

INDAG Pouch Partners GmbH
Rudolf-Wild-Str. 105-117, 69214 Eppelheim/Heidelberg, Germany

Terms and Conditions of Service

Art. 1 Applicability

These Terms and Conditions of Service of INDAG Pouch Partners GmbH, Rudolf-Wild-Str. 107-115, 69214 Eppelheim/Heidelberg, Germany (hereinafter referred to as "INDAG") apply, unless otherwise expressly specified in writing, to all services offered and provided by INDAG to customers. Deviating, conflicting or supplementary general terms and conditions of business of the customer will not become part of the contract, even if they are not expressly contradicted.

Art. 2 Conclusion of Contract

A service order submitted by the customer is binding, if such service order is submitted in written form, by fax or email or by telephone call. The service contract is only concluded when INDAG confirms the service order in writing, by fax or email to the customer or by the provision of the ordered service to the customer.

Art. 3 Other Applicable Terms and Conditions

(1) In addition to these Terms and Conditions of Service the Terms and Conditions of Supply, the Installation Conditions as well as the quotation / price indication of INDAG will apply in their respective valid version.

(2) These Terms and Conditions of Service will not apply for services provided by INDAG in order to fulfill claims for defects or if and to the extent differing arrangements have been agreed and explicitly confirmed by INDAG in writing.

Art. 4 Installation

A service contract for the installation of the product(s) delivered by INDAG includes the assembly and configuration of a completely delivered or for purposes of transport disassembled machinery, machine or component as well as a function checkout.

Art. 5 Commissioning and Acceptance

(1) As a general rule an internal acceptance test ("Factory Acceptance Test") will be carried out by INDAG before delivery. The customer will be offered the opportunity of attending the Factory Acceptance Test. The Factory Acceptance Test involves INDAG's standard test procedures. A written report must be produced of the results of the Factory Acceptance Test, even if the customer intends to deny the acceptance.

(2) If the customer wishes further test procedures to be carried out ("Site Acceptance Test"), these must be agreed separately in writing and paid for by the customer. Test materials specified by the customer must be provided by the customer in good time free of charge. A written report must be produced of the results of the Site Acceptance Test, even if the customer intends to deny the acceptance. INDAG may demand the execution of partial Site Acceptance Tests as far as no objective reasons impair.

(3) If the Factory Acceptance Test and/or the Site Acceptance Test reveals serious defects which rule out the commencement of production with the delivered product, the customer may refuse to accept the supply concerned, unless the defect affects a component from a third party supplier stipulated to INDAG by the customer. Refusal to accept the delivered product must be recorded in the written report, and the defect specified. INDAG will remedy the defects within a reasonable period and the customer must give it the opportunity to do so. Once the defects have been remedied, a fresh Factory Acceptance Test or Site Acceptance Test, as the case may be, must be carried out.

(4) If the Factory Acceptance Test and/or the Site Acceptance Test reveal no defects, or only minor defects, and full or partial production can therefore be commenced with the delivered product (if need be, with certain limitations), the acceptance will be deemed complete. This must be recorded in the written report, and any defects specified. INDAG will remedy the defects within a reasonable period and the customer must give it the opportunity to do so.

(5) Acceptance will also be deemed complete:

- a) if the Factory Acceptance Test and/or the Site Acceptance Test, for reasons beyond the control of INDAG, cannot be performed on the agreed date;
- b) if the customer refuses to cooperate with or to perform the Factory Acceptance Test respectively the Site Acceptance Test;
- c) immediately when the customer makes use of supplies or services provided by INDAG.

(6) This Art. 5 does not apply in case of the delivery and/or installation of service parts.

Art. 6 Repair Service

(1) Which services INDAG provides to fulfill a service contract for repair or elimination of faults depends on the technical needs. If not explicitly agreed otherwise a service contract for repair or elimination of faults includes:

a) all repair work which is necessary for recovery of an operational readiness of the machine or component according to expert discretion and generally accepted rules of technology;

b) provision of all required service parts for this according to Art. 7. Upon request, the customer will send such substituted service parts back to INDAG;

c) installation of the service parts if agreed;

d) function checkout with respect to the repaired components but not of the complete machine.

