

# Acceptance test specifications

## 1. Integral part of GTC Plant, exclusion of conflicting terms and conditions

- 1.1 These Acceptance test specifications (hereinafter referred to as "TestTC") form an integral part of the General terms and conditions of sale and supply for plant and machinery of Mikron Switzerland AG, Agno, Division Machining (hereinafter referred to as "MIKRON"), as amended from time to time (hereinafter referred to as "GTC Plant").
- 1.2 Unless set forth otherwise herein, all provisions set forth in TestTC shall apply as if set forth in the GTC Plant itself and all provisions set forth in GTC Plant (including its definitions) shall apply to these TestTC as well.
- 1.3 These TestTC shall apply exclusively, save as varied by express individual agreement accepted in writing by both Parties.
- 1.4 Any general terms and conditions which deviate from, contradict or supplement these TestTC, in particular any Customer's acceptance test specifications, are objected to and will not be binding upon MIKRON, unless and insofar as their validity is explicitly agreed and confirmed by MIKRON in writing (if so, their validity is accepted for the current legal relationship or contract only); this requirement of confirmation by MIKRON applies in any case, even if MIKRON renders delivery without reservation while being aware of any deviating, contradicting or supplementing general terms and conditions of the Customer.
- 1.5 These TestTC are also available on MIKRON's website under <http://www.mikron.com/terms-and-conditions/>.

## 2. Overview Plant acceptance tests

- 2.1 In supplementation of sec. 5 GTC Plant, acceptance tests for Plant will be carried out according to the specifications set forth herein, unless agreed otherwise by MIKRON and Customer in writing.

### 2.2 Sequence

#### 2.2.1 Preparation

The Plant shall be assembled, put into service as well as adjusted on MIKRON's works, thereby using the blanks and measuring devices supplied by the Customer for this purpose.

#### 2.2.2 Preliminary acceptance test

On the MIKRON's works, a preliminary acceptance test shall be carried out in the presence of the Customer.

#### 2.2.3 Final Acceptance test

On the Customer's premises, a final acceptance test shall be carried out after having set up the Plant at the Customer's premises.

## 3. Preliminary acceptance test

### 3.1 Starting conditions

The Plant shall be adjusted and prepared by MIKRON so that the Plant conforms to the technical specifications set forth in the requirement specification and is ready for a trial production run.

### 3.2 Check of conformity

The Customer shall inspect and check the design and the execution of the Plant for conformity with contractually agreed requirements, especially any technical specifications pursuant to the contractual requirement specification (e.g. dimensional check of workpieces produced by the Plant or check of records of measurement).

### 3.3 Check of machining accuracy

#### 3.3.1 Standard procedure

Following the checking of the adjustment of the Plant by the Customer (e.g. dimensional check of workpieces produced by the Plant or check of records of measurement), a trial production run of a duration of at least 1 hour, but not more than 4 hours, shall be performed. During this trial production run, random sampling shall be carried out, volume of which shall be previously agreed by the Customer and MIKRON. For the definition of this volume, criteria like the number of clamping devices, the cycle time and costs of measuring shall be considered. However, the number of samples shall in no case exceed 100 workpieces.

Samples taken shall be checked by the Customer using his own measuring devices for evaluation. Accuracy requirements are considered satisfied if all measurements performed on the random samples give results within the tolerance limits shown on the drawings.

#### 3.3.2 Checking according to Customer's specification

Should the Customer wish to check the accuracy of the Plant according to a procedure deviating from the one set forth in sec. 3.3.1 above, the Customer shall submit its own specifications to MIKRON at the latest with Customer's written purchase order. Any resulting excess expenditure is at the Customer's charge.

### 3.4 Check of theoretical rate of production

Definition: MIKRON designates as theoretical rate of production the number of Plant cycles per minute.

Measurement: during an agreed period of time (usually 1 minute), the cycles performed by the Plant are counted.

### 3.5 Check of Plant efficiency

In order to determine Plant efficiency, all Plant stops in the course of the trial production run are recorded, together in each case with cause and duration of the stop. Plant efficiency is computed according to the formula below:

$$h = \frac{T - SM - SA}{T - SA}$$

where

T = duration of the test production run  
 SM = sum of the duration of machine stops due to the machine  
 SA = sum of the duration of machine stops not imputable to the machine (e.g. non-availability of blanks, stops imputable to defective blanks, work interruptions, etc.).

