated with the provided shipping insurance. Nothing in this Sec. 2.8 shall be construed as obligating MIKRON TOOL to purchase or provide free of charge the shipping insurance to the Customer.

MIKRON TOOL cannot guarantee the permanent availability of all modules on the MWeb and shall not be liable for disruptions to the ordering or order handling process, including those disruptions which may arise from (or in connection with) delayed or unexecuted orders.

MIKRON makes no express or implied warranties of any kind and no representations about the completeness, accuracy, suitability or availability with respect to the functionality of the MWeb, or any of the information, Tool, products, services or related graphics and drawings contained in the MWeb. The Customer relies on the aforementioned materials at the Customer's own risk.

### 3. Drawings, technical documents and information

- 3.1 All of MIKRON TOOL's drawings, technical documentation such as illustrations, indications of weights and measurements shall be purely indicative unless specifically stated to be a binding part of the Contract pursuant to Sec. 2.1.
- 3.2 The drawings, technical, business information and documentation relating to the scope of the supply and delivered by either party to the other prior to or after the signature of the Contract shall remain the sole property of the party that discloses them. The receiving party undertakes to consider confidential the drawings, information, documentation concerning technical, commercial, economic data and commits to not disclose or make them available to third parties, nor copy or reproduce them. Such drawings, information, documentation, software received by one party may not be used for any purpose other than the one for which they were made available which is the supply of the scope.
- 3.3 The Customer will collaborate and shall be responsible towards MIKRON TOOL (i) for ensuring the accuracy of the terms of any order submitted by the Customer, (ii) for supplying all of the specifications, instructions, documents, drawings, gauges, samples, technical support and any other information which are necessary for the manufacture and delivery of the Tool by MIKRON TOOL within a sufficient time to enable MIKRON TOOL to perform the Contract in accordance with its terms.

### 4. Regulations in the country of destination – Protective devices

The Tool complies with the applicable regulations of the country of origin and of the European Community. The Customer shall inform MIKRON TOOL about any deviating standards and regulations of its country in writing, at the latest until the order is placed. Where modifications are notified in due time, MIKRON TOOL, as far as technically feasible at its own discretion and subject to Sec. 2.5, will make the necessary changes within commensurate time at the Customer's cost and risk, provided that the operational safety is preserved.

### 5. Foreign trade law, Export control

- 5.1 The Customer recognizes that the delivery of the Tool or Tool items may be subject to foreign trade law (especially export control and/or customs regulations) imposed by the country of origin, European Union and/or other applicable law, including any official licensing requirements, and that an end-use certificate may be necessary.
- 5.2 The Customer shall support MIKRON TOOL to obtain all information and documents necessary to abide by such applicable foreign trade law or all information requested by authorities in that regard. Such obligation may especially include information on the end customer/user, the destination and the intended use of the Plant or Plant items, including any required end-use certificate in the requested form.
- 5.3 In case of delays with the fulfilment of the Parties' obligations under the Contract caused by licensing requirements, confirmation requirements or similar requirements or procedures of the foreign trade law imposed by the country of origin, the time of performance for such obligations, specifically the delivery milestone date, is extended accordingly. Claims for damages by a Party based on such delays are excluded insofar as the delay has not been negligently caused by the other Party.
- 5.4 If applicable foreign trade law imposed by the local authorities necessitates a license or a confirmation by authorities due to the Parties' obligations under the Contract for an act by a Party and such license/ confirmation is (i) denied or (ii) not issued by the competent authority within a period of 6 months after the application, each Party may declare the withdrawal of the Contract insofar as the act requires a license/ confirmation. However, a Party is not entitled to such right if such Party is to be held solely or predominantly responsible for the circumstances leading to the denial or delay.
- 5.5 In the event of withdrawal, irrespective of the responsibility as mentioned above, MIKRON TOOL shall be entitled to withhold the advance payment made by the Customer and to be paid by the Customer in full for work already done until date of withdrawal.

### 6. Prices, terms of payment

- 6.1 The price of the Tool shall be MIKRON TOOL quoted price and/or the price as included in the Contract. Unless agreed upon otherwise in writing, all prices shall be on an "FCA Free Carrier" MIKRON TOOL relevant site (ref. Sec. 19.1), Incoterms 2020, basis and are net prices excluding any applicable value added tax which the Customer shall be additionally liable to pay to MIKRON TOOL. In addition, the Customer shall pay any additional costs such as any costs for bank or payment transactions or postal charges and any other.

