

**GENERAL TERMS OF SUPPLY OF CONTRACTING, CIVIL ENGINEERING
AND AGRICULTURAL MACHINERY, ACCESSORIES, TOOLS ETC
FOR PROFESSIONAL USE**

Drawn up and adopted by The Swedish Trade Association for Suppliers of Mobile Machines
(MaskinLeverantörerna), Swedish Rental Association, the Swedish Association for Mobile Cranes, and the Earth
Moving Contractors Association (ME)

**MASKIN
03**

Application

1. These general terms of supply shall apply unless otherwise agreed. Any such agreement shall be in writing.

Application abroad

2. The vendor's undertakings under these terms of supply shall apply only to supplies of goods for use in Sweden. In any other event a separate written agreement shall be concluded between the parties.

Price, price changes

3. In addition to the agreed price, the purchaser shall also pay any value-added tax and statutory environmental charges applicable on the date of supply.
4. If the value of the purchaser's trade-in goods changes after the date of valuation by more than should result from the normal maintenance and use of the goods, the price agreed for the trade-in goods shall be adjusted to a corresponding extent.

Statutes, legislation etc

5. Unless otherwise agreed, goods, both new and used, shall meet the requirements to which they are subject at the time of supply delivery under applicable legislation, statutes, regulations, directives, etc and under the regulations and directives referred to in the contractual documents. The goods shall be inspected in accordance with the applicable regulations. Should any such regulation be amended after the agreement has been entered into or otherwise come into force, but before the goods have been supplied, the vendor or purchaser as appropriate shall so inform the other party without delay. In so far as the cost of the goods is affected by such amended provision, which the vendor could not reasonably have foreseen, the price shall be renegotiated.

Product information

6. If the agreement between the parties refers explicitly to catalogues, circulars, advertisements, pictorial material or price lists, the goods shall comply with these. Such information shall otherwise be regarded as approximate.
7. The vendor shall – normally at the time of delivery – provide the purchaser with technical data concerning weight, dimensions and capacity, together with operating, safety and maintenance instructions. With new machinery, the vendor shall in addition furnish an environmental product declaration and, where applicable, a catalogue of spare parts.

Design changes

8. The vendor shall be entitled, before delivery and without prior notice to the purchaser, to make such detailed changes to the design intended improve the goods as he may feel are called for. Such a change shall not entail any change in the price.

If the vendor realises or should have realised that any such change entails a substantial inconvenience to the purchaser, he shall inform the purchaser thereof. If the purchaser shows that the change entails a substantial inconvenience to him, he shall be entitled to cancel the agreement. In the event of cancellation by virtue of this clause, no other remedy may be claimed against the other party.

9. The purchaser shall not be entitled subsequently to the date of agreement to have specification and design changes by the vendor incorporated in the goods.

Delivery clause and delivery time

10. Unless otherwise agreed, the goods are sold ex-works as defined in Incoterms 2000. The delivery time shall be specified and taken from the date on which the agreement was concluded. If no specific delivery date has been set, the goods shall be delivered within a reasonable time.

Notice of delay

11. Should either party consider that he will be delayed in delivering or receiving the goods, he shall inform the other party without delay. Such party shall at the same time state the date on which he estimates delivery or receipt may take place.

Extension of delivery time

12. If a delay should occur due to any circumstance specified in Clause 5 or due to any action or omission on the part of the purchaser, the delivery time shall be extended by a reasonable period.

Penalty for delay on the part of the vendor

13. If the vendor does not deliver the goods within the delivery time or within the extended time as provided for by Clause 12 and this is not due to reasons specified in Clause 28, the purchaser shall be entitled to a penalty unless the vendor indemnifies the purchaser by placing other equivalent goods, for example a hire or trade-in machine, at his disposal.

The penalty shall not, however, be payable if the vendor can show that he informed the purchaser of the delay and that the latter accepted it without demur.

Unless otherwise agreed, the penalty shall be calculated per week or part thereof as follows: for the first week the penalty shall amount to a total of 0.25 percent of the contractual purchase price, for the second week to a total of 1.0 percent, the third week to a total of 2.5 percent, the fourth week to a total of 4.5 percent and the fifth week to a total of 7.5 percent. The total penalties shall thus be limited to a maximum of 7.5 percent of the contractual purchase price.

