

General Terms and Conditions of Supply

For Products and Services by INDUSTRONIC® Industrie-Electronic GmbH & Co. KG

I. General Provisions

1. The scope of the supplies or services (hereafter: "Supplies") is determined by the mutual written declarations. However, the general terms and conditions of business of the Client only apply insofar as INDUSTRONIC® has expressly agreed to them in writing.
2. INDUSTRONIC® reserves all exploitation rights arising from ownership rights and copyrights to an unlimited degree in respect of cost estimates, drawings and other documents (hereafter referred to as "Documents"). The Documents may only be made accessible to third parties following prior consent by INDUSTRONIC® and, if the order is not given to INDUSTRONIC®, must be returned to the latter immediately on demand. Paragraphs 1 and 2 also apply accordingly to documents of the Client; however, these may be made accessible to third parties to whom INDUSTRONIC® is permitted to subcontract supplies.
3. The Client has non-exclusive user rights for standard software, with the agreed performance features in unaltered form, on the agreed appliances. The Client may make one security copy without express agreement.
4. Partial deliveries are permitted, insofar as they are reasonable for the Client. INDUSTRONIC® is entitled to invoice for such partial deliveries as they are executed.
5. If any alterations or additional performances at the Client's instance arise after conclusion of the contract, these shall be paid for accordingly.

II. Prices and Terms and Conditions of Payment

1. Prices are ex works excluding packaging plus VAT at the valid rate in force at the time.
2. INDUSTRONIC® reserves the right to charge a minimum quantity surcharge for batches less than the minimum order quantity, to reach the minimum order value of €250 for orders within Germany and €500 for orders abroad.
3. If INDUSTRONIC® has undertaken installation or assembly, or commissioning, and provided nothing has been agreed to the contrary, the Client shall pay in addition to the agreed remuneration all essential ancillary costs such as travel expenses, transport costs for hand tools and personal baggage and subsistence allowances.
4. Payments are to be made to the specified payment location, free of charge to INDUSTRONIC®.
5. Invoices relating to services only must be paid within 14 days of receipt of the invoice, without deduction. Other invoices must basically be paid within 30 days of receipt without deduction. In the case of payment within 14 days of receipt, INDUSTRONIC® will give a 2% discount.
6. INDUSTRONIC® is entitled to demand a down payment under the following conditions:
 - for order values from EUR 10,000.00 net, 20% of the order value, payable within 14 days of conclusion of the contract;
 - for order values in excess of EUR 50,000.00 EUR net, the down payment increases by a further 20% of the order value. The further down payment must be made within 6 weeks of conclusion of the contract.
7. INDUSTRONIC® reserves the right to make reasonable alterations to prices if, following conclusion of the contract, cost or wage increases arise, in particular due to collective pay agreements or changes in the price of materials. The emergence of such cost increase must be proved to the Client on demand.
8. The Client may only set off those demands which are undisputed or legally determined.

III. Reservation of Title

1. The objects contained in the delivery (reserved goods) remain the property of INDUSTRONIC® until fulfillment of all its claims against the Client arising from the business relationship. If the value of all security rights to which INDUSTRONIC® is entitled exceeds the amount of all secured claims by more than 10%, INDUSTRONIC® will, if the Client so wishes, release a corresponding proportion of the security rights.
2. During the existence of the reservation of title, the Client is forbidden from pledging or transferring by way of security the reserved goods, and may only sell them on in the course of normal business and only on condition that the reseller obtains payment from its customer or sells on under the reservation that the ownership will only be transferred to the customer once the customer has fulfilled all payment obligations in full.
3.
 - a.) If the Client sells on reserved goods, it immediately transfers to INDUSTRONIC® its future claims from the resale against its customer, with all subsidiary rights – including any credit demands – by way of security, without any subsequent specific declarations being necessary. If the reserved goods are resold together with other items, without an individual price being agreed for the reserved goods, the Client assigns to INDUSTRONIC®, with priority over the remaining claims, that proportion of the total price claim which corresponds to the price of the reserved goods invoiced by INDUSTRONIC®.
 - b.) In the case of substantiation of a justified interest, the Client must provide INDUSTRONIC® with all the information necessary to pursue its claim against the customer, and hand out the necessary documents.
 - c.) Until revocation the Client is entitled to collect the assigned claims from the resale. In the case of essential grounds, in particular delayed payment, suspension of payment, the opening of insolvency proceedings, the protest of a bill or if comparable grounds or criteria arise which indicate inability to pay by the Client, INDUSTRONIC® shall be entitled to revoke the Client's collection authority. In addition, INDUSTRONIC® may, after prior warning of disclosure of the security assignment or the realization of the assigned claims, subject to compliance with a reasonable period, disclose the assignment of security, realise the assigned claims and demand the disclosure of the assignment of security by the Client against the customer.
4.
 - a.) The Client is permitted to process or re-form the reserved goods or combine them with other items. The processing, re-formation or combination is undertaken for INDUSTRONIC®. The Client shall