Where MIKRON TOOL agrees to deliver the Tool or otherwise than at MIKRON TOOL's premises, the Customer shall be additionally liable to pay MIKRON TOOL's charges for packaging, shipping and transport, insurance, taxes and customs duties.

- 6.2 Unless a fixed price is agreed upon, MIKRON TOOL reserves the right, by giving notice to the Customer at any time before delivery, to increase the price of the Tool to reflect an increase in the costs to MIKRON TOOL which is due to any factor beyond the control of MIKRON TOOL (such as significant increase in the costs of material or other costs of manufacture including energy, alteration of customs duties, currency regulation or foreign exchange fluctuation) or any change in delivery dates or in specifications agreed. The Customer shall be bound to full payment of the amounts relating to the changes and/or additions referred to in section 2.5 above, on the basis of the rates prevailing at MIKRON TOOL from time to time and in keeping with the terms set forth above.
- 6.3 Unless agreed upon otherwise, payments for the delivery of the Tool shall be invoiced as follows:  
100% upon having entered into the Contract.
- In the event of partial deliveries, corresponding partial payments shall be invoiced. Minimum amount per order is CHF 150.00 / EUR 100.00.
- 6.4 Unless agreed otherwise in writing, MIKRON TOOL's invoices shall be paid in advanced.
- 6.5 Payment shall be executed by interbank payment transaction only; no cheque or bill of exchange will be considered as fulfilment of the payment obligation.
- 6.6 Payments by Customer shall be made in the currency of the referred quotation from MIKRON TOOL Any exchange rate risks shall be borne by the Customer.
- 6.7 It may be agreed between the Parties that the Customer has to deliver a letter of credit issued by its bank (or any bank acceptable to MIKRON TOOL). In this individual case it is assumed that any letter of credit will be issued in accordance with the Uniform Customs and Practice for Documentary Credits, 2006 Revision, ICC Publication No. 600.
- 6.8 If the Customer fails to make any payment on the due date, then, without prejudice to any other right or remedy available to MIKRON TOOL, MIKRON TOOL shall at its discretion be entitled to  
(i) cancel the Contract; or  
(ii) suspend or delay until payment in full any further work or deliveries to the Customer; or  
(iii) charge the Customer interest on the amount unpaid, at the rate of 8 per cent per annum above the base interest rate from then being valid, until payment in full is made. The Customer shall be entitled to prove that the delay of payment caused no or little damage only.
- 6.9 The Customer may only offset receivables due to MIKRON TOOL with counter claims, if such counter claims are undisputed or have been established in law in a binding and unappealable manner or are recognized by MIKRON TOOL in writing.
- 6.10 If MIKRON TOOL becomes aware of a substantial worsening of the Customer's financial situation, or if prejudicial elements of any kind were to come to the fore against the Customer, MIKRON TOOL may demand immediate settlement in advance, request further partial payments or guarantees, or be entitled to terminate the Contract and to keep