(2) Information provided by INDAG about duration and costs of repair service in advance is non-binding, as the durations and costs of repair work depends on the age and state of preservation of the respective machine. Nevertheless INDAG will obtain the approval of the customer before execution of extensive repair work or installation of service parts, if:

a) a cost limit defined by the customer would be exceeded; or

b) if the repair costs would be disproportional compared with the value of the respective machine.

(3) The customer is obliged to confirm the fulfillment of a service contract according to this Art. 6 on a form provided by INDAG. Art. 5, paragraph 4 and paragraph 5 apply mutatis mutandis.

Art. 7 Delivery of Service Parts

For the delivery of service parts the Terms and Conditions of Supply of INDAG will apply. This includes a period of limitation of twelve (12) months following the delivery of the products for claims with respect to defects and certain limitations of claims for defects as well as for the general liability of INDAG as defined in the Terms and Conditions of Supply of INDAG.

Art. 8 Other services

(1) The service contract includes:

a) in case of maintenance work the execution of such work according to the respective maintenance report of INDAG;

b) in case of instruction or training the briefing of the operators defined by the customer with respect to the functions of the respective machine, component or software; instruction and training materials provided by INDAG are protected by copyrights and must be kept confidential by the customer;

c) in case of an oral consultation (for example by a service engineer at customer's site or via telephone call) the provision of operational knowledge, with respect to software for the current and previous version only.

(2) In case of other consulting work or other services (for example relocation or reconditioning of a machine) the services provided by INDAG and the costs to be paid by the customer are set forth in the respective service offer of INDAG.

Art. 9 Cost for Services

(1) All services provided by INDAG are to be paid by the customer, if not explicitly agreed otherwise (for example in case of fair dealings). All prices are net prices plus VAT.

(2) All prices for services are set forth the respectively valid version of the price indication / quotation of INDAG and are calculated based on the relevant expense factors at the time of the offer provided by INDAG. INDAG may adjust the Service Price List from time to time, in particular in case of a significant change of expense factors (such as wages or costs for material etc.). It is suggested to ask INDAG for the respectively valid service prices and conditions. In case of a change of such expense factors after the conclusion of the service contract INDAG will be entitled to adjust the agreed prices, if the time between conclusion of the service contract and the provision of services is longer than three (3) months. In such cases the Service Price List valid at the time of provision of services will apply.

(3) The costs to be paid by the customer will be calculated depending on the service order and the service report to be signed by the customer. In the service report the hours of work and the kind of provided services will be recorded. Commenced fifteen (15) minutes will be rounded up to a quarter of an hour.

Art. 10 Payment

All payments have to be done without any deduction and free of transaction charges to INDAG's bank account. In case of delay default interest at the rate of 8 % in excess of the base interest rate (such rate to be determined half-yearly by the European Central Bank), will be charged; the customer will be free to give evidence of a lower damage. An offsetting or the exercise of a retention right is only permitted, if the counter claim of the customer has been recognized by INDAG in writing or has been declared to be final and conclusive.

Art. 11 Collateral Co-Ownership; Lien

(1) To secure all claims of INDAG resulting from the provision of services the customer transfers a collateral co-ownership (limited to the amount of the respective bill) on the machine or component which was subject-matter of the provided services to INDAG. Up to the complete payment of the claim the customer coffers the respective machine or component on behalf of INDAG free of charge.

(2) In case of service work at the site of INDAG the customer grants a lien on the respective machine or component to INDAG to secure all claims of INDAG resulting from services provided by INDAG, if such claims are not secured according to paragraph 1 above.

(3) Co-ownership and lien of INDAG will expire with complete payment of the respective bill.

Art. 12 Co-operation of Customer

(1) The customer will secure the accordance of the place of installation with all constructional requirements, in particular with respect to the ground, the required floor space and height, the access to the place of installation and the electrical power supply. In case of fault reports which are followed by a repair service the customer will provide an exact description of the fault.

(2) In case of installation work, maintenance and repair service, during which a intervention into power supply, air conduction, air conditioning, water or wastewater systems become necessary, the customer will be responsible for the compliance with applicable protection and security provisions, for example by engaging an qualified and certified expert.