- keep the new article for INDUSTRONIC® with the usual businesslike care. The processed, re-formed or combined article is regarded as reserved goods.
- a.) In the case of processing, re-formation or combination with other items not belonging to INDUSTRONIC®, INDUSTRONIC® shall have co-ownership of the new article in that proportion which relates to the ratio of the value of the processed, re-formed or combined reserved goods to the value of the other processed goods, at the moment of processing, re-formation or combination. Insofar as the Client acquires sole ownership of the new article, INDUSTRONIC® and the Client agree that the Client shall give INDUSTRONIC® co-ownership of the new article formed by processing, re-formation or combination in the ratio of the value of the processed, re-formed or combined reserved goods to the remaining processed, re-formed or combined goods at the moment of processing, re-formation or combination.
 - c.) In the case of sale of the new article, the Client hereby assigns to INDUSTRONIC® its claims arising from the resale against the customer, with all subsidiary entitlements, by way of security, without any further declarations being necessary. The assignment shall, however, only apply up to the amount corresponding to the value invoiced by INDUSTRONIC® of the processed, re-formed or combined reserved goods. The proportion of the claim assigned to INDUSTRONIC® must be given priority. With regard to the collection authorisation and the prerequisites for the revocation thereof, Subpara. 3. c.) applies accordingly.
 - d.) If the reserved goods are affixed to real estate or movable property by the Client, the Client also assigns its claim to INDUSTRONIC®, without any further declaration being required, to any remuneration for such affixation, together with all subsidiary entitlements, by way of security, up to the amount corresponding to the value of the ratio of the value of the affixed reserved goods to the remaining combined goods at the moment of combination.
5. The Client must inform INDUSTRONIC® immediately of any distraints, seizures or other acquisitions or intervention rights of third parties.

6. If the Client culpably breaches any essential contractual obligations, in particular in the case of delayed payment, INDUSTRONIC® is entitled to take the goods back after due warning. The Client is obliged to hand them over. The taking back of goods, the exercise of the reservation of title rights, or the dstraint of the goods delivered by INDUSTRONIC® do not imply a withdrawal from the contract, unless INDUSTRONIC® has expressly declared this to be the case. INDUSTRONIC® is entitled, after prior warning, to sell any goods taken back and, after settling any outstanding claims, to make use of the profits therefrom.

