

Agreement

concerning the execution of development/engineering
services and/or the manufacture of assemblies
for INDEX-Werke GmbH & Co. KG Hahn & Tessky

concluded by and between

[Contractor]

and **INDEX-Werke GmbH & Co. KG
Hahn & Tessky
Plochinger Strasse 92
D-73730 Esslingen am Neckar**

[INDEX]

Contents

1	Preamble	3
2	Scope	3
3	Objectives	3

Part A: Execution of development/engineering services

4	Engineering design	4
5	Scope of delivery, development and engineering results	5
6	Acceptance	6
7	Rights to the results of development work	6

Part B: Manufacture of assemblies

8	Complete nature of the scope of delivery	9
9	Warranted properties	9
10	Acceptance	9
11	Service / spare parts	10
12	Guarantee	10

Part C: General

13	Documentation	11
14	Project handling	11
15	Term / amendment / termination	12
16	Secrecy / protection of fair competition	12
17	Place of performance	12
18	Law / jurisdiction	12
19	Saving clause	12
20	Miscellaneous	12

1 Preamble

- 1.1 The INDEX group of companies develops, builds and markets lathes with highly customized equipment in some cases. Product quality, faithfulness to schedules, service and competitive prices are matters of top priority for INDEX in relations with the customer.
- 1.2 *Contractor* has sound knowledge and experience in its assigned field of machine tool construction and is both able and willing to contribute these to the partnership in accordance with the principles set out in the present Agreement.
- 1.3 The entire collaboration revolves around a spirit of partnership which is implemented and realized through professional project management on both sides.
- 1.4 *Contractor* is aware that both delays in delivery and the delivery of non-conforming products/services can cause considerable damage to INDEX. For these reasons, the contractual partners base their entire business relationship on the highest quality standards and absolute faithfulness to deadlines.

2 Scope

The present Agreement governs all present and future contracts concluded by and between *Contractor* and INDEX concerning the execution of development/engineering services and/or the manufacture of assemblies.

3 Objectives

- 3.1 *Contractor* and INDEX are striving towards a close and long-term collaboration based on mutual confidence.
- 3.2 The purpose of this blanket agreement is to specify all the general points relating to the execution of development/engineering services and/or the manufacture of assemblies. Details concerning the assigned project are set out in separate specified requirements.
- 3.3 The contractual partners will jointly arrive at the optimum technical and economic solution over the product's life cycle.

Part A: Execution of development/engineering services

4 Engineering design

- 4.1 *Contractor* undertakes to comply with the state of the art, the relevant legal regulations, and the regulations and guidelines of public authorities, employers liability insurance associations and professional associations in all its engineering designs. All resultant measures shall form the subject of the engineering order even if they are not individually specified in further detail.
- 4.2 All protective devices required according to the regulations and guidelines shall form the subject of the engineering order even if they are not individually specified in further detail. The basic conditions for functional and personal safety shall be described by the contractor.
- 4.3 *Contractor* warrants that its engineering designs meet with economic and cost-optimized aspects in every respect.
- 4.4 *Contractor* shall abide by the catalogue provided for standard and general parts, which also specifies the approved manufacturers of vendor parts. The aim of multiple use shall be taken into account wherever possible, also with regard to stocking spare parts.
- 4.5 *Contractor* shall ensure consistent marking and identification of all individual parts and installations.
- 4.6 *Contractor* shall incorporate the basic tenets of R&M in its engineering designs in order to ensure reliability and easy maintenance while at the same time reducing the product's life cycle costs (LCC). Implementation of a system FMEA taking into account the operating conditions of a machine tool and especially the influence of metal chips, fuels and lubricants, temperatures, vibrations, etc. shall be included without fail.

5 Scope of delivery, development and engineering results

5.1 General

- 3D models of the engineering design (complete model), assemblies and individual parts shall be delivered as the result of engineering orders.
- Completely dimensioned drawings of individual parts in accordance with INDEX specifications (design zero point, text field, etc.) and suitable for production shall be delivered for the new models of individual parts developed within the framework of the project.
- If *Contractor* uses the CAD system UNIGRAPHICS, the guidelines on modelling individual parts and the CAD Guideline for UNIGRAPHICS issued by INDEX shall be observed additionally. In this case, INDEX shall supply all required basic data (seed parts, labels, drawing frames, etc.) so that Contractor's drawings comply with the INDEX standards.
- If the regulations in force (e.g. Machinery Directive) require a hazard analysis on account of one or more of the properties of the ordered item or by definition, such an analysis shall be undertaken by *Contractor*.