- the partial prepayments as consideration for the services or part thereof that has already been completed, without prejudice to the right to claim for any damages it may have suffered.
- 7. Reservation of ownership**
- 7.1 Notwithstanding the delivery and the passing of risk in the Tool, or any other provision of these GTC Tool, the property in the Tool shall not pass to Customer until MIKRON TOOL has received payment in full of the purchase price of the Tool. By entering into the Contract, the Customer authorizes MIKRON TOOL to enter or notify the retention of title in the required form in public registers, books or similar records in accordance with any relevant national laws and to fulfil all corresponding formalities at Customer's costs.
- 7.2 To the extent legally permissible, the Customer shall be obliged upon request of MIKRON TOOL (e.g. in case of insolvency proceedings) to mark the Tool subject to retention of title visibly as "property of MIKRON TOOL"
- 7.3 Until such time as the property in the Tool passes to Customer, the Customer shall hold the Tool as MIKRON TOOL's fiduciary agent, and shall keep the Tool properly stored, protected, handled with care and insured. In the event that the Customer fails to provide evidence to MIKRON TOOL upon its request of having adequately insured the Tool at replacement value against damages caused by fire, water, theft, breakage and destruction, MIKRON TOOL shall be entitled to enter into such insurance Contract at the costs of the Customer. Required maintenance and inspection services shall be executed by the Customer in a timely manner at its own expense.
- 7.4 If third parties take up steps to pledge or otherwise dispose of the Tool, the Customer shall immediately notify MIKRON TOOL in order to enable MIKRON TOOL to seek legal defence such as a court injunction in accordance with applicable laws. If the Customer fails to do so in due time, the Customer will be held liable for any damages caused
- 8. Transfer of risks, insurance, acceptance**
- 8.1 Unless agreed upon otherwise in writing, the Tool shall be delivered at MIKRON TOOL's premises ("FCA Free Carrier", Incoterms 2020). A transport insurance shall only be concluded upon the Customer's written request and costs.
- 8.2 The risk of accidental loss or accidental damage of the Tool passes to the Customer when the Tool is handed over to the (first) person in charge of the transport. This shall also apply if MIKRON TOOL carries out the transport on behalf of the Customer even if MIKRON TOOL bears the costs for packaging and shipment. If the dispatch of the Tool is delayed due to reasons attributable to the Customer, the risk of accidental loss or accidental damage passes to the Customer on the day of MIKRON TOOL's notification of readiness for dispatch to the Customer.
- 8.3 MIKRON TOOL shall be entitled to determine the method of packaging at its free discretion, unless agreed upon otherwise in writing.
- 8.4 If the packaging shows damage, the Customer shall take all measures necessary to secure the goods against further imminent damage or to limit damage that has already occurred.
- 9. Delivery lead time - Elements to be provided by the Customer**
- 9.1 The term of delivery shall be set forth in the Contract unless agreed upon otherwise. The term of delivery shall begin at the earliest on the date of conclusion of Contract, however not before all commercial, administrative and technical aspects having been defined and agreed upon by the Parties and the Customer having complied with all obligations due at this time under the Contract, in particular the complete receipt by MIKRON TOOL from the Customer of (i) all information and documents necessary for the performance of the Contract, (ii) all required official documents such as approvals, authorizations and clearances, (iii) any necessary materials and (iv) any agreed advance or instalment payment or payment guarantee consistent with the Contract.
- 9.2 The term of delivery shall be deemed to be observed if notification of readiness for dispatch has been given when it expires. Deliveries before the delivery date and partial deliveries are permitted to a reasonable extent.
- 9.3 In the event that the Customer fails, during the manufacture of the Tool, to provide items to be supplied by the Customer (e.g. specimen parts, other necessary elements and information), the term of delivery is adequately extended. In addition, MIKRON TOOL may invoice to the Customer the additional costs resulting therefrom.  
The supply of the aforementioned elements to be provided by the Customer shall take place Free MIKRON TOOL, Incoterms 2020 DDP – Delivered Duty Paid. The dates of supply for such elements to be provided by Customer are set forth in the order confirmation, in the specification of work to be performed by MIKRON TOOL or in the notices sent by MIKRON TOOL to the Customer well in advance during the performance of the work.