IV. Delivery Deadlines - Delay

1. As a prerequisite for compliance with delivery deadlines, the Client must provide in good time all documents, specifications and data, necessary consents or approvals, in particular of plans, and comply with the agreed terms and conditions of payment and other obligations. If the Client does not comply with these conditions in good time, the periods shall be extended reasonably; this does not apply if the responsibility for the delay lies with INDUSTRONIC®.
2. If failure to comply with the deadlines is due to force majeure, e.g. mobilization, war, insurrection or similar events, e.g. strikes, lock-outs, the deadlines will be extended accordingly to a reasonable extent.
3. If INDUSTRONIC® is in delay, the Client may – subject to proof that it has incurred an actual loss due to the delay – claim damages for each full week of delay of 0.5% per week, subject to a total maximum of 5% of the price for that part of the delivery which was not capable of being put to beneficial use because of the delay.
4. Both claims for losses by the Client caused by delayed deliveries and claims for damages in lieu of performance, which exceed the amounts specified in subparagraph 3., are excluded in all cases of delayed deliveries after expiry of a final delivery period possibly set for INDUSTRONIC®. This does not apply in cases where there is clear liability due to malicious intent, gross negligence or compelling liability due to injury to life and limb or adverse effects on health. The Client may only withdraw from the contract within the scope of the legal provisions insofar as the delay is the liability of INDUSTRONIC®. The above provisions shall not cause a change in the onus of proof to the disadvantage of the Client.
5. The Client is obliged to declare within a reasonable period, at the request of INDUSTRONIC®, whether it intends to withdraw from the contract because of the delayed delivery, or still wishes to receive the delivery.
6. If dispatch or delivery are delayed at the wish of the Client for more than one month after the goods have been indicated as ready for dispatch, the Client may be charged storage costs for each month or part thereof amounting to 0.5% of the price of the goods contained in the consignment, to a total maximum of 5%. The right of the parties to prove higher or lower storage costs shall remain unaffected.

V. Transfer of Risk

1. The risk is transferred to the Client as follows, including for goods delivered free of charge:
 - a.) In the case of goods without installation, assembly or commissioning, when they are sent or fetched for dispatch. At the request and cost of the Client, deliveries may be insured by INDUSTRONIC® against the usual transit risks.
 - b.) In the case of goods with installation, assembly or commissioning, on the day of hand-over on the Client's own premises or, insofar as agreed, following a fault-free test run.
 - c.) If INDUSTRONIC® is liable only for the supply and commissioning of systems or parts of systems, the risk is transferred as soon as the consignment is sent or fetched for dispatch. Subparagraph a) applies accordingly.
 - d.) If the dispatch, delivery, commencement, installation, assembly or commissioning are delayed on the Client's premises or test premises for reasons for which the Client is liable, or the Client delays acceptance for any other reason, the risk shall be transferred to the Client.

VI. Installation, Assembly and Commissioning

The following conditions apply to the installation, assembly and commissioning, provided nothing to the contrary is agreed in writing:

1. The Client must provide, at its own expense and in good time:
 - a.) all earthworks, structural works and any other ancillary works, including the necessary specialist and ancillary staff costs, building materials and tools;
 - b.) the objects and materials necessary for assembly and commissioning, such as scaffolding, cranes and other devices, fuels and lubricants;
 - c.) power supply and water at the place of installation, including connections, heating and lighting;
 - d.) sufficient suitable, dry, lockable space at the place of assembly for the storage of machine parts, apparatus, materials, tools etc., and reasonable working and rest space for the assembly personnel, including reasonable sanitary facilities;

General Terms and Conditions of Supply

For Products and Services by INDUSTRONIC® Industrie-Electronic GmbH & Co. KG

in addition, the Client must take all measures necessary to ensure the safety of INDUSTRONIC® staff and equipment on the installation site, as if they were its own;
e.) any protective clothing and safety devices which are necessary due to special conditions and requirements of the assembly site.

2. Prior to commencement of the assembly works or commissioning, the Client must provide the necessary details of any concealed power or gas lines, water pipes or similar installations, and the necessary statistical data, without having to be asked.
3. Prior to commencement of the installation, assembly or commissioning, all the auxiliary items and equipment necessary for the commencement of the works must be in place at the installation or assembly site, and all preliminary works completed prior to commencement of the installation to such an extent that the installation or assembly may begin in accordance with the agreement and be carried out without interruption. Access ways and the installation or assembly site must be levelled and cleared.
4. If the installation, assembly or commissioning is delayed due to circumstances which are not the liability of INDUSTRONIC®, the Client must bear the reasonable cost of waiting time and any additional travelling expenses incurred by the supplier or assembly personnel.
5. The Client must confirm to INDUSTRONIC®, immediately and on a weekly basis, the length of the waiting time of the assembly staff and the conclusion of the installation, assembly or commissioning works.
6. If INDUSTRONIC® asks for acceptance of the delivery on completion, this must be given by the Client within 2 weeks. If this is not done, acceptance shall be deemed to have been given. Acceptance shall also be deemed to have been given if the delivery – where applicable, on conclusion of an agreed test phase – is put to use.