### 3.6 Protocol of preliminary acceptance test and release for delivery

Results of the preliminary acceptance test are stated in writing in the protocol of preliminary acceptance test. Customer and MIKRON confirm the validity of the data contained in this protocol by their signatures.

Such signed protocol of preliminary acceptance test shall be deemed to constitute final acceptance of the Plant by the Customer as well as the Plant's release for delivery, subject to the provisions set forth in sec. 3.8 below.

### 3.7 Measuring devices, blanks for tests

Measuring devices required for adjustments during Plant setup and for any preliminary acceptance tests as well as blanks required for any tests and the trial production run mentioned above are supplied to MIKRON by the Customer. Exact delivery dates for them are contained in the technical specifications.

### 3.8 Non-compliance with requirements, deficiencies

3.8.1 Should the results of the preliminary acceptance test show that one or more contractually agreed requirements have not been satisfied or in case of any other deviations or deficiencies, such deviations or deficiencies shall be set forth in the protocol of preliminary acceptance test and the suitable actions to be taken shall be mutually agreed upon by the Customer and MIKRON in writing.

3.8.2 The Customer shall not refuse to accept the Plant and to sign the protocol of preliminary acceptance test because of minor imperfections, in particular such that do not significantly impair the ability to function and the performance of the Plant. Such minor imperfections shall be remedied within a reasonable period of time by MIKRON.

3.8.3 In the case of significant deviations from the Contract or important deficiencies, the Customer shall permit MIKRON to remedy such deviations or deficiencies within a reasonable time. After adequate actions have been taken as agreed in the initial protocol of preliminary acceptance test to be signed, the preliminary acceptance test shall be repeated in order to achieve final acceptance of the Plant by signing the subsequent protocol of preliminary acceptance test.

### 3.9 Deemed Acceptance, delay of acceptance due to Customer's fault

3.9.1 MIKRON shall without undue delay give written notice to the Customer of the Plant being ready for dispatch and, unless agreed upon otherwise, the preliminary acceptance test of the Plant shall take place not later than ten days upon receipt of such notification by the Customer.

In any event that the preliminary acceptance test should not be commenced within said time following MIKRON's notice of readiness for dispatch, MIKRON is entitled to give a further written notice to commence the preliminary acceptance test of not less than another two weeks as from the expiry date of the time period provided in the preceding sentence.

At the expiry of aforementioned additional time period without any protocol of preliminary acceptance test being signed, the Plant shall be deemed to have passed the preliminary acceptance test successfully and to have been finally accepted and released for delivery by the Customer, unless the Customer can prove that the preliminary acceptance test could not be carried out due to circumstances being attributable to MIKRON.

3.9.2 Likewise, the Plant shall be deemed to have passed the preliminary acceptance test successfully and to have been finally accepted and released for delivery by the Customer in case that the Customer

- refuses to accept the Plant without entitlement or
- refuses to sign the protocol of preliminary acceptance test without explanation.

### 3.10 Waiving of the preliminary acceptance test

In particular cases, the preliminary acceptance test can be waived. Such waiver shall be expressly agreed upon by the Customer and MIKRON in writing.

## 4. Final acceptance test

### 4.1 Procedure

The final acceptance test of the Plant is performed at the Customer's premises in the presence of MIKRON's representative (usually the service engineer who sets up the Plant). This test includes a production run of 4 to 8 hours. The Customer checks once more, using his own equipment, the compliance with the contractually agreed requirements as described under sec. 3.2 – 3.5 herein (taking the protocol of the preliminary acceptance test into account).

### 4.2 Protocol of final acceptance test and definitive acceptance

By signing the protocol of final acceptance test (definitive acceptance), the Customer confirms that the Plant complies with all contractually agreed requirements, subject to the provisions set forth in sec. 4.3 below.

### 4.3 Non-compliance with requirements, deficiencies

4.3.1 Should the results of the final acceptance test show that one or more contractually agreed requirements have not been satisfied or in case of any other deviations or deficiencies, such deviations or deficiencies shall be set forth in the protocol of final acceptance test and further suitable action to be taken shall be mutually agreed upon by the Customer and MIKRON in writing.

4.3.2 The Customer shall not refuse to accept the Plant and to sign the protocol of final acceptance test because of minor imperfections, in particular such that do not significantly impair the ability to function and the performance of the Plant. Such minor imperfections shall be remedied within a reasonable period of time by MIKRON.