- 9.4 If either Party is prevented from, or delayed in, performing any duty under the Contract by any event beyond its reasonable control, then this event shall be deemed Force Majeure, and this Party shall not be considered in default and no remedy, be it under the Contract or otherwise, shall be available to the other Party. Force Majeure events include, but are not limited to, war (whether war is declared or not), riots, insurrections, piracy, acts of sabotage or similar occurrences, terrorism or justified fear of terrorism; strikes, lock-out or other labour unrest, newly introduced laws or Government regulations or measures, statutory or official orders and constraints, bans on import, export or transit, delay due to action or inaction on the part of any Government or Government agency, fire, explosion or other unavoidable or unforeseen and extraordinary accidents, flood, storm, earthquake or other natural disasters, epidemics and pandemics.  
If either Party is prevented from, or delayed in, performing any duty under this Contract, then this Party shall immediately notify the other Party of the event, of the duty affected and of the expected duration of the event. In such case, the term of delivery shall be extended by such time period in which the event of Force Majeure prevents or delays performance of any duty under the Contract. If any Force Majeure event prevents or delays the performance of any duty for more than ninety days, subject to section 6.5 of these GTC Plant, then either Party may on due notification to the other Party terminate the Contract unless an appropriate adaptation of the Contract was agreed upon in writing. If MIKRON
- TOOL has already performed in part or if partial performance of the Contract is possible, the Customer may only withdraw from the entire Contract if the Customer can evidence that it has no interest in partial performance.
- 9.5 In the event of late delivery, MIKRON TOOL will inform the Customer in due time of such a delay. The Customer shall have no entitlement to compensation or to terminate the Contract.
- 9.6 In the case of late delivery, which is not attributable to reasons for which MIKRON TOOL is responsible, MIKRON TOOL shall be entitled to place the delivered goods in storage at the cost of the Customer and/or to invoice the additional costs accruing to it as a result of the delay (e.g. in connection with rescheduling, overtime etc.), together with any other damages.
- 10. Verification of the delivered goods**
- 10.1 Unless agreed upon otherwise, upon receipt of the delivered good the Customer will verify its consistency with the agreed quantity and specifications.
- 10.2 The Customer shall notify MIKRON TOOL of any defect in the quantity, quality or condition of the Tool including any deviations in quantity and false deliveries or its failure to correspond with agreed specifications within eight (8) days from the receipt of the purchased products.  
Failing any notification shall be deemed to be definitive acceptance of the Tool by the Customer.
- 11. Warranty, liability for defects**
- 11.1 Subject to Sec. 11.4 herein, warranty claims shall be time-barred after eight (8) days from the date of delivery at Customer site of the purchased product.
- 11.2 The Customer shall notify MIKRON TOOL of any defect in the quantity, quality or condition of the Tool including any deviations in quantity and false deliveries or its failure to correspond with agreed specifications within eight (8) days from the date of delivery of the purchased product.
- 11.3 MIKRON TOOL warrants that the Tool delivered under the Contract will be free from defects in material and workmanship, conform to applicable agreed specifications, and, to the extent that detailed designs have not been furnished by the Customer for implementation, will be free from design defects.  
Unless agreed upon otherwise in writing, claims based on defects are excluded in the event of minor deviations from the agreed or usual characteristics or utility, e.g. minor deviations in colour, seizures and/or quality or performance characteristics.  
MIKRON TOOL does not warrant the fitness of the Tool for a specific purpose or a particular performance unless otherwise agreed in writing between MIKRON TOOL and the Customer. For the avoidance of doubt, there shall be no warranty obligation if the intended use of the Tool by the Customer deviates from the common use, unless otherwise agreed in writing.
- 11.4 The warranty set forth under sec. 11.3 above is given by MIKRON TOOL subject to the following conditions:  
(i) MIKRON TOOL shall not be liable in respect of any defect, lack of quality inefficiency or shortcoming of the Tool arising from any design, specification (e.g.

