

AMERICAN WEIGH SCALES, INC.
TERMS AND CONDITIONS OF SALE

1. **Governing Provisions:** In these Terms and Conditions of Sale ("Conditions") "we," "us," and "our" means American Weigh Scales, Inc., and "you" and "your" means the person, company or other entity that orders or buys a scale from us, and in each case their respective successors and/or assigns. We are shipping the scale(s) you ordered ("Product(s)") subject to these Conditions. ALL ORDERS SHALL BE BINDING UPON YOU, AND SHALL ONLY CEASE TO BE BINDING UPON YOU IF AND WHEN EXPRESSLY REJECTED BY US. ONLY ACCEPTED ORDERS SHALL BE BINDING UPON US. WE MAY ACCEPT ORDERS EITHER BY EXPRESS WRITTEN ACCEPTANCE OR BY PERFORMANCE BY SHIPPING THE ORDERED PRODUCTS, AT OUR ELECTION. Our failure to object to provisions contained in any purchase order or other form or document from you shall not be construed as a waiver of these Conditions nor an acceptance of any such provision. These Conditions, including all writings incorporated herein by reference, any quotation issued to you by us, and those specific terms of an accepted order identifying the quantity and requested delivery dates of Products that are consistent with these Conditions, constitute the entire contract between us ("Contract"), and supersede all prior agreements and understandings between us, whether written or oral, relating to the subject matter hereof. We expressly disclaim and shall not be bound by any terms or conditions offered by any of our resellers. In the event of a conflict, a quotation takes precedence over these Conditions, and a written contract signed by both of us takes precedence over either. If one or more of these Conditions are held to be invalid, illegal, or unenforceable by a court of competent jurisdiction, the remaining Conditions shall be unimpaired.

2. **Delivery:** All sales are FCA our shipping point (Incoterms 2000). We reserve the right to make delivery in installments, all such installments to be separately invoiced and paid for when due per invoice.

3. **Payments:** Unless otherwise specified in a written quotation we provide to you, Products will be billed at the price in effect at the time shipment is made. Prior to placing an order, prices are subject to change from time to time without notice. Unless otherwise specified in a written quotation we provide to you, you must pay for each Product at the time you place the order. All payments shall be made in U.S. Dollars. You may make no offset for any amounts due to us regardless of the justification for such intended offset. If you default in making any payment to us when due, we may, at our option and without prejudice to our other lawful remedies, defer delivery or cancel the Contract, and/or impose a late fee on unpaid amounts equal to the lesser of (i) one and one-half percent (1.5%) per month, or (ii) the maximum rate allowable by law, accruing daily from the due date until such amount is paid.

4. **Taxes and Other Charges:** Any use tax, Value Added Tax, sales tax, excise tax, duty, inspection or testing fee, or any other tax, fee or charge imposed by any governmental authority, on or measured by the transaction between us shall be paid by you in addition to the prices quoted or invoiced. If we are required to pay any such tax, fee or charge, you authorize us to bill such tax, fee or charge to the credit card you used to place the order, or you shall reimburse us therefore, in each case unless you provide us at the time the order is submitted an exemption certificate or other document acceptable to the authority imposing such tax, fee or charge.

5. **Inspection:** Upon your receipt of Product shipped hereunder, you shall inspect the Product and contact our Customer Services Department (by email to mail@awscales.com or phone (866) 643-3444) of any claims for shortages, defects or damages within 48 hours of delivery. If a Product is inoperable and you notify us within 48 hours of delivery, then we will send you a replacement Product at no extra cost and a prepaid label for return of the defective Product. All such returns are subject to Section 6. If we determine, however, that the product was not inoperable, then you authorize us to charge the credit card you used to place the order for all associated shipping costs. If you do not ship the inoperable Product within 5 days of the date we send you a shipping label, then you authorize us to charge the credit card you used to place the order for the replacement unit. If you fail to notify us of shortages, defects or damages within the 48 hour time period, the Product shall conclusively be deemed to conform to these Conditions and to have been irrevocably accepted by you. Any problems encountered with your scale after 48 hours of delivery must be resolved through our warranty process.

6. **Returns: You may return a Product for any reason within 10 days of delivery for a refund.** Authorization for ALL returns must be approved by our Customer Services Department (by email to mail@awscales.com or phone (866) 643-3444) and a return authorization number (RMA) must be given to you prior to the return. All return shipments must be postmarked within 5 days of receipt of the RMA. You must include a copy of your sales receipt, your RMA number and a contact phone number with your return. Returns that do not include this information and that we cannot associate with a

specific order will be disposed within 60 days of receipt without refund or other liability.

7. **Refunds:** Except for Products damaged during shipment to you, Products authorized for return must arrive at our facilities in exactly the same condition as they were received to be eligible for refund. For refunds, we will issue a refund for the amount you paid for the returned Products minus a 20% restocking fee. Shipping charges will not be credited or refunded. No refund shall be processed if a past due balance is outstanding on your account. All accessories and paperwork must be included with your return, and there must be no damage to the packaging. If we receive a Product for return with damage to the box, missing items, or signs of use, we will either reject the return or charge a 30% to 50% restocking fee, in each case at our sole discretion.

