

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

Terms and Conditions of Supply

Art. 1 Applicability

These Terms and Conditions of Supply of INDAG Pouch Partners GmbH, Rudolf-Wild-Str. 107-115, 69214 Eppelheim/Heidelberg, Germany (hereinafter referred to as "INDAG") apply exclusively, unless otherwise expressly specified in writing, to all offers, contracts of purchase, orders and deliveries of the machinery, equipment, machine, spare parts or any other product ("Product(s)") which INDAG provides to customers. They apply in equal measure to future business relationships, even if they are not expressly agreed upon in each case. 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

(1) INDAG's price quotations are subject to change insofar as they are not expressly described as being binding in the quotation text. The contract is only concluded through order confirmation in writing by INDAG to the customer following a binding order provided by the customer.

(2) INDAG provides a guarantee only where this has been expressly agreed in the order confirmation.

Art. 3 Specifications, Regulations

(1) The written materials belonging to INDAG's offer, such as pictures and drawings, as well as the details of weight, space, power requirements and efficiency are approximately decisive; technical modifications or technical improvements or construction modifications are admissible where the customer can reasonably be expected to accept the same.

(2) The customer is solely responsible for the compliance with security-relevant regulations covering operation, illness and accident prevention.

(3) The customer will, at the latest when placing the order, draw the attention of INDAG to additional standards and regulations that apply in the country of destination. Any costs incurred as a result of ensuring conformity with such regulations will be invoiced by INDAG separately.

Art. 4 Delivery and Passing of Risk

(1) Delivery will be made EXW (EX WORKS – Incoterms 2010), unless otherwise agreed in writing. Risk passes to the customer with delivery. If the shipment is delayed through the conduct of the customer or if the customer is in default of acceptance, or if it does not request the ordered Product, in spite of notice that they are ready for dispatch or due to circumstances for which INDAG is not responsible, the risk passes to the customer at the time of notification of the readiness of the Product for shipment.

(2) Where commercial clauses are agreed, the Incoterms in their respectively valid version apply. The scope of delivery is specified in the order confirmation.

Art. 5 Delivery Period and Force Majeure

(1) Delivery periods not expressly designated as binding are non-binding. Delivery periods commence at the earliest upon receipt of all required written materials relating to the content and conditions of the order, insofar as the customer is required to supply these in accordance with the terms of the agreement, and after receipt of the agreed payment or confirmed letter of credit. A delivery period is met when the Product is ready for shipment within the specified period and the customer has been notified thereof.

(2) Delivery periods are extended in the case of circumstances for which INDAG is not responsible and which have substantial influence on the production or delivery of the Product, in particular in the case of war or warlike activities, confiscation, embargo, natural disasters, labor disputes and other circumstances or events of the occurrence of force majeure which affect INDAG or sub-suppliers ("Blameless Interruptions in Operations") for the duration of the Blameless Interruption in Operations. This should also apply if the circumstances occur to INDAG's supplier. If, due to a Blameless Interruption in Operations, the necessary modification of the contract is not possible, notwithstanding all reasonable efforts to that end, INDAG is released from its obligation of delivery.

(3) If the delivery period is extended due to the above mentioned circumstances or if INDAG is released from its obligation of delivery, the customer will have no liability claims of any kind against INDAG. INDAG will also not be liable for Blameless Interruptions in Operations arising during a period when it is in default of delivery. INDAG is obliged to notify the customer with regard to the arising of any of the above mentioned circumstances.

(4) INDAG is permitted to make partial deliveries and to issue partial invoices to a reasonable extent prior to the expiration of the delivery period.

(5) If shipment or delivery of the Product is delayed at the request of the customer or due to circumstances which lie in the customer's sphere of risk and responsibility, the customer is required to pay INDAG the costs arising for the storage of the Product and also the accrued interest on the capital required for the Product. In the case of storage at the premises of INDAG, this claim amounts to at least 0.5% of the

invoice amount for each month or part of a month of storage, commencing one (1) month following notification of the readiness for shipment; the customer will have the right to prove that the amount of damage was lower. INDAG is in any event entitled, after having set a reasonable period which has elapsed without result, to dispose over the Product and deliver replacement Product to the customer within a reasonably extended period.

