

**General Contractual Terms for the Supply and Erection of  
Weighing Equipment and Accessories and for Work Performed**

For use for:

1. a person who is entering into the contract in the course of performance of his or her commercial occupation or self-employed profession (entrepreneur);
2. public law bodies or a public-law special fund.

**I. General**

1. All performance is based on these Terms and on any separate contractual agreements. Any differing terms of purchase of the customer will not become part of the contract, even upon acceptance of an order. If nothing is specifically agreed to the contrary, the contract will be deemed made upon written confirmation of the order by the contractor.
2. The contractor reserves the property rights and copyrights to samples, cost estimates, drawings and similar information of a physical or non-physical nature – including that in an electronic form; the above must not be made available to third parties. If the customer designates information and written material as confidential, the contractor undertakes not to make the same available to third parties without the consent of said customer.
3. If the contractor has also been requested to calibrate a weighing system that is scheduled to be installed, this shall be considered a separate order, even if listed as an item in the principal order.

**II. Prices and Payment**

1. If nothing is specifically agreed to the contrary, prices shall apply ex works including loading at works but excluding toll charges, packaging and unloading (net free to construction site). Value-added tax at the statutory rate applicable at the time will be added to the prices if no evidence of exemption from value-added tax is submitted.
2. The prices quoted are based on the currently applicable wage and material costs.  
If there is a change in the cost basis before the date of performance, the contractor reserves the right to adjust prices accordingly.
3. The purchaser accepts electronic billing and despatch, except as otherwise agreed in an individual case. The contractor ensures that the outgoing electronic invoices will have a signature in accordance to the law.
4. The customer only has the right to withhold payments or offset them against counter-claims if such claims are undisputed or have finally been established by a court of law.
5. Electrical and electronic components, respectively spare parts, e.g. load cells, circuit boards and other modules as well as complete units, which are not mounted by us or one of our certified and authorised dealers are excluded from return, from acceptance of returned goods and from replacement! Such goods are delivered unexceptionally only against prepayment.

**III. Time of Performance, Delay in Supply, Impossibility of Performance**

1. The time of performance will be specified in the agreements made between the contracting parties. Performance shall not become due until all commercial and technical matters have been settled by the contracting parties and the customer has met all his obligations, such as provision of the necessary public-authority certificates or approvals or making an advance payment. If these conditions have not been fulfilled, the time of performance shall be extended accordingly. This shall not apply if the contractor is responsible for the delay.
2. Observance of the time of performance is subject to correct and on-time supply to the contractor itself. The contractor will give notification of anticipated delays as soon as possible.
3. The time of performance is deemed observed if, by the time it ends, the parts scheduled for supply or, respectively, the construction materials have left the contractor's works or those of the commissioned supplier or if notification of readiness for shipment has been given.
4. If the delivery of parts or construction materials is delayed for reasons for which the customer is responsible, the costs incurred by the delay will be charged to said customer, beginning one month after notification of readiness for shipment was given.
5. If the customer sets the contractor a reasonable period of grace for performance after it has become due – with due consideration of the legal exceptions – and if this period expires without result, the customer has the right to rescind the contract in compliance with legal rulings. At the request of the contractor, said customer has an obligation to state within a reasonable period whether he intends to exercise his right of rescission.

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Any other claims resulting from default in performance and impossibility of contractual performance are governed exclusively by Section VII.2 of these Terms.

#### IV. Passage of Risk, Acceptance

1. The risk shall pass to the customer when the item scheduled for supply has left the works; this shall also apply if partial supplies are made or if the contractor has also assumed responsibility for other services, e.g. shipment costs or delivery and erection. Insofar as there is to be acceptance of parts of performance agreed under a works contract, this acceptance shall be the criterion for the passage of the risk for the work concerned and must be performed immediately on the acceptance date agreed or, alternatively after the contractor has given notification of completion of performance. The customer is not entitled to refuse acceptance if there is a defect that is not of major significance. The contractor has the right to require partial acceptance of partial services that are ready for acceptance.
2. If shipment or acceptance is delayed or fails to be performed as a result of circumstances for which the contractor cannot be held responsible, the risk shall pass to the customer as of the date of notification of readiness for shipment or respectively completion of performance.
3. Partial performance is permitted, provided that the customer can be reasonably expected to accept it.

#### V. Reservation of Title

1. The contractor reserves the title to the supplied items – provided that they do not become part of a real property – until receipt of all payments under the contract, including those for any subsidiary services also rendered. These items include in particular all weighing equipment, together with hardware and software.
2. In the event of attachment or other forms of seizure by third parties, the customer must notify the contractor in writing immediately, so that the latter can instigate suitable legal remedies, in particular legal action under Section 771 of the German Civil Procedure Code (ZPO). The customer shall be liable for the costs thus incurred, if no reimbursement can be obtained from the third party.
3. The customer is granted revocable permission to resell the item to which the title is reserved, this being in the course of due business only. On request, said customer must supply the contractor with the name and address of the third-party purchaser. As collateral, the customer assigns to the contractor in advance all the claims which he holds from the resale of the item to which the title is reserved or for any other legal reason related to said resale. The contractor grants the customer revocable authorisation to collect in his own name the claims assigned to said contractor. In the event of culpable default in payment and if circumstances become known that may reduce the customer's credit standing and prejudice the pledged collateral, the contractor can revoke authorisation of resale and collection of assigned claims. In such cases, the customer must provide the contractor at the latter's request with all the written material and data that will enable said contractor to assert its collateral rights itself and collect the claims itself.
4. The contractor can only require return of the supplied item on the basis of reservation of title if it has rescinded the contract.