- drawings, samples or other instructions), material, semi-processed and/or accessory elements or instruments supplied and requested by Customer or in respect of any items or parts manufactured pursuant to the design or specifications of the Customer not matching with other items or parts already existing as requested by Customer or also manufactured pursuant to the design or specifications of the Customer;
- (ii) MIKRON TOOL shall not be liable if any price for the Tool has not been paid by the due date for the payment;
- (iii) the warranty becomes void and does not extend to supplies and services from any third parties, unless and only to the extent (e.g. limits and timeframe, warranty terms) such warranty is given and assigned by the third party to MIKRON TOOL.
- 11.5 The warranty set forth under sec. 11.3 above does not cover defects in or damage to the Tool which are due to (i) fair wear and tear, (ii) incorrect installation by the Customer or a third party not authorized by MIKRON TOOL, (iii) mishandling, improper, incorrect or careless use, or misuse by the Customer or a third party, (iv) failure to comply with the instructions for use and safety rules, (v) mechanical, chemical, electronic, electric or comparable influences which do not correspond to the average standard influences, (vi) or any cause other than ordinary commercial application.
- 11.6 In the case of goods and services provided by sub-contractors who were prescribed by the Customer, MIKRON TOOL shall only give a warranty within the framework of the warranty obligations of such sub-contractors.
- 11.7 In case of defects of the Tool resulting in a justified warranty claim, the Customer is entitled to supplementary performance in the form of replacement or repair. The Customer shall return the defective Tool at its own costs. MIKRON TOOL retains the right to inspect and evaluate any Tool claimed to be defective or unusable because of demonstrable defects in materials or workmanship. MIKRON TOOL shall, at its discretion and without undue delay, repair or replace the defective component at his own risk and cost. Replaced components shall become or, as the case may be, remain the property of MIKRON TOOL and shall be handed over to Customer at its costs upon its request. Further claims, in particular claims for reimbursement of expenses and claims for damages, are excluded unless provided otherwise in this Sec. 11.7 or Sec. 12 herein.
- 11.8 In the event of an unjustified notice of defect or a defect which is not attributable to MIKRON TOOL, MIKRON TOOL is entitled to demand from the Customer the reimbursement of any expenses (e.g. costs of check, personnel travel expenses) resulting therefrom.
- 12. Liability**
- 12.1 Unless provided otherwise by mandatory law MIKRON TOOL shall be liable only in accordance with the provisions set out in this section 12; any more extensive liability of MIKRON TOOL is excluded on the merits.
- 12.2 MIKRON TOOL shall be unrestricted liable for death, personal injury or damage to health caused by the intent or negligence of MIKRON TOOL, its legal representatives or assistants in performance.
- 12.3 MIKRON TOOL shall be liable in accordance with the applicable Product Liability Act in the event of product liability.
- 12.4 MIKRON TOOL shall be liable for breach of a guarantee given to Customer or in case of defects that MIKRON TOOL has kept maliciously silent.
- 12.5 MIKRON TOOL shall be unrestricted liable for losses caused intentionally or with gross negligence by MIKRON TOOL, its legal representatives or executives and other assistants in performance.
- 12.6 MIKRON TOOL shall be liable for losses caused by the breach of its primary obligations by MIKRON TOOL, its legal representatives or assistants in performance. Primary obligations are such basic duties which form the essence of the Contract, which were decisive for the conclusion of the Contract and on the performance of which the Customer may rely. If MIKRON TOOL breaches its primary obligations through simple negligence, then its ensuing liability shall be limited to the loss which was reasonably foreseeable by MIKRON TOOL and typical for this kind of Contract at the time of performance. As far as legally permitted, the reasonably foreseeable loss and loss which is typical for this kind of Contract shall be the 5% (five percent) of the Contract value i.e the 5% (five percent) of the purchase price for the relevant Tool.
- 12.7 MIKRON TOOL is not liable to the Customer or any third party for any indirect or consequential damages such as but not limited to the loss of productions, loss of use, loss of orders, loss of profits or revenues, loss of goodwill, special, incidental, punitive or exemplary damages any indemnification arising out of or resulting from the delivery of the Tool and/or in relation to the Contract with the Customer.
- 12.8 MIKRON TOOL shall be liable for loss of data only up to the amount of typical recovery costs which would have arisen had proper and regular data backup measures been taken.
- 13. Intellectual Property rights**
- 13.1 Nothing in the Contract or any relevant purchase order shall be construed, by implication or otherwise, as a transfer or assignment of either Party's intellectual property rights, whether patented, registered or not. Any knowledge of either Party relating to the Plant, including, but not limited to, any plans, drawings, designs, construction documents, specifications, calculations, documents containing data, technical information or test reports, computer systems and programs and any other related intellectual property rights created or used for or in connection with the Contract (together the "Intellectual Property") shall remain the sole and exclusive ownership of the disclosing Party providing such Intellectual Property to the other Party.
- Each disclosing Party grants to the other Party, during the term of such rights, a non-exclusive, non-transferable, worldwide, irrevocable (subject to Sec. 13.2 herein), royalty-free license to use the Intellectual Property exclusively for and in connection with the operating of the Tool.
- 13.2 Any Intellectual Property of MIKRON TOOL, whether disclosed, developed during the contractual relationship with the Customer or becoming accessible to the Customer or any other party or not, including any documents on which MIKRON TOOL's offer is based, remain the sole and exclusive ownership of MIKRON TOOL or any nominated affiliated company thereof. Even if MIKRON TOOL leaves any such Intellectual Property to the Customer, MIKRON TOOL's intellectual property rights remain unaffected. The Customer shall refrain from any competitive act against MIKRON TOOL, including but not limited to copying, manufacturing or commercializing MIKRON TOOL's Tool, products and project results in any way whatsoever.
- 13.3 Sec. 15.2 (confidentiality) below shall apply to such Intellectual Property accordingly.
- 13.4 Upon breach of Contract by Customer, MIKRON TOOL shall be entitled to require at Customer's expense the return of such Intellectual Property or its deletion, together with a written confirmation that no further copies were made, given to third parties and/or retained, without undue delay.
- 14. Use of Software**
- 14.1 To the extent that any software is included in the scope of delivery of the Tool, MIKRON TOOL grants, as far as entitled hereto, to the Customer the non-exclusive, non-transferable right to use and exploit the software, including the object code and any documentation supplied, (together the "Licensed Software") exclusively for and in connection with the operating, use of the Tool delivered by MIKRON TOOL. The Licensed Software shall not be used on more than the relevant Tool system.
- 14.2 The Customer undertakes not remove any manufacturer identification labels including, but not limited to copyright marks. As far as legally permitted, the Customer shall not and shall not allow any person or entity to remove, modify, copy, reverse engineer, merge, decompile or disassemble the Licensed Software.
- 14.3 MIKRON TOOL and its licensors, if any, shall retain sole title to all Licensed Software relating to the Tool. Upon breach of Contract by Customer, MIKRON TOOL shall be entitled to require at Customer's expense the return of all copies of the Licensed Software or, if applicable, to demand the assignment of Customer's right of return of third parties. In such case upon MIKRON TOOL's request, Customer shall confirm in writing that neither the Licensed Software nor copies thereof were retained and that all installations of the Licensed Software have been irrevocably deleted from Customer's or third party's systems.
- 14.4 The Customer undertakes to allow MIKRON TOOL or an agent of MIKRON TOOL to audit whether Customer's use of the Licensed Software is consistent with the rights granted to Customer upon request of MIKRON TOOL and provided there is a legitimate interest therein and to give full cooperation to MIKRON TOOL or its agent carrying out such audit.
- 14.5 MIKRON TOOL shall be liable in accordance with the provisions under sec. 12 herein only.
- 15. Data sharing, Cyber security and Confidentiality**
- For and in connection with performing the Contract as well as for purposes of single project developments during any collaboration or contractual relationship relating to the Tool (together hereinafter the "Permitted Purpose"), both the Customer and MIKRON TOOL will