The purchaser shall forfeit his right to penalties unless he presents a written demand therefor within six months of the time of delivery.

Cancellation in the event of delay on the part of the vendor

14. When a delay as provided for by Clause 13 has arisen, the purchaser shall be entitled, by means of written notice to the vendor, to demand delivery and to set a final extension of the time of delivery, amounting to at least two weeks. If, for any cause other than such as the purchaser is responsible for, the vendor does not make delivery within the period specified, the purchaser shall immediately be entitled to terminate the contract in respect of such part of the goods which could not be put to the intended use by giving the vendor written notice to that effect. During the first ten weeks of delay the purchaser shall, however, be entitled to terminate the contract only if the delay constitutes a substantial inconvenience to him. In addition to the penalties provided for by Clause 13 arising from a delay in delivery on the part of the vendor, the purchaser shall be entitled to compensation for loss suffered as a result of the cancellation. Unless otherwise agreed, such compensation including the accrued penalties shall not, however, exceed 10 per cent of the contractual purchase price.

Delay on the part of the purchaser, the vendor's right to cancel and cancellation charge

15. If the purchaser fails to take receipt of the goods on the agreed date, and this is not due to any such circumstance as mentioned in Clause 28, he shall be liable to make every payment resulting from delivery as though the goods concerned had been delivered.

The vendor shall, on behalf of the purchaser and at his expense, take reasonable measures to safeguard the goods. This undertaking also includes a duty upon the vendor to keep the goods insured at the purchaser's expense.

If, despite a written demand from the vendor, the purchaser fails to receive the goods within the agreed period, the vendor may terminate the contract by giving the purchaser written notice in writing and shall receive from the purchaser a penalty of 7.5 percent of the purchase price attributable to the part of the goods not received.

Payment

16. Unless otherwise agreed, full payment in ready money shall be made no later than the time of delivery of the goods.

Interest on overdue payment

17. If the purchaser fails to pay on time, late payment interest shall be payable as provided by the Swedish Interest Act; such interest shall, however, exceed any contractual instalment purchase interest by at least 2 percentage points.

Repossession reservations etc.

18. If it may be assumed that the purchaser will not duly satisfy his obligations under the agreement, or if the vendor terminates the contract, the vendor shall be entitled to repossess such goods as legally can still legally be repossessed. Before the goods are paid in full the purchaser has no right, save with the written permission from the vendor, to dispose over them in such a way that the vendor's right of repossession is imperilled. Should distraint, sequestration or other custodial measures over the goods come into question, the purchaser shall present this agreement to the bailiff and inform the vendor immediately.

The purchaser shall be under a duty to care for and use the goods in such a way that the vendor's rights are not imperilled. This shall include keeping the goods insured to the extent and on the terms approved by the vendor. Should the purchaser neglect to do so, the vendor shall be entitled to take out such insurance at the purchaser's expense. The right to the sum insured

or to any other indemnification that may be payable due to losses shall be assigned to the vendor if there is any likelihood of his rights being endangered. In such event the vendor shall be entitled to offset that part of the indemnification that corresponds to the purchaser's remaining debt under the agreement.

The purchaser shall inform the vendor without delay of any loss or damage that substantially reduces the value of the goods.

The goods shall be placed at the disposal of the vendor for inspection or trial operation at the place where the goods are located whenever the vendor so requests.

Repairs may only be carried out at a workshop approved by the vendor.

The purchaser shall inform the vendor of all changes of address or domicile.

Warranty

19. The vendor shall at the time of purchase issue a written warranty undertaking in respect of the goods. The undertaking shall be explained to the purchaser at the same time.

Warranty claims

20. Within a reasonable time after he has or ought to have detected that the goods are defective, the purchaser shall inform the vendor of the defect. The claim shall be made in accordance with the terms of the warranty.

The purchaser shall provide the vendor with a reasonable opportunity to determine the nature and origin of the defect and, if the repair is to be carried out by the vendor, shall place the goods at the vendor's disposal as soon as possible.

Undertaking to rectify

21. After a claim, the vendor shall rectify the defect at his own expense during normal working hours without unreasonable delay. Depending on the nature of the defect, rectification shall be done either by the vendor repairing the defective part or by his furnishing a part in as-new condition to replace the defective one.

The meaning of "without unreasonable delay" shall be determined having regard for the nature and scope of the defect, the difficulty of diagnosing it, the purchaser's need for the goods and the availability of spare parts and workshop capacity.