5.2 Calculations and simulations

- The calculations and simulations required for correct functioning and safety shall form an integral part of the engineering order. How and to what extent they are to be realized shall be decided by *Contractor*.
- Their documentation shall be delivered to INDEX in reproducible form as an integral part of the resultant design and shall exclusively be the responsibility of *Contractor*.
- INDEX may demand additional calculations and simulations which shall then be undertaken by *Contractor* in consultation with INDEX.

5.2 3D data

- *Contractor* shall be responsible for selecting and using the CAD system. Preference shall be given to the 3D CAD system UNIGRAPHICS.
- The 3D results shall be delivered as model and drawing data in the format UNIGRAPHICS Native, version NX3 or later, alternatively as STEP files, STEP ISO 10303. Technical details concerning the exchange of data shall be clarified by *Contractor* before each new development project.

5.3 2D data

- A set of drawings in accordance with standards shall be delivered on data media as the result of 2D work. The set of drawings shall comprise complete, dimensioned production drawings for all individual parts which cannot be purchased as catalogue parts. In addition, it shall include assembly drawings with which the engineered assembly can be completely mounted and tested. Technical details concerning the exchange of data shall be clarified by *Contractor* before each new development project.

5.4 Article codes

- Article codes for individual parts and assemblies shall be assigned in accordance with the INDEX numbering system. *Contractor* shall be informed of the numbering and article codes to be used in each case when the order is placed.
- Technical details concerning the format of the parts lists and their exchange of data shall be clarified by *Contractor* before each new development project.
- *Contractor* shall propose a list of spare and wear parts in accordance with DIN 24420 to INDEX.

6 Acceptance

- 6.1 Statement on the engineering specification through specified requirements = quotation
- 6.2 Presentation of interim results before commencing more detailed work
- 6.3 Before approval for procurement
- 6.4 The result of the development work will be accepted by INDEX in writing. Verification of interim results does not constitute acceptance.

7 Rights to the results of development work

- 7.1 Result of development work and new industrial property rights
- 7.1.1 All rights to all results of development work shall accrue to INDEX without any additional fee and subject to the ruling in No. 7.1.2.

To this end, *Contractor* shall simultaneously transfer all rights (including any ownership rights) to the results of the development work to INDEX on acceptance of the development work (without any further separate declaration by either party being required). Insofar as this is not permitted by law, *Contractor* shall grant INDEX the exclusive, transferable, sub-licensable right to use the results of the development work without restriction in space, time or content and for all types of use.

In the case of works which are protected by copyright, this right of use shall in particular include the right to edit, modify, translate, publish, process, duplicate and present the works, including the activities pursuant to Section 69c of the Copyright Act (UrhG).

The results of development work shall include all development results capable of being protected, as well as all other technical developments and all documentation.

Only INDEX shall be entitled to apply for industrial property rights (especially patents, utility rights, trade marks) for the aforementioned development results, either on its own behalf or on behalf of a third party, in Germany and abroad. INDEX shall moreover be entitled to change the development results and to use them in the changed form exactly as in their original form.