share with each other such business and technical data relating to the Tool (e.g. as regards performance, quality profiles, drawings) (hereinafter the "Tool Data") as agreed to be necessary or useful to achieve the Permitted Purpose. For such Permitted Purpose, the Customer and MIKRON TOOL can be connected online via human machine interfaces to constantly exchange the Tool Data.

- 15.1 It shall be the Customer's own responsibility to establish an appropriate and secure connection between its IT system and MIKRON TOOL's IT system, which complies to international industry standards and to take any reasonable and adequate precautions against any technical and security risks (e.g. risk of viruses, cyberattacks) related to the use of the system as well as to bear any costs thereby incurred. Upon request by MIKRON TOOL, the Customer shall complete MIKRON TOOL's cybersecurity questionnaire for its review for ensuring the adequacy of the internet connection and safety protection and shall adhere to MIKRON TOOL's requirements as regards cybersecurity. On request of MIKRON TOOL, the Customer and MIKRON TOOL shall agree on the encryption of any Plant Data to be transmitted or stored.

- 15.2 During the term of the Contract and without time limitation thereafter, the Customer shall keep such Tool Data and any Intellectual Property as defined in Sec. 13.1 strictly confidential and not (completely or partly) disclose or make accessible otherwise any part of Tool Data and Intellectual Property to a person other than set forth in sec. 15.2.(ii).

(i) The Customer shall take adequate measures to protect Tool Data and Intellectual Property (in electronic, printed or any other form) against disclosure, misuse, espionage, loss, unauthorized use or theft and shall not to use, reproduce, process or store Tool Data and Intellectual Property on any computer or electronic information system which can be accessed remotely or transmit Tool Data and Intellectual Property outside its business premises.

(ii) The Customer shall not disclose or make accessible otherwise any part of Tool Data and Intellectual Property to any person other than to those directors, employees and other personnel which have a need-to-know in order to achieve the Permitted Purpose and which are informed of the confidential nature of the Tool Data and are contractually or professionally obliged to keep Tool Data secret.

In case that the Customer is legally compelled by court order, by administrative order or by a legal obligation to disclose any of the Tool Data and Intellectual Property, the Customer is obliged to inform MIKRON TOOL immediately and support MIKRON TOOL on its request as far as possible to protect the Tool Data and Intellectual Property or have the Tool Data and Intellectual Property protected by court order to the largest extent.