Besides his own costs, the purchaser shall, however, make recompense for the vendor's travelling time, travel and subsistence allowances. In the event of repeated journeys relating to the same warranty claim, the vendor shall, from the second journey on, bear his own costs for travelling time, travel and subsistence allowances unless otherwise agreed.

22. The vendor shall decide, after consultation with the purchaser, whether the repair can be carried out on site where the goods are located or whether it must be carried out in a workshop indicated by the vendor or other suitable place. In the case of an on-site repair, the purchaser shall be responsible for ensuring that any person required by law during solitary work is on the spot and – to the extent that they are available – make available assistance, repair premises, lifting/hoisting equipment etc.
23. If the defect is of such a nature that the purchaser can carry out the repair himself and if the parties are so agreed or rectifying the defect requires only trivial knowledge, the vendor shall be deemed to have satisfied his undertakings by supplying the purchaser with an as-new part or with the original repaired. The purchaser shall, at the vendor's request, immediately return the defective part at the minimum cost in carriage. If the defect is covered by the vendor's warranty, carriage shall be at the vendor's expense.
24. Should the vendor neglect to rectify a defect for which he is responsible within a reasonable time, or should such defect persist after repeated

attempts, the purchaser shall be entitled to remedy it himself at the vendor's expense or to demand a reduction in the purchase price.

If a persisting defect is of a substantial nature, the purchaser shall be entitled to cancel the agreement in so far as it applies to the defective goods. Should the defective goods bear such a relationship to the remainder of the goods that the purchaser would incur substantial inconvenience through accepting the remaining part of the goods purchased, he shall be entitled to cancel the agreement in its entirety.

Limitations on warranty

25. The vendor shall not be liable for defects arising from materials provided by the purchaser or any design stipulated by him. Parties shall be liable for changes to their designs proposed by the other party only where they have expressly assumed such liability.

The vendor shall be liable only for defects that occur in correct use under normal working conditions or those assumed in the agreement. It is assumed for this purpose that the purchaser follows the applicable user instructions and any furnished by the vendor or his representative. Liability shall not extend to defects caused by faulty maintenance or incorrect assembly by the purchaser, alterations made without the vendor's permission, incorrectly performed repairs by the purchaser or normal wear and tear.

The vendor's liability shall be limited to the normal service life of wearing parts and consumables such as incandescent bulbs, filters, fuses and the like.

Where parts and components subject to particularly heavy wear are replaced, the purchaser shall make reasonable recompense for the time for which they have been used.

Tests and faultfinding measures performed at the purchaser's request shall be at no cost to the purchaser if defects for which the vendor is responsible are detected. Otherwise the purchaser shall be charged for all the costs involved.

26. For those parts included in a separate list such as tyres, batteries, wearing parts and aftermarket accessories not manufactured by the vendor or his principal, the period of the sub-contractor concerned's warranty undertakings shall apply if such period exceeds the agreed warranty period for the goods. Unless otherwise agreed, rectifying a defect during the warranty period shall not lead to an extension of the total warranty period.
27. Except as provided by Clauses 19-26, the vendor shall not be liable for any defects after the goods have passed to the purchaser. The vendor shall not be liable by reason of any defect in the goods to make any compensation for loss of production, loss of profit or any other indirect damage. This limitation of the vendor's liability shall not however apply if the vendor has been guilty of gross negligence.

Grounds for relief from liability

28. A party shall be entitled to an extension of the delivery time if fulfilment of the purchase is prevented by circumstances outside the party's control such as industrial dispute, war, act of the civil power, extensive operational disturbances suffered by the party or sub-contractor or any other circumstance not brought about by the party that materially affect performance of the agreement and that the party could not foresee or whose consequences he could not reasonably avoid.
29. To be entitled to extension of the delivery time, a party is required to inform the other party without delay that a circumstance giving rise to relief from liability has arisen.
30. If the purchase cannot be fulfilled within a reasonable time, due to circumstances provided for by Clause 28, either party shall be entitled to cancel the agreement to the extent by which its performance has been prevented. In the event of cancellation as provided for by the previous paragraph, no other remedy may be claimed against the other party.

Disputes

31. Disputes arising from this agreement shall be decided by a general court of law, unless the parties agree on another way of settling the dispute.