#### VI. Warranty

1. The warranty period is 12 months, beginning with the hand-over of the supplied items to the customer. The warranty period for construction work and concrete parts is governed by the works contract law in the German Civil Code (BGB).
2. At its discretion, the contractor can either rework any defects or supply a non-defective substitute item, provided that the defect already existed on passage of risk. The contractor must be notified immediately in writing when such defects are discovered. Replaced parts shall become the property of the contractor.
3. In agreement with the contractor, the customer must allow a reasonable period to give the contractor the necessary time and opportunity for performance of all the reworking and replacements which said contractor considers necessary; if this is not the case, the contractor shall be exempted from liability for the consequences that may result.
4. As far as the direct costs incurred by reworking or replacement are concerned, the contractor shall pay – provided that the complaint proves justified – the costs of the substitute item including shipment. In addition, the contractor will pay the costs of removal and new installation and the costs of any necessary provision of the required fitters and assistants including travel costs, unless this would constitute an unreasonable burden for the contractor. The latter does not apply if the installation/erection/commissioning was not carried out by the contractor. In this case, the customer shall be responsible for the costs of working hours and travelling times incurred in connection with the installation of parts replaced or reworked under a warranty. The contractor will not pay the costs of any necessary calibration.
5. If the contractor fails to meet its warranty obligation despite allowance of a period for completion as per No. 2, the customer can rescind the contract in accordance with legal rulings. If the defect is only minor, the customer solely has the right to reduce the contractual price. Apart from this exception, the right to reduce the contractual price is ruled out.

Any other claims are governed exclusively by Section VII.2 of these terms.

6. No liability will be assumed in the following cases, in particular:

Unsuitable or improper use, defective erection or commissioning by the customer or third parties, natural wear and tear, defective or negligent treatment, improper servicing, unsuitable operating aids, faulty construction work, unsuitable foundation soil, chemical (e.g. lye, acids), electrochemical, electromagnetic or electrical influences – insofar as the contractor is not responsible for them.

7. If the customer or a third party makes changes to the supplied item without obtaining the contractor's prior written consent, the contractor will not be liable for the resulting consequences.

### VII. Liability of the Contractor, Disclaimer

1. The contractor shall only be liable – irrespective of the relevant legal reasons – for damage not incurred to the supplied item itself in the following cases:

- a) in the event of intent,
- b) in the event of gross negligence on the part of the owner/company organs or executive staff,
- c) in the event of culpable injury to life, body, health,
- d) in the event of defects concealed by said contractor with malicious intent,
- e) under a warranty undertaking,
- f) in the event of defects in the supplied item if the contractor is liable under the Product Liability Act for personal injury or property damage to privately used items.

2. If major contractual obligations are culpably breached, the contractor will also be liable for gross negligence by non-executive staff and for ordinary negligence, in the latter case limited to the damage typical of the contract which could reasonably be foreseen. Any further claims, particularly for damages for reason of loss of production and loss of profits, are ruled out.

### VIII. Time Limitation

All of the customer's claims – for any legal reasons whatsoever – are subject to a time limitation of 12 months. Statutory periods apply to damages claims under Section VII 1 a – d and f. They also apply to defects in a building and to supplied items which were used for a building in compliance with their customary purpose and caused the defect in the same.

### IX. Use of Software

If the scope of the order includes software, the customer will be granted a non-exclusive right to use the supplied software including its documentation. It will be provided for use on the supplied item intended for this purpose. Use of the software on more than one system is not permitted.

The customer may only duplicate or use the software in other ways to the extent permitted by law (Sections 69 a ff. of the German Copyright Act (UrhG)). The customer undertakes not to remove manufacturer data – in particular copyright notices – or to alter it without the express prior consent of the contractor.

All the other rights to the software and documentation including copies will remain with the contractor or, respectively, software supplier. No granting of sub-licences is permitted.

### X. Security Obligation and Customer's Compensation Obligation

1. Before passage of risk (Section IV), the customer must take appropriate security measures to protect from damage, deterioration and loss any construction materials and equipment delivered by the contractor after giving prior notification.

2. If the appliances or tools provided by the contractor are damaged at the erection site through no fault of the contractor or if they are lost through no fault of the same, the customer shall have an obligation to compensate this damage. Damage due to normal wear and tear is not included.

### XI. Applicable Law, Legal Venue

1. The United Nations Convention on Contracts for the International Sale of Goods shall apply to all legal relations between the contractor and the customer.
2. All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with the said Rules.
3. The language of the case should be German or English.