- 15.3 MIKRON TOOL herewith grants to Customer a non-exclusive, non-transferable right of use (license) permitting the Customer to access, read and process the Tool Data provided by MIKRON TOOL, to use the Tool Data for analysis and evaluations and to copy, save and store the Tool Data for the Permitted Purpose. The Customer may use Tool Data solely for the Permitted Purpose and shall be in particular, but

not exclusively, obliged not to change or decompile Tool Data, not to use Tool Data in any commercial way and not to use Tool Data directly or indirectly to damage or harm MIKRON TOOL. All Tool Data provided by MIKRON TOOL remain the sole property of MIKRON TOOL and shall under no circumstances be deemed to be sold and transferred to Customer. Furthermore, the Customer herewith grants to MIKRON TOOL free of any costs a non-exclusive, non-transferable right of use (license) permitting MIKRON TOOL to access, read and process the Tool Data provided by Customer, to use the Tool Data for analysis and evaluations and to copy, save and store the Tool Data for the Permitted Purpose.

- 15.4 MIKRON TOOL applies a standardized routine for a quality control with spot-checks for the correctness, the completeness and the actuality of the Tool Data. Having followed such internal procedures, any liability for and in connection with Tool Data is excluded.

- 15.5 Any Tool Data received may be archived and destroyed in accordance with any legal retention periods.

## 16. Data Privacy

- 16.1 For the Permitted Purpose as defined in sec. 15 above, personal data may be collected and processed. In order to ensure that such personal data are processed only in accordance with the applicable data protection laws,

i. the disclosing Party, as the case may be, shall use its best efforts to remove any personally identifiable information before it is made available and will only disclose personally identifiable information where it is absolutely necessary to do so;

ii. any Party shall ensure that all representatives who obtain access to personal data pursuant to, or in connection with, the Permitted Purpose have adequate knowledge of the provisions of the applicable data protection laws;

iii. any Party shall not transfer any personal data received by the other Party to any country outside EU or the EEA. Should any Party intend to transfer such data outside the EU or EEA, no such transfer shall be performed unless appropriate safeguards will be provided, as regulated by the applicable data protection legislation.

- 16.2 The Customer accepts that MIKRON TOOL transmits personal data pursuant to, or in connection with, the permitted Purpose to Group companies within Switzerland in Germany and, as the case may be, other countries such as Lithuania, Singapore, China and USA in accordance with any relevant applicable data protection laws.

- 16.3 The Customer is informed that the "MIKRON TOOL Data Protection Policy" is available on the website of MIKRON TOOL Group under <https://www.MIKRON TOOL.com/data-privacy/>.

## 17. Compliance

In connection with the Permitted Purpose as defined in sec. 15 above, the Parties shall conduct business with the highest degree of ethics and integrity and shall comply with the wording and purpose of the law, including:

- 17.1 Compliance Policies and Guidelines

The Parties will (i) comply with their respective own policies and guidelines implemented in relation to Compliance (e.g. anti-corruption, competition law compliance and code of conduct), as amended from time to time, (ii) maintain adequate procedures to ensure compliance with any applicable laws, and (iii) enforce them where appropriate. In particular, any Party shall comply with the applicable laws regarding to anti-corruption and competition in the relevant market and immediately notify the other Party of any request or demand for any undue financial or other advantage of any kind received in connection with the performance of the Contract.

- 17.2 No unlawful payments  
The Contract and any Party (including their directors, employees or any other representatives) may provide lawful, adequate, documented and transparent remuneration, gifts, hospitality, sponsoring and donations only.

- 17.3 Accurate Books and Records  
Any Party will ensure that its books, accounts and records precisely and fairly reflect, in sufficient detail, its transactions and dispositions of funds paid under the Contract.

## 18. Environmental and operational safety

- 18.1 The Customer undertakes to comply with the operating manual and safety guidelines handed over to it. The Customer shall provide its personnel with adequate training in order to guarantee the safe and environmentally-friendly and compatible operation of the Plant. The Customer shall confirm the receipt of the operating manual and the safety guidelines in writing.

- 18.2 The safety rules and hazard warnings attached to the Plant may not be removed. Poorly fixed or damaged safety instructions have to be replaced immediately. MIKRON TOOL undertakes to replace at the expense of and for attachment by the Customer, at any time and in adequate quantities, any safety rules and warnings which are no longer usable. Improvements of the safety instructions shall be accepted by the Customer at any time upon MIKRON TOOL's request and shall be complied with.

