AVERY WEIGH-TRONIX TERMS & CONDITIONS OF SOFTWARE SUPPORT

1. INTERPRETATION

In these Conditions the following expressions shall have the meanings set opposite them.

"Agreement" – means the agreement between us and the Customer and comprises these Conditions and the Software Support Contract which together constitute the entire agreement for the provision of the Services.

"Application Software" – means software programs which will run on the Equipment and which enable the Equipment to perform a particular function.

"Business Days" – means Monday to Friday inclusive, but excluding all Public, Bank and Statutory Holidays in England and other working days between 27th December to 31st December.

"Business Hours" – means the hours between 8.00 am and 4.45 p.m. on Business Days.

"Conditions" – means these terms and conditions and any documents referred to herein.

"Commencement Date" – means the date specified in the Software Support Contract and is the date on and from which the Services will be provided and from which the Total Order Price accrues.

"Customer" – means the person, firm or organisation named on the Software Support Contract (together with its agents, servants or employees).

"Equipment" – means the equipment on which the Customer warrants that the Software will operate properly and on which the Software has been or is intended to be installed correctly.

"Malware" – means software designed to infiltrate or damage or otherwise disrupt or interrupt the function of a computer system without the Customer's informed consent and shall include without limitation adware, keyloggers, malbots, rootkits, spyware, viruses, worms, trojans and any other forms of malware whatsoever.

"Media" – means any magnetic, optical or other data storage device including without limitation magnetic floppy discs, optical discs and smart cards.

"Nominated Person" – means that person or persons nominated in the Software Support Contract by the Customer to place Requests and any person nominated in place of that person by the Customer and notified to us at least 7 days prior to the change having effect. In the absence of our agreement in writing up to three persons who have been trained in the use of the Software may be nominated in respect of each Software Package.

"Operating Software" – means all software or firmware programs other than Application Software and which are integral to the Equipment and without which the Equipment could not function.

"Request" – means a telephone, facsimile or email request for support made by the Customer to us. The Request shall be deemed made (a) with regard to a telephone Request when the same is received by us and a code number is designated for the Request and communicated to the Customer and (b) with regard to a facsimile and email Request has been received by us and a code number is designated for the Request and communicated to the Customer.

"Services" – means the services identified in the Software Support Contract which are more fully described in Condition 5.

"Site" – means a location at which the Application Software is installed on the Equipment.

"Software" – means the Application Software in respect of which we will provide the Services specified in the Software Support Contract and such additions and changes thereto as shall from time to time be agreed in writing between the parties.

"Software Package" – means a part of the Software which is designated and recognisable as a functional package.

"Software Support Contract" – means the form titled Software Support Contract including but not limited to the schedule of Services to be provided by us to the Customer, which term shall include any documents referred to therein including but not limited to any applicable schedule of cover.

"Support Hours" – means Business Hours or such other hours as are specified in the Software Support Contract on days specified in the Software Support Contract (or on Business Days if no days are so specified).

"Telecom Provider" – means any telecommunications authority or contractor.

"Total Order Price" – means the charge for the Services to be provided by us in accordance with the Software Support Contract.

"We", "Our" and "Us" – means ITW Limited, trading as Avery Weigh-Tronix. Our principle place of business for correspondence is Foundry Lane, Smethwick, West Midlands, B66 2LP, England. Our registered office is at Admiral House, St Leonards Road, Windsor, Berkshire, SL4 3BL, England. Brecknell, Central Weighing, Exactrak, GSE and Railweight are all parts of Avery Weigh-Tronix. Registered in England and Wales under number 559693.

2. FORMATION OF AGREEMENT

2.1 No variations of or addition to these Conditions shall form part of any Agreement unless made or specifically accepted by us in writing.

2.2 Save where we have first expressly agreed in writing to the contrary, these Conditions shall override and take the place of any other terms and conditions in any document or other communication used by the Customer in concluding any Agreement with us.

3. CUSTOMER'S ENVIRONMENT

3.1 Where it is discovered by us that the Equipment or Operating Software or environment or general circumstance of use are not suitable for the operation of the Software we reserve the right to terminate the Agreement within 28 days of such discovery free of penalty and we reserve the right to charge for any services provided at our normal charge rates up to the termination date and to deduct such charges from any price or fees paid.