(3) Unless otherwise agreed in writing, the customer will provide at its own cost:

- a) technical assistant staff in the required quantity;
 - b) loadable foundation construed for the installation of the delivered product, including anchor bolts; the screwing with anchor bolts will be carried out by the customer at its own risk;
 - c) equipment, facilities and operation materials necessary for installation and commissioning of the product delivered by INDAG (including, but not limited to: lifting gear, cranes, equipment for unloading and transporting machinery, documents, ladders, sealants and lubricants, etc.);
 - d) connections to the delivered product that will be installed, such as electricity, compressed air lines, cooling water lines etc.;
 - e) electricity, illumination, heating / air-conditioning, air supply;
 - f) dry and lockable rooms suitable for storage of tools and delivered products;
 - g) dry and heated room with washing facilities for INDAG's staff;
 - h) protection of INDAG's staff against unhealthy and dangerous working conditions;
 - i) medical care of INDAG's staff if necessary;
 - j) sample materials and, if necessary, customer's product in sufficient quantity for the commissioning and acceptance of the product(s) delivered by INDAG;
- (4) The customer will secure the availability all necessary parts at the installation place before the beginning of the installation of a machine or component as well as the finishing of all necessary preliminary work in order to enable the service engineers of INDAG to start installation work immediately.
- (5) The customer will inform INDAG immediately about all changes relevant for the service contract.

Art. 13 Claims for Defects

(1) INDAG will provide all services in a professional manner in accordance with the provisions of this General Terms and Conditions for Service. In case of an evidenced fault in the provision of service INDAG will correct such fault as soon as possible.

(2) The period of limitation for claims for Defects or claims for compensation pursuant to Art. 14 expire twelve (12) months following acceptance in accordance with Art. 5.

Art. 14 Liability and Compensation for Damages

(1) In case of injury to life, body or health which is due to a willful or negligent breach of duty on the part of INDAG or one of its legal representatives or vicarious agents, INDAG is liable in accordance with the statutory provisions.

(2) For other damages, the following applies:

- a) For damages which result from a willful or gross negligent breach of duty on the part of INDAG or one of its legal representatives or vicarious agents, INDAG is liable in accordance with the statutory provisions.
- b) For damages which result from the breach of substantial contractual duties as a result of ordinary negligence on the part of INDAG, its legal representatives or vicarious agents, INDAG's liability is limited to the foreseeable damage typical for the type of contract, subject to a maximum sum in the amount of the value of the delivered products.
- c) Claims for damages for other damage arising from breach of ancillary duties or non-substantial duties in the case of ordinary negligence are excluded.
- d) Claims for damages arising from default as a result of ordinary negligence are excluded; the customer's statutory rights following the expiration of a reasonable extension of time remain unprejudiced.

(3) INDAG will not be liable for any advice given from service engineers of INDAG

by courtesy beyond the scale of services agreed in the service contract.

Art. 15 Liability for Indirect Damage

INDAG is not liable for indirect damages, e.g. production stoppage, loss of profits and extra consumption of materials, except in cases of willful intent or gross negligence.

Art. 16 Place of Performance, Jurisdiction, Applicable Law

(1) For performance the place where performance is to be made is the place of performance.

(2) The parties agree upon the exclusive jurisdiction of the courts of Heidelberg, Germany.

(3) These Terms and Conditions of Service are governed by and construed in accordance with substantive German law under the exclusion of the Private International Law Statute (PILS) and the UN Convention on Contracts for the International Sale of Goods (CISG).

Art. 17 Additional Agreements, Partial Invalidity

(1) Solely these General Terms and Conditions of Service and written agreements between customer and INDAG will apply for the provision of service by INDAG. There are no verbal agreements.

(2) In the event that any of these provisions in whole or in part is or becomes invalid or unenforceable, the validity and enforceability of the remaining provisions will not be affected thereby. Any invalid or unenforceable provision in whole or in part is to be replaced by a provision or part of a provision which comes closest to the purpose and economic result of the invalid or unenforceable provision. The same applies with respect to loopholes in these provisions.

(3) INDAG will be entitled, to provide services by service engineers of component suppliers or by authorized service partners.

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