- 7.1.2 If the services rendered by *Contractor* in conjunction with the order result in inventions (regardless of whether or not they can be patented or protected as utility models), *Contractor* shall immediately inform INDEX accordingly and in writing and – insofar as employee inventions are concerned – lay claim to the complete results without restriction, in good time and in correct form. Within three months of receiving written notification from *Contractor*, INDEX shall decide whether the invention is to be protected by INDEX on its own behalf or on behalf of a third party and for own account, as well as with assumption of all costs associated with registration and maintenance of the property right. If INDEX decides not to register the invention and if the result is released by INDEX in writing, *Contractor* may register it at its own expense. In such a case, however, INDEX shall retain the unpaid, non-exclusive, transferable right of use, including the right to grant sub-licences, without restriction in space, time or content and for all types of use. All costs associated with claims under regulations pertaining to employee inventions shall in all cases be borne by *Contractor*. Any and all further claims shall have been settled when the order is remunerated.
- 7.1.3 *Contractor* shall assist INDEX when registering and maintaining industrial property rights, as well as when enforcing property rights which have been or will be registered for the development results, and shall in particular make all the declarations required in this context.
- 7.1.4 *Contractor* shall additionally undertake every activity necessary to safeguard the rights of INDEX as mentioned in Nos. 7.1.1 to 7.1.3. Insofar as Contractor retains third parties to discharge its duties, Contractor shall above all draw up contractual rulings ensuring that INDEX also acquires all rights to the development results produced by third parties and also that the third parties retained provide the support mentioned in No. 7.1.3.
- 7.2 Third-party rights and Contractor's existing rights (existing industrial property rights)
- 7.2.1 *Contractor* undertakes to produce a development result free from industrial property rights and other third-party rights. If *Contractor* does not succeed in this, it shall ensure that INDEX is able to use the development results in exactly the same way as if they were free from third-party rights, for instance by ensuring that, in the case of third-party industrial property rights, the corresponding licence fees are paid to the third parties by Contractor. If INDEX sustains a loss through the existence of third-party rights, *Contractor* shall indemnify such loss, including reasonable costs of legal action. Sentences 2 and 3 shall not apply if *Contractor* is not responsible for violating the duty to achieve a result free from third-party rights.
- 7.2.2 If rights created prior to execution or outside the development order and preventing use of the development results by INDEX accrue to *Contractor*, it shall immediately bring this to the attention of INDEX and grant INDEX the unpaid, non-exclusive, transferable right to use the development results without restriction in space, time and content and for all types of use, including the right to sub-license these rights to the extent necessary for making use of the development results. Corresponding remuneration shall be included in remuneration of the development work. *Contractor* shall be responsible for proving that rights to development results were created before execution commenced or outside the development order.

- 7.2.3 *Contractor* undertakes, with regard to the know-how and other company and business secrets obtained from INDEX in conjunction with the collaboration, not to perform any work with or for third parties which essentially corresponds to that pursuant to the present order without the prior written consent of INDEX while performing work under the present order.

Part B: Manufacture of assemblies

8 Complete nature of the scope of delivery

- 8.1 As specialist for the assemblies mentioned in the scope of delivery and aware of their intended purpose, *Contractor* shall be liable for complete and suitable delivery and functionality.
- 8.2 Any missing parts or work required for conforming use of the assembly shall be delivered and installed if necessary without additional cost for INDEX, regardless of whether they were individually mentioned or described in the specifications.

9 Warranted properties

- 9.1 *Contractor* warrants that its deliveries comply with the state of the art, the relevant legal regulations, and the regulations and guidelines of public authorities, employers liability insurance associations and professional associations.
- 9.2 The data, performance features and functional features specified in the order shall be complied with and proved as warranted features on acceptance.
- 9.3 This shall also apply in the case of references to the content of quotations and their supplements, as well as associated product descriptions by *Contractor*.
- 9.4 *Contractor* warrants that its assemblies are manufactured according to economic and cost-optimized aspects in every respect.

10 Acceptance

- 10.1 Acceptance of an assembly shall be effected through submission of an initial sample and documented in an initial sample submission report.
- 10.2 Following internal acceptance, INDEX shall be notified of readiness for acceptance in writing at least 5 days before the agreed date.
- 10.3 The values and performances established during acceptance shall be documented in an acceptance record signed by both parties.
- 10.4 Specific acceptance criteria and fringe conditions shall be outlined in the technical delivery specifications.
- 10.5 Acceptance of an initial sample shall not relieve the Contractor of liability for hidden defects.
- 10.6 INDEX reserves the right to order further acceptance / quality inspections during series delivery. *Contractor* undertakes to perform reasonable and documented outgoing inspections.
- 10.7 The respective terms of payment shall be defined in the engineering specification for each project.

11 Service / spare parts

- 11.1 *Contractor* undertakes to ensure that all required work and spare parts are supplied smoothly and at short notice throughout the service life of the assembly, in particular by the following means:
- Unrestricted availability of spare parts for parts not specified in the list (see 5.5).
 - Timely reference to the last opportunity for placing orders for discontinued stocks of spare parts (last call)
 - Delivery of spare parts normally (Mon-Fri) within not more than 24 hours of being ordered, in exceptional cases also Saturdays (standard components)
 - Unrestricted availability of technicians in case of repair
 - Deployment of technicians normally (Mon-Fri) within not more than 24 hours of the claim being received, in exceptional cases also Saturdays
 - If, contrary to expectations, these services are not rendered by *Contractor*, the work may also be undertaken by INDEX and charged at the usual rates.