Art. 6 Prices

(1) INDAG may amend at its sole discretion the sale prices with four (4) months' notice whenever changes are justified, e.g. with increasing commodity and/or input costs.

(2) Deliveries are made at the prices which have been published in the order confirmation. All prices apply EXW (EX WORKS – Incoterms 2010), unless otherwise agreed in writing. All prices, unless otherwise specified, are quoted in Euro, to which costs for dismantling, packing, transport, insurance, installation and instruction, as well as all national taxes and official fees will be added.

Art. 7 Payment and Default

(1) Payments are to be made to INDAG in cash without any deduction as specified on the invoice. Unless otherwise agreed, payments are to be made by irrevocable letter of credit confirmed by a German bank.

(2) In the case of default in payment, 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.

(3) In the case of instalment payments, INDAG is entitled to call due the entire remaining purchase price if the customer is in default of two or more instalment payments in sequence and the outstanding amount is more than 10% of the purchase price.

(4) An offsetting or the exercise of a retention right is only permitted, if customer's counter claim has been recognized by INDAG in writing or has been declared to be final and conclusive by a court.

Art. 8 Claims for Defects; Rule of Limitations

(1) The delivered Product must be carefully inspected and examined by the customer immediately upon delivery from INDAG to the Customer's premises or any other place of destination agreed by the parties. As the transport takes place at the customer's risk and expense, the customer is solely responsible for any transport related damages and defects.

(2) In the event of any visible, external defects in the delivered Product, if any ("Obvious Defects"), the customer must inform INDAG in writing specifying the deficiency claims within five (5) business days following the receipt of the contractual Product at the customer's premises or any other place of destination agreed by the parties. Defects that were not discovered after intensive investigation within this period of time ("Latent Defects") must be notified and specified in writing to INDAG immediately, but no later than two (2) business days following the discovery of such Latent Defects. Any claims which do not observe the applicable notice period are forfeited. Both, Obvious Defects and Latent Defects, are hereinafter collectively referred to as "Defects".

(3) INDAG is entitled to determine the notified Defects on site by itself or a representative.

(4) Should the Product delivered be defective, the customer has the following rights:

a) INDAG is obliged to rectify the Defect and may, at its option, perform this either by removing the Defect through remedial measures or by delivering the Product free of Defects. Replaced parts become property of INDAG. If INDAG replaces defective parts which, due to their character or the type of use, are subject to wear and tear through normal use, before the usual life cycle of the respective part has been expired, INDAG has the right to invoice a compensation for the use of the replaced part to the customer.

b) The period of limitation for claims for Defects or claims for compensation pursuant to Art. 9 expire twelve (12) months following delivery of the Product.

c) If the remedial measures prove ineffective repeatedly, the customer is permitted to rescind the contract or to reduce the purchase price. Rescission of the contract is not permitted where the breach of duty on the part of INDAG is only insubstantial.

d) In order for INDAG to carry out the remedial measures and deliver the replacements it considers necessary, the customer, in agreement with INDAG, must supply the required time and opportunity for this task. Otherwise INDAG is released from liability for any consequences which may result. INDAG at its own discretion has the right to have a third party perform its duties under this Art. 8. Should the customer, for operational reasons, choose to have INDAG send an express technician or perform the work outside the normal working hours, involving INDAG in extra cost, the customer will bear the extra costs thereby arising, e. g. for overtime, longer travel routes etc.