4. LIMITS OF AGREEMENT

4.1 We are only obliged to supply those Services which are specified in the Software Support Contract.

5. SOFTWARE SUPPORT AND MAINTENANCE SERVICES

During the continuance of this Agreement we shall provide such of the following Services (the "Services") during Support Hours as are specified in the Software Support Contract.

(i) TELEPHONE SUPPORT

Upon receipt of a Request from a Nominated Person during Support Hours we shall use reasonable endeavours to provide assistance over the telephone, or at our discretion in writing, to facilitate the normal operation of the Software. Due to the wide variety of Requests which may arise it is not possible to give a fixed time for responding to a Request, but we would normally expect to give at least a preliminary response within 8 Support Hours.

(ii) CORRECTION OF SOFTWARE

Upon receipt of a Request where at our sole discretion we agree that there appears to be an imperfection in the Software we shall use reasonable endeavours to correct the same provided that:

(a) Such imperfection actually exists and has been adequately described and notified, at our option in writing, by the Customer to us;

(b) the Software in use by the Customer is the latest update of the Software available to the Customer;

(c) the Software has been correctly installed and used on properly installed and functioning Equipment which has been supplied by us or which we have approved as suitable for the purpose in all respects;

(d) such imperfection is not due to events or circumstances beyond our control, including without limitation those specified in Condition 26.

In satisfaction of our obligations under this Condition 5 (iii) we may at our sole discretion:

(a) provide an update or patch to the Software;

(b) provide a temporary bypass solution;

(c) request more information on the imperfection;

(d) modify the Documentation supplied with the Software to reflect operating or functional requirements or limitations; or

(e) notify the Customer that such imperfections cannot at present be corrected and that we shall use our reasonable endeavours to correct them in future updates.

(iii) ON-SITE SUPPORT

If, following a Request, we believe that a Site visit may help to deal with the Request we shall offer to visit the Site but if we do so you will be responsible for our reasonable travelling expenses and our normal daily labour rate for each day or part thereof. We do not guarantee to provide on-site support for software not developed by us.

(iv) REMOTE DIAGNOSTICS (where applicable)

At our discretion where considered beneficial we will utilise remote diagnostics which reproduces the function of the Software on the Equipment on our own system and/or enables us to operate your systems remotely. This can facilitate the provision of Services. You hereby expressly permit us to access your system in this manner, you warrant that such access does not contravene the Data Protection Act 1998, and you agree that we do not have any liability for and you will indemnify and hold us harmless against any data corruption, amendments or loss of data or the consequence thereof regardless of any representations to the contrary.

(vi) TRAINING

We will maintain a capability whether in-house or on a sub-contracted basis to provide additional operator training on the latest version of Software, such training to be available on a chargeable basis given reasonable notice and at a location of our choice. All or any part of the Service may at our discretion be sub-contracted by us and we reserve the right to provide different addresses and/or telephone numbers to which Requests should be directed for each Software Package. Where we have sub-contracted Services the words We, Our and Us shall in this clause 5(vi) include our nominated sub-contractors.

6. CHARGES

6.1 In consideration of the Services provided by us, the Customer shall pay the Total Order Price as specified in the Software Support Contract annually in advance prior to the commencement of the Software Support Contract. No payment shall be considered made until it is received by us. All payments shall be made in the manner specified in the Software Support Contract and these Conditions.

6.2 Any charges payable by the Customer hereunder in addition to the Total Order Price shall be payable at our normal rates for that class of labour together with associated travel and other expenses arising and shall be paid within thirty (30) days of the receipt of our invoice in respect thereof.

6.3 We shall be entitled at any time and from time to time after the expiry of the period of one year after the Commencement Date to increase the Total Order Price, provided that the Customer is notified of such increases by not less than 30 days prior written notice.

6.4 Prices and Charges are exclusive of VAT, which shall be paid by the Customer at the rate and in the manner for the time being prescribed by law.

6.5 In the event that payment is not made of any sums owed, interest will accrue from the date on

which payment is due at the rate of 8 percent per annum above National Westminster Bank PLC's base rate of interest application throughout the period of non payment.

6.6 We reserve the right to charge the Customer a minimum administration fee of £40.00 in the event of non payment of the Total Order Price or any other charges due in accordance with clauses 6.1 and 6.2.