VII. Acceptance

The Client may not refuse acceptance of deliveries due to defects which are not substantial.

VIII. Material Defects

INDUSTRONIC® is liable for material defects as follows:

1. All parts or services which, within the period of statute-barring – regardless of the length of time they have been operated – show material defects must be repaired, replaced or provided afresh (in the case of services), according to the choice of INDUSTRONIC®, free of charge, insofar as the cause was present at the time of transfer of risk.
2. Claims for material defects shall expire in 12 months. This does not apply insofar as the law in accordance with §§ 438 Para. 1 Subpara. 2 (structures and parts of structures), 479 Para. 1 (recourse claims) and 634 a Para. 1 Subpara. 2 (structural defects) of the German Civil Code prescribes longer periods and in cases of danger to life or health, or risk of physical injury, in the case of malicious intent or grossly negligent breach of duty by INDUSTRONIC® and in the case of intentional concealment of a defect. This does not affect the legal provisions regarding suspension of the running of time, interruption and recommencement of the specified periods.
3. The Client must notify INDUSTRONIC® immediately in writing of any material defects. If necessary for identification of the defect, the Client must send the defective item to INDUSTRONIC® on request.
In the case of an unfounded claim of a defect, the Client shall bear the cost of investigation of the defect.
4. Where defects are notified, the Client's payments may be withheld to the extent that they relate to a reasonable extent to the defect which has arisen. The Client may only withhold payments in the case of notified defects about which there can be no doubt. If the notified defect proves unfounded, INDUSTRONIC® is entitled to demand reimbursement by the Client of any expense it has incurred.
5. INDUSTRONIC® must first be given the opportunity of subsequent performance within a reasonable period.
6. If the subsequent performance fails, the Client may withdraw from the contract or reduce the payment accordingly, without prejudice to any claims to which it is entitled in accordance with Art. XI.
7. Claims for defects are not applicable in the case of only minor deviations from the agreed specifications, insignificant impairment of usefulness, normal wear and tear or damage which occurred after the transfer of risk due to defective or negligent handling, excessive loading, unsuitable fuel or operating materials, defective installation works, unsuitable foundations or particular external influences which are not foreseen in the contract, and irreproducible software errors. If improper alterations or installation works are carried out by the Client or a third party, no claims of defects may be made in respect of these and the consequences thereof.
8. Claims by the Client for subsequent reimbursement of increased necessary expenditure, in particular the costs of transport, travel, labour and materials, are excluded insofar as the expenditure is increased because the subject of the delivery had to be subsequently relocated to a location other than the Client's branch premises, unless such relocation is in accordance with its designated use.
9. Client's recourse claims against INDUSTRONIC® in accordance with § 478 German Civil Code (business owner's recourse) are only permissible insofar as the Client has not made any agreements with its purchaser which extend beyond the legally-permissible claims for defects. Subpara. 8 applies accordingly to the scope of the Client's recourse claims against INDUSTRONIC® in accordance with § 478 II German Civil Code.
10. In addition, Art. XI (other claims for damages) applies to claims for damages. Client's claims for material defects against INDUSTRONIC® and those acting on its behalf, in excess of or differing from the claims specified in Article VIII, are excluded.

IX. Industrial Property Rights and Copyrights - Deficiencies of Title

1. Insofar as nothing is agreed to the contrary, INDUSTRONIC® is obliged to deliver only in the country where the delivery destination is located, free from industrial property rights and copyrights in favour of third parties (hereafter: proprietary rights). Insofar as a third party makes a justified claim against the Client in respect of the breach of proprietary rights by a delivery made by INDUSTRONIC®, which has

been used in accordance with the contract, INDUSTRONIC® shall be liable to the Client as follows, within the period specified by Art. VIII Subpara. 2 :