12 Guarantee

- 12.1 In addition to the statutory warranty, *Contractor* shall give an unrestricted guarantee for material and personnel for 24 months as from the time when the assembly is taken into service by the end-customer or for the service life warranted in the specified requirements.
- 12.2 This guarantee refers to faultless materials, workmanship, functions and performances, including compliance with all features defined in the specified requirements.
- 12.3 The guarantee shall include deliveries and performances by *Contractor's* subcontractors.
- 12.4 Non-conforming and incorrect operation, as well as wear parts, shall be excluded from the guarantee insofar as the latter do not undershoot their functionally necessary wear limit. The burden of proof shall rest with *Contractor*.

Part C: General

13 Documentation

- 13.1 All the documentation required for determining the cause of failure/damage and for identifying spare parts, such as assembly drawings, functional descriptions, circuit diagrams, operating manuals, etc. shall be included in the scope of the order. This shall also apply with regard to the documentation needed in order to render services.
- 13.2 The precise, standardized order designation shall be stated for all standard parts; the manufacturer/supplier and their precise order designation shall be stated for all catalogue parts. (Spare parts list DIN 24420)
- 13.3 In the case of engineering performances, the complete engineering design shall be documented in parts lists with all additionally required parts as specified by INDEX.
- 13.4 *Contractor* shall be obliged to make the documentation available on delivery or performance and to keep it up-to-date during the service life of the plant when manufacturing assemblies.
- 13.5 If the regulations in force (e.g. Machinery Directive) require a certificate and/or marking on account of one or more of the properties of the ordered item or by definition, this shall be the responsibility of Contractor.
- 13.6 *Contractor* undertakes to provide the user documentation intended for the end-customer (e.g. operating instructions and manuals, spare parts lists, etc.) in the language of the owner's country. If several official languages are spoken in the owner's country, one shall be specified by INDEX. Documentation in German, English, French, Italian, Spanish, Portuguese, Swedish and Finish shall be made available at no extra cost for INDEX. In the case of all other languages, INDEX shall bear a reasonable share of the costs for preparing the foreign-language documentation.
- 13.7 *Contractor* shall provide detailed transport, handling and installation instructions, including engineering documents, for special tools / fixtures.

14 Project handling

INDEX-TRAUB and *Contractor* shall manage the collaboration by means of a project management installed on both sides and comprising at least the following items.

- Defined responsibilities for INDEX and *Contractor*
- Timetable (milestones) including capacity planning
- Definition of approval processes as well as of project conclusion
- Controlling / reporting during the project: project costs, deadline, proof of functioning, cost of production.
- Obligation to keep records of all meetings and decisions by *Contractor*.
- Duty to report deviations from the specified requirements in writing.

15 Term / amendment / termination

- 15.1 The present Agreement shall come into force when signed by both contractual partners, unless otherwise agreed.
- 15.2 Amendments and/or supplements shall only be valid if agreed in writing. This requirement cannot be amended through a verbal agreement.
- 15.3 The present Agreement shall run indefinitely and may be terminated with 3 months' notice effective at the end of a month.

16 Secrecy / protection of fair competition

All the requirements concerning secrecy / protection of fair competition in accordance with the "Agreement on confidentiality and protection of industrial property rights" of INDEX shall be observed.

17 Place of performance

- 17.1 Place of performance for payments shall be Esslingen.
- 17.2 Place of performance for deliveries shall be the place to which the goods are to be delivered or at which the service is to be rendered according to the order.

18 Law / jurisdiction

- 18.1 German law shall apply exclusively.
- 18.2 Jurisdiction shall be Esslingen. INDEX may also sue *Contractor* at the latter's domicile.

19 Saving clause

If any of the provisions of this Agreement prove to be or become invalid or unenforceable, this shall not affect the validity of the Agreement as a whole. Instead, the contractual partners shall agree on a valid and enforceable ruling to replace the invalid or unenforceable clause which reflects the spirit and purpose of the invalid or unenforceable clause to the greatest possible extent.

20 Miscellaneous

The Purchasing Terms of INDEX shall apply, unless supplemented, superseded or cancelled by the terms set out above.

Agreement
concerning the execution of development/engineering services
and/or the manufacture of assemblies

INDEX-Werke GmbH & Co. KG
Hahn & Tessky
Plochinger Str. 92, 73730 Esslingen

INDEX

Esslingen,

Place, date

Place, date

[Contractor]

[INDEX]

Stamp/signature(s)

Stamp/signature(s)