(5) Claims for Defects are excluded:

- a) for used Products, unless liability for Defects is expressly agreed;
 - b) for parts delivered which, due to their character or the type of use, are subject to wear and tear through normal use. This will apply even if such parts have to be replaced within the period of limitation for claims with respect to Defects in accordance with the usual life cycle of such parts;
 - c) for consumables delivered which, due to their character, are subject to a limited date of expiry, if such date of expiry is expired. This will apply even if such date of expiry is within the period of limitation for claims with respect to Defects.
- (6) No Defect in the Product delivered exists:
- a) where Products delivered by INDAG are used in the operations of the customer in functional conjunction with hardware or software components already existing or such as were purchased from a third party, insofar as the problem was caused by components not delivered by INDAG or their lack of compatibility. If INDAG has guaranteed compatibility with products of third parties, this only applies to the product version current at the time of the guarantee, not to older or future product versions (updates or upgrades) of such product;
 - b) if a problem is the result of the customer not having ensured compliance with the technical requirements which were specified in the documentation and any supplementary material supplied to him;
 - c) if a problem is the result of the customer not having executed the required maintenance and care work which were specified in the documentation and any supplementary material supplied to him.

The cost of the service work required to resolve the problems mentioned under a), b) and c) above is to be borne by the customer in accordance with the respectively applicable Terms and Conditions of Service of INDAG.

(7) For damage resulting from natural wear and tear, incorrect or careless treatment, excessive use, unsuitable equipment, unsuitable operative location, in particular the foundations for the installation, lack of stability or unsuitable power supply, chemical, electrochemical or electrical influences, weather and other natural influences, the customer remains solely responsible.

(8) INDAG is only responsible for the cost of remedial measures necessary, in particular the costs of transport, travel, labor and material costs, at the point of delivery, even if the Product delivered have, in accordance with Art. 13, paragraph 4 c), been moved to another operational location of the customer. Additional costs resulting from the removal of the Product delivered to a different location are to be borne by the customer.

(9) For Defects in consumables, the following applies: upon the discovery of a Defect, the consumables must be separated in the condition they were in at the time of discovery and held ready for inspection by INDAG. Should the customer fail to comply with this stipulation, they are deemed as accepted by the customer in the condition they were in at the time of delivery without any further liability on the part of INDAG. Art. 8, paragraph 5 applies accordingly.

Art. 9 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 Product delivered.
- 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.
- e) Claims for damages pursuant to § 439 section 3 BGB are excluded, unless such damages are deemed as a result of willful or gross negligent breach of duty on the part of INDAG or one of its legal representatives or vicarious agents.

(3) The exclusions or limitations of liability do not apply insofar as INDAG has fraudulently failed to admit to a Defect or has given a guarantee as to the properties of the Product.

(4) The claim of the customer to reimbursement of wasted expenditure instead of claims for damages in place of performance remains unprejudiced.

Art. 10 Liability for Indirect Damage

INDAG is not liable for indirect damage, in particular resulting from a defective and/or late delivery, e. g. production stoppage, loss of profits, extra consumption of materials etc., except in cases of willful intent or gross negligence.

Art. 11 Industrial Property and Copyrights

(1) All Industrial Property rights like e.g. patents, utility models, industrial designs, trademarks or other distinctive signs, trade secrets as well as copyrights covering the Product or parts thereof and the related documents, drafts, offers, order confirmations, drawings, manuals, calculations, quotations or any other material provided

by INDAG to the customer (whether in hard copy or electronic form) remain the exclusive property of INDAG. Any trade secrets, confidential or proprietary information contained therein (including information not generally known to the public, such as without limitation technical, development, marketing, sales, operating, performance cost, know-how, business and process information or computer programming techniques) must be kept secret and confidential and customer is not allowed to disclose such trade secrets, confidential or proprietary information to any third party without the prior written consent of INDAG.

(2) If the Product is affected by industrial property rights or copyrights of third parties in the relevant country, INDAG has the right – in an extent reasonably acceptable for the customer - to either modify the Product in such a way that an infringement of the industrial property rights or copyrights is no longer existing or to obtain the authority that the Product can be used by the customer in compliance with the terms of the contract without restriction and without any additional costs for the customer. INDAG is optionally also authorized to take the Product back against refunding of the paid remuneration less compensation of use costs caused by customer's use during the relevant time period.