- a.) INDUSTRONIC® shall, as it chooses and at its own expense, either obtain user rights for the deliveries in question, modify them so that they do not breach the proprietary rights, or replace them. If it is not reasonably possible for INDUSTRONIC® to do so, the Client is entitled to the usual rights of withdrawal or price reduction.
 - b.) The obligation of INDUSTRONIC® to pay damages is in accordance with Art. XI.
 - c.) The obligations of INDUSTRONIC® referred to above only apply insofar as the Client immediately notifies INDUSTRONIC® in writing of the claims made by the third party, does not admit a breach and allows INDUSTRONIC® the right to undertake all preventive measures and settlement negotiations. If the Client is prevented from using the goods delivered for reasons of damage limitation or other essential grounds, it is obliged to inform the third party that such cessation of use does not constitute acknowledgement of a breach of proprietary rights.
2. Client's claims are excluded, if the Client is responsible for the breach of proprietary rights.
 3. Client's claims are also excluded insofar as the breach of proprietary rights is caused by special characteristics of the Client, by use which was not foreseen or unable to be foreseen by INDUSTRONIC® or by the fact that the delivery was altered by the Client or used in conjunction with products not supplied by INDUSTRONIC®.
 4. In the case of breaches of proprietary rights, the provisions of Art. VIII Subparas 4, 5 and 9 apply accordingly to the Client's claims provided for by Subpara. 1 a.).
 5. If there are any imperfections in title, the provisions of Article VIII apply accordingly.
 6. Any Client's claims against INDUSTRONIC® and those acting on its behalf for imperfections in title beyond or different from those covered by this Article IX, are excluded.

X. Impossibility - Adjustment of the Contract

1. Insofar as performance is impossible, the Client is entitled to demand damages, unless the reasons for impossibility are not the liability of INDUSTRONIC®. However, the Client's claim for damages is limited to 10% of the value of that part of the delivery which could not be brought into beneficial use due to the impossibility. This limitation does not apply in cases of malicious intent, gross negligence or in the case of compelling liability due to injury to life or limb or adverse effects on health; this does not involve a change in the onus of proof to the disadvantage of the Client. The right of the Client to withdraw from the contract is not affected.
2. Insofar as unforeseeable events as provided by Art. IV Subpara. 2 substantially alter the commercial significance or content of the delivery, or have a substantial effect on the operations of INDUSTRONIC®, the contract shall be adjusted in accordance with the principles of good faith. If this is not commercially viable, INDUSTRONIC® shall have the right to withdraw from the contract. If INDUSTRONIC® wishes to exercise this right of withdrawal, it must inform the Client of this immediately upon discovery of the extent of the events, including in circumstances where an extension of the delivery period was initially agreed with the Client.

XI. Other Claims for Damages

1. Client's claims for damages and reimbursement of expenditure (hereafter: claims for damages), whatever the legal grounds, in particular in respect of a breach of obligations arising from the law of obligations and tort, are excluded.
2. This does not apply in the case of compelling liability, e.g. in accordance with the product liability law, in cases of malicious intent or gross negligence, due to injury to life and limb or adverse effects on health, or due to breach of essential contractual obligations. However, claims for damages for the breach of essential contractual obligations are limited to foreseeable damages reasonably to be expected in connection with this contract, provided there is no malicious intent or gross negligence, and there is no liability for injury to life and limb or adverse effects on health. The above provisions shall not cause a change in the onus of proof to the disadvantage of the Client.
3. Insofar as the Client is entitled to claim for damages in accordance with this Art. XI, such claims shall expire after the same period as that allowed for claims for material defects in accordance with Art. VIII Subpara. 2. In the case of claims for damages in accordance with the product liability law, the legal limitation provisions shall apply.

XII. Legal Venue and Applicable Law

1. The sole legal venue, if the Client is a merchant, in respect of all disputes arising directly or indirectly from the contractual relationship is the location of the headquarters of INDUSTRONIC®. However, INDUSTRONIC® is also entitled to bring an action at the location of the Client's headquarters.
2. German substantive law applies to the legal relations in connection with this contract, with the exclusion of the United Nations Convention on Contracts for the International Sale of Goods (CISG).

XIII. Validity of the Contract

In the case of legal invalidity of individual provisions, the remainder of the contract shall still be valid and binding. This does not apply if adhering to the contract would represent an unreasonable hardship for either of the parties.