8. **Warranty:**

a. We warrant that all Products shipped to you will be free of manufacturing defects or defects in materials or workmanship. The warranty period for American Weigh Scales Products is ten (10) years from the date of shipment, and the warranty for Fast Weigh Scales Products is five (5) years from the date of shipment. This warranty does not extend to damages or defects that we determine, in our sole discretion, result from (but not limited to) the following: misuse, unreasonable use, neglect, overloading the scale, dropping or otherwise shocking the scale, accident, improper service or calibration, normal wear and tear or other causes not arising from defects in materials and/or workmanship, or failure to use or store the Product in accordance with instructions furnished by us. This warranty does not cover accessories or other removable parts such as batteries and AC adapters. Products are warranted to the original purchaser only. We will not service Products with any foreign substances present. Any Product received in this condition will be destroyed and disposed of immediately. In this event, there will be no compensation to you. Please take the time to thoroughly clean the Product before returning it to us.

b. During the applicable warranty period, if we determine that the Product fails to meet its warranty, we will repair the Product, or at our option replace it without charge. If your Product model has been discontinued it will be replaced with a comparable Product model. You are responsible for the shipping charges to send the defective Product back to our warranty processing center. We will pay the standard ground shipping cost to return the repaired or replaced Product unless you are an international customer. International customers who choose to return a Product for warranty repair or replacement are responsible for shipping charges to our warranty processing center as well as return shipping charges back to them, and authorize us to bill such charges to the credit card used to place the order. We are not responsible for any customs duties or fees associated with international returns.

c. Our Product warranty will not be honored if you fail to provide a copy of the original Product sales receipt with your return.

d. During the applicable warranty period, if you have unintentionally damaged your scale or failed to keep proper documentation for our warranty (original receipt) you may be eligible for our Failed Warranty Policy. Under this policy you can send the Product back to our warranty-processing center with a check or money order for a new replacement Product at a discounted price quoted by us. This price includes the new replacement Product as well as return shipping cost. Please contact our Customer Services Department (by email to mail@awscales.com or by phone (866) 643-3444) for details on your model.

e. **To obtain service under the terms of this warranty, you must ship us your Product and a copy of your original sales receipt, all in accordance with Section 6.** Write your RMA number on the outer packaging for faster processing. Please choose a shipping method with delivery confirmation. We are not responsible for returns not received or damaged due to improper packaging.

f. THE WARRANTY WE MAKE IN THIS SECTION 8 IS EXCLUSIVE, AND WE MAKE NO OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR NONINFRINGEMENT, OR THE ABSENCE OF LATENT OR OTHER DEFECTS, WHETHER OR NOT DISCOVERABLE. Our sole and exclusive liability and your exclusive remedy with respect to Products not meeting their warranty shall be as provided in this Section 8, although at our discretion we may provide a refund.

g. We do not service other manufacturer warranties.

9. **Exclusion of Damages:** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE UNDER ANY LEGAL THEORY OR FORM OF ACTION (INCLUDING BUT NOT LIMITED TO CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR WARRANTY OF ANY KIND) FOR ANY INDIRECT, SPECIAL, INCIDENTAL,

CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOST DATA, OR COST OF SUBSTITUTE GOODS) ARISING OUT OF OR RELATED TO THE PRODUCTS OR DELIVERY, OR OTHERWISE RELATING TO THE CONTRACT, EVEN IF WE HAD NOTICE OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL OUR TOTAL LIABILITY FOR ANY AND ALL CLAIMS ARISING OUT OF OR RELATED TO THE PRODUCTS, DELIVERY, OR OTHERWISE RELATING TO THIS CONTRACT, EXCEED THE AMOUNTS PAID BY YOU FOR THE PRODUCT UNDER WHICH THE LIABILITY AROSE.

10. Limitation of Liability TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BECAUSE SOME JURISDICTIONS LIMIT OR DO NOT ALLOW CERTAIN EXCLUSIONS OR LIMITATIONS OF WARRANTIES OR LIABILITY, SECTIONS 8 AND/OR 9 MAY NOT PARTIALLY OR ENTIRELY APPLY TO YOU. TO THE EXTENT THAT ANY SUCH LIMITATION OR EXCLUSION OF LIABILITY OR WARRANTY IS CIRCUMSCRIBED, IT SHALL BE LIMITED TO THE LEAST EXTENT POSSIBLE UNDER APPLICABLE LAW. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED HEREIN.

11. Technical Assistance: All technical assistance and information we provide to you regarding the goods will be provided gratis, and you assume sole responsibility for results obtained in reliance thereon. We make no warranty regarding such technical assistance or information, and our warranties shall not be enlarged or affected by, and no obligation or liability shall arise out of our advice or assistance.

12. Miscellaneous: We shall not be liable for any loss, damage or penalty as a result of any delay in or failure to manufacture, deliver or otherwise perform hereunder due to any cause beyond our reasonable control. The Contract shall be governed by and construed in accordance with the laws of the State of South Carolina, without giving effect to the principles of conflicts of laws, and any and all suits hereunder shall be brought and resolved solely and exclusively in, and the parties hereby irrevocably consent to the exclusive jurisdiction and proper venue of, the state and federal courts located in Charleston, South Carolina, U.S.A., and waive any objections thereto based on any ground including improper venue or forum non-conveniens. Notwithstanding the foregoing, we may enforce judgments or seek injunctive relief for an infringement or threatened infringement of intellectual property rights in any court of competent jurisdiction. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Contract. Our exercise of any option, or failure to exercise any rights hereunder shall not constitute a waiver of our rights to damages for breach of contract and shall not constitute a waiver of any subsequent failure, delay, or breach by you.