Art. 12 Delivery of Software

(1) If the Product delivered is sold together with electronic features, INDAG grants the customer an essentially non-transferable and non-exclusive right of use of the pertinent software. This entitles the customer to make use of the electronic features of the Product delivered as specified only. In particular, the customer has no right to disseminate, copy or process the software in any way. A transfer is, by way of exception, permitted where the customer demonstrates a justified interest in the transfer to a third party, thereby relinquishing the right of use for himself, e.g. where the Product delivered is resold. In such circumstances, the customer is obliged to place his customer under a contractual obligation to observe the rights of INDAG. The written materials and programmes required for the operation of the Product delivered are regularly the object of copyrights and other intellectual property rights, and remain the property of INDAG respectively of INDAG's affiliated company.

(2) If the Products delivered is sold together with electronic features sold by third parties the licence conditions of such third party will apply.

Art. 13 Retention of Title

(1) INDAG retains the rights of ownership and copyright in price quotations, drawings and system concepts and in all documents supplied. All reproduction or transfer to third parties is prohibited.

(2) INDAG retains title in the Products sold until full payment has been made ("Retained Product(s)").

(3) The customer may process, mix or combine Retained Products with other items. The processing, mixing or combining is made for INDAG. The customer will store the new item thus created for INDAG, exercising the due care of a diligent business person. The new items are also considered as Retained Products.

Already today, the customer and INDAG agree that, if Retained Products are combined or mixed with other items that are not the property of INDAG, INDAG will acquire co-ownership in the new item in proportion of the value of the Retained Products combined or mixed to the other items at the time of combination or mixing. In this respect, the new items are considered as Retained Products.

Where the customer combines Retained Products with real estate or movable goods, it will, without any further declaration being necessary to this effect, also assign to INDAG as security its claim to consideration for the combination, including all collateral rights for the pro-rat amount of the value of the combined Retained Products have on the other combined items at the time of the combination.

(4) For the duration of the retention of title, the following applies:

a) The customer has the right to use the Retained Products, but not the right to permit the use of the Retained Products by third parties, to pledge the Retained Products, to sell them or use them as security;

b) The customer must, at his own expense, keep the Retained Products free from any seizure by third parties and immediately notify in writing any threatened seizure, including any such measures in relation to the customers premises.

c) A change of location of the Retained Products requires the prior written permission of INDAG, and may only be carried out by INDAG employees or those authorized by INDAG.

d) The customer must keep the Retained Products in a flawless condition. Furthermore, he must insure the Retained Products at his own expense against damage arising from transport, installation, machine breakage, fire, burglary and water pipe damage, with INDAG as beneficiary. Upon demand, he must provide INDAG with proof of insurance and payment of the premiums.

e) The customer permits INDAG or those authorized by INDAG to inspect the Retained Products, and for this purpose permits entry to the premises in which they are located. Where necessary, he is obliged to supply assistance free of charge.

(5) Where the Retained Products are financed by a third party (in particular through a finance purchase contract) the retention of title remains agreed and the rights of INDAG under the contract continue to remain in force until payment of the claim in relation to the delivery has been made and until the third party has also received full satisfaction from the customer in accordance with the terms of the financing contract.

Art. 14 Rescission of Sales Contract

(1) If the purchase contract is rescinded, e. g. due to cancellation by either of the parties to the contract, the customer is, without prejudice to the steps to be carried out in accordance with the following paragraphs, obliged in advance to return the Product to INDAG. INDAG is entitled to have the Product delivered collected from the premises of the customer; Art. 13, paragraph 4 e) applies accordingly.

(2) INDAG may claim reasonable remuneration from the customer for the deterioration or loss of the Product, or for the impossibility of handing over the same due to other reasons which lie within the customer's sphere of risk and responsibility.