- 18.3 Any technical changes to the Tool, specifically if they affect the security and safety of the personnel or of the environment, shall only be made after MIKRON TOOL prior consent. Any modifications made without MIKRON TOOL consent shall be removed immediately.

- 18.4 The Customer shall inform MIKRON TOOL immediately about any accidents in connection with the Tool or if certain dangers exist in connection with the operation of the Tool.

- 18.5 If the Customer fails to comply with any of the aforementioned duties relating to the environmental and operational safety, the Customer shall indemnify MIKRON TOOL against any third party's claims for damage resulting therefrom.

## 19. Place of performance, Applicable law, Place of jurisdiction, prevailing language

- 19.1 Governing law, place of jurisdiction and place of fulfillment will be strictly linked to the MIKRON TOOL legal entity with which the Customer has established the business and the contractual relationship, specifically as following:

**Mikron Switzerland AG, Zweigniederlassung Agno, Tool, Via Campagna 1, 6982 Agno, Switzerland** (IDI CHE-331.190.665, VAT CHE-108.564.548)

For all claims arising out of the business and contractual relationship between the Customer and Mikron Switzerland AG, Zweigniederlassung Agno, Tool, the place of performance shall be Agno, Switzerland.

All disputes arising from contracts to which these GTC Tool apply as well as all business and contractual relationships between Mikron Switzerland AG, Zweigniederlassung Agno, Tool, and the Customer shall exclusively be governed and construed 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.

The exclusive place of jurisdiction for all claims resulting from the business and contractual relationship with the Customer shall be the place of performance. Mikron Switzerland AG, Zweigniederlassung Agno, Tool is also authorized, however, to sue the Customer at the Customer's general place of jurisdiction.

**Mikron Germany GmbH, Division Tool, Berner Feld 71, 78628 Rottweil, Germany:**

For all claims arising out of the business and contractual relationship between the Customer and Mikron Germany GmbH, the place of performance shall be Rottweil, Germany.

All disputes arising from contracts to which these GTC Tool apply as well as all business and contractual relationships between Mikron Germany GmbH, and the Customer shall exclusively be governed and construed by German 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.

The exclusive place of jurisdiction for all claims resulting from the business and contractual relationship with the Customer shall be the place of performance. Mikron Germany GmbH is also authorized, however, to sue the Customer at the Customer's general place of jurisdiction.

**Mikron Corp. Monroe, 200 Main Street, 06468 Monroct, USA:**

For all claims arising out of the business and contractual relationship between the Customer and Mikron Corp. Monroe, the place of performance shall be Monroe CT, USA.

All disputes arising from contracts to which these GTC Tool apply as well as all business and contractual relationships between Mikron Corp. Monroe, and the Customer shall exclusively be governed and construed by the laws of the State of Connecticut, USA, excluding the rules of the United Nations Convention on Contracts for the International Sale of Goods (CISG) and any rules on conflict of laws.

The exclusive place of jurisdiction for all claims resulting from the business and contractual relationship with the Customer shall be the place of performance. Mikron Corp. Monroe is also authorized, however, to sue the Customer at the Customer's general place of jurisdiction.

**Mikron Tool Shanghai, Room A209, Building 3, No. 526, 3rd East Fute Road:**

For all claims arising out of the business and contractual relationship between the Customer and Mikron Tool Shanghai, the place of performance shall be Shanghai, China.

All disputes arising from contracts to which these GTC Tool apply as well as all business and contractual relationships between Mikron Tool Shanghai, and the Customer shall exclusively be governed and construed by the laws of the PRC, People's Republic of China,

and the rules of the United Nations Convention on Contracts for the International Sale of Goods (CISG), excluding any rules on conflict of laws. All and claims resulting from the business and contractual relationship with the Customer shall be the be submitted to China International Economic and Trade Arbitration Commission (CIETAC) for arbitration which shall be conducted in accordance with the CIETAC's arbitration rules in effect at the time of applying for arbitration. The place of Arbitration shall be Shanghai. The number of arbitrators shall be three (3). The language of Arbitration shall be Chinese. The arbitral award is final and binding upon both parties.

19.2 These GTC Tool are available in English, French, German, Italian and Chinese. In the event of contradictions, the English version is authoritative.

**20. Severability clause**

Should one or several provisions of these GTC Tool be or become fully or partly invalid, the validity of the remaining provisions shall remain unaffected.

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