4.3.3 In the case of significant deviations from the Contract or important deficiencies, the Customer shall permit MIKRON to remedy such deviations or deficiencies within a reasonable limit of time. After adequate actions have been taken as agreed in the initial protocol of final acceptance test to be signed, the final acceptance test shall be repeated in order to achieve the confirmation of compliance of the

Plant with all contractually agreed requirements by signing the subsequent protocol of final acceptance test.

### 4.4 Deemed definitive acceptance upon commencement of commercial operation, delay of definitive acceptance due to Customer's fault

4.4.1 Whenever the Customer commences the commercial operation with the Plant without the explicit prior written approval of MIKRON before the definitive acceptance by signing the (subsequent) protocol of final acceptance test set forth under sec. 4.2 or sec. 4.3.3, as the case may be, has taken place, the Plant shall be deemed definitively accepted by the Customer, provided that MIKRON has given reasonable notice to carry out such definitive acceptance, thereby indicating the legal consequences of the commencement of commercial operation as provided herein, and subject to the Customer's remaining entitlement to furnish evidence of the Plant not being in accordance with the requirements stipulated in the Contract.

4.4.2 Likewise, the Plant shall be deemed definitively accepted by the Customer in the case that

- the final acceptance test cannot be performed due to reasons for which MIKRON is not responsible or upon fruitless expiry of any notification period set by MIKRON for agreeing on such date; or
- the Customer refuses to definitively accept the Plant without entitlement; or
- the Customer refuses to sign the protocol of final acceptance test without explanation
- as soon as the Customer commences the commercial operation with the Plant; or
- the Customer commences the commercial operation and operating into production with the Plant without reservation.

## 5. Beginning of the guarantee period

The guarantee period shall cover 12 months or 2500 hours of operation and shall run from the day after the date of definitive acceptance by signing the (subsequent) protocol of final acceptance test set forth under sec. 4.2 or sec. 4.3.3 of these TestTC, as the case may be, or of deemed definitive acceptance pursuant to sec. 4.4 above or at the latest three months after delivery of the Plant by MIKRON.

## 6. Plant efficiency

6.1 The Plant efficiency is determined in accordance with VDI norms 3423. The first three months of production are not considered. From the 4<sup>th</sup> month after the definitive acceptance by signing the (subsequent) protocol of final acceptance test set forth under sec. 4.2 or sec. 4.3.3 of these TestTC, as the case may be, up to and including the 6<sup>th</sup> month, the Customer shall record all Plant stops in the course of the production run, together in each case with cause and duration. Such recorded information shall be transmitted to MIKRON at least on a weekly basis.

Plant efficiency is computed in compliance with VDI norms 3423 according to the formula below:

$$h = \frac{T - SM - SA}{T - SA}$$

where

T = duration of the test production run  
 SM = sum of the duration of machine stops due to the machine  
 SA = sum of the duration of machine stops not imputable to the machine (e.g. non-availability of

blanks, stops imputable to defective blanks, work interruptions, etc.).

## 7. Training

7.1 During the period of the preliminary acceptance test at MIKRON's works, the Customer (represented by maximum 2 persons) can benefit from a short training course free of charge. This training will comprise of:

- a general introduction,
- training and instructions for operation and maintenance of the Plant.

7.2 On request by the Customer, more extensive training can be given. Costs for such training shall be at the Customer's charge.

## 8. Place of Performance, Place of Jurisdiction, Applicable Law

8.1 For all claims arising out of the business relationship between the Customer and MIKRON, the place of performance shall be Agno, Switzerland.

8.2 All disputes arising from contracts to which these TestTC apply as well as all business relationships between MIKRON 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.

8.3 The exclusive place of jurisdiction for all claims resulting from the business relationship with the Customer including any claims from cheques and drafts 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 its Customer at Customer's general place of jurisdiction.

## 9. Severability clause

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

Mikron Switzerland AG, Agno  
 Division Machining  
 Via Ginnasio 17  
 6982 Agno  
 Switzerland  
 IDI CHE- 258.002.075  
 VAT CHE-108.564.548  
 Tel. +41 91 610 61 11  
[mag@mikron.com](mailto:mag@mikron.com)  
[www.mikron.com](http://www.mikron.com)

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