(3) INDAG may demand remuneration for the use of the Product delivered if the value of the Product delivered has decreased between the completion of the installation and its direct repossession in full by INDAG. This reduction in value is to be calculated from the difference between the total purchase price in accordance with the order and the current value as ascertained through the proceeds of resale or, if no resale is possible, through assessment by a duly sworn expert.

Art. 15 Assignment

The assignment of rights and/or transfer of the obligations of the customer under the contract is/are not permitted without INDAG's express prior written consent.

Art. 16 Export Control Regulations

Both the Product delivered and the software may be subject to the Export Control Regulations of Germany, the European Union, the United States of America or other nations. In the case of subsequent export of the Product delivered to a foreign country, the customer is responsible for compliance with the appropriate statutory regulations.

Art. 17 Confidentiality

(1) Subject to the provisions of Art. 17, paragraph 2 and paragraph 4, the customer will keep confidential and will not use or disclose, directly or indirectly, any technology, trade secrets, confidential or proprietary information, or any other confidential knowledge, information, documents or materials owned or developed by INDAG, whether in tangible or intangible form, other than as contemplated by the agreement made between INDAG and the customer with regard to the use, operation and/or functionality of the Products ("Confidential Information"). The customer will take any and all lawful measures to prevent unauthorized persons or entities from obtaining or using Confidential Information.

The customer will refrain from directly or indirectly taking any action which would constitute or facilitate the unauthorized use or disclosure of such Confidential Information. The customer further agrees not to reverse-engineer the Product delivered by INDAG, not to sell, transfer or assign the Product without requiring the transferee, assignee or purchaser to agree to the same obligations of confidentiality set forth in this Art. 17, paragraph 1, and not to design or build any machinery and/or equipment based upon or incorporating any Confidential Information.

(2) The customer may disclose the Confidential Information to its officers and employees to the extent necessary to enable them to perform their obligations as employees of the customer, provided however, that such officers and employees have been advised of the confidential nature of such Confidential Information and have agreed in writing to abide by the terms of the agreement made between INDAG and the customer with regard to the delivery of the Product. The customer will be liable for any unauthorized use or disclosure of such Confidential Information by its officers and employees.

(3) The provisions of Art. 17, paragraph 1 will not apply to knowledge, information, documents or materials which the customer can establish that

a) it was known to the customer, its officers and employees or was in their possession at the time of disclosure other than as a result of a breach of this confidentiality agreement or any other obligations of confidentiality prior to the date of disclosure hereunder being furnished to it by INDAG; or

b) was in the public domain at the time of its disclosure or has come in the public domain other than through an unauthorized disclosure by the customer, its officers and employees; or

c) is received by the customer, its officers and employees from a third party at any given moment on a non-confidential basis who was under no obligation of confidentiality with respect to such information at the time of disclosure or under conditions permitting its disclosure to others.

(4) The provisions of Art. 17, paragraph 1 will not apply if the customer, its officers and employees are compelled to disclose such Confidential Information by reason of any applicable law, final and enforceable order of a competent court or regulatory, supervisory or governmental authority, institution or department and the customer, its officers and employees have in good faith made reasonable efforts to prevent such disclosure and have first given notice to INDAG of the demand for such disclosure.

(4) The obligations set forth in this Art. 17 will survive any termination of the agreement made between INDAG and the customer with regard to the delivery of the Product or of any rights granted hereunder.

Art. 18 Place of Performance, Jurisdiction, Applicable Law

(1) For all deliveries carried out by INDAG the place of performance is the location of the dispatch address, unless otherwise agreed in writing.

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

(3) These Terms and Conditions of Supply 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. 19 Additional Agreements, Partial Invalidity

(1) All agreements made between INDAG and the customer for the purpose of performance of contracts have been set out in writing in the present contract. 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.

INDAG Pouch Partners GmbH