7. EXCEPTIONS

The Services do not include and the Customer agrees to pay our additional charges in respect of the following:

(a) **Responses to Requests**

(i) to research or obtain information other than technical information related specifically and exclusively to the Software;

(ii) necessitated by or contributed to by an incorrect or negligent act or omission of the Customer or by failure to take regular backups of Software and/or data;

(iii) where the defect arises from a failure of or fault in the Equipment or from a fluctuation in, failure of or instability in the supply of electricity or telecommunications to the Equipment;

(iv) where the defect arises from a change to the configuration or a failure of either the Operating Software or computer network or from the installation, presence or failure of other software that is not covered by this Agreement;

(v) where the defect arises from the presence or action of Malware from any source whatsoever;

(vi) of which Service is not necessary or the work required or requested is frivolous or outside the terms of our Agreement;

(vii) from persons other than Nominated Persons;

(viii) which are unduly repetitive or excessive or arise from operator error, improper operation or omission, a lack of operator training or where the Customer does not arrange appropriate training in a timely manner (without prejudice to the generality of the foregoing, it shall be deemed excessive if more than 13 Requests are made in any three month period in respect of any Software Package in any one Site);

(ix) arising due to Software not operating properly on Equipment which has not been supplied by us or approved by us as suitable for the purpose in all respects or which does not meet the minimum specification for the Equipment detailed on any literature published by us in relation to the Software.

(b) Alterations to the Software requested by the Customer except where provided by us under Conditions 5 (i), (iii), (iv) and (v) above.

(c) Any Services not specifically listed in the Software Support Contract when read in conjunction with Clause 5 above.

(d) The backup of data files or Software or any part thereof or any restoration of data or Software lost however such loss arises.

8. SUPPLY OF INFORMATION TO US

The Customer will promptly provide to us all necessary information that we may reasonably require from time to time to permit us to proceed uninterruptedly in performing our obligations under the Agreement. In the event that the performance of the Services is delayed by reason of delay in the provision by the Customer of the necessary information or to any changes in such information, we shall be at liberty to levy a charge to compensate us for additional costs that we have reasonably and properly incurred, and to extend the time in which we should perform the Services by a reasonable period.

9. SUPPLY OF INFORMATION BY US

All descriptions and particulars of the Software produced or submitted by us are approximate only and the descriptions and illustrations contained in our user manuals, catalogues, price lists, and advertising matter are intended merely to represent a general idea of Software as may be described therein, and none of these shall form part of the Software.

10. OTHER SERVICES

10.1 Other services which may be available from us include:

(i) Bespoke enhancement of Software

(ii) Initial or reloading of Customer's data

(iii) Additional operator training

(iv) Provision of additional software.

10.2 Where available such services are chargeable at our normal rate for that class of work.

11. DURATION

This Agreement shall commence on the Commencement Date and subject to earlier termination as provided in Condition 18 hereof, shall continue for not less than one year and thereafter shall continue for periods of one (1) year unless or until terminated by either party giving to the other not less than six (6) months notice of its wish that this Agreement should terminate on the expiry of the one (1) year period or the end of any subsequent one (1) year extension.

12. CUSTOMER OBLIGATIONS

During the continuance of this Agreement the Customer shall:

(a) Ensure that proper environmental conditions are maintained for the Equipment and shall maintain in good condition the accommodation of the Equipment, the cables and fittings associated therewith and the electricity supply thereto.

(b) Not make any modification to or tamper with the Equipment or Software without our prior written consent.

(c) Ensure that at all times the Equipment and Software is used in a normal and proper manner and in accordance with licences and that the Equipment is only used by competent and authorised personnel.

(d) Keep the Equipment clean and take any necessary action to prevent damage by water, heat, humidity, ingress of dust, fumes, tobacco smoke, or any other material which may adversely affect the performance of, or operational life of, the Equipment or the Software.

(e) Ensure that in no circumstances will theSoftware be interfered with, or repaired, adjusted or maintained by any person other than us or our personnel or authorised sub-contractors during the operation of this Agreement except in accordance with the operating manuals and/or user manuals supplied by us.

(f) Ensure that Malware is not present on/in or acting upon either the Equipment, any network to which it is connected, the Software or the Operating System in addition that all commercially reasonable steps are taken to ensure compliance with this Condition 12(f).

(g) Use on the Equipment only such consumable supplies and Media that are approved by the Equipment manufacturer or distributor.

(h) Send to us on request postage pre-paid copies of such of the Software and data files as we may reasonably require to provide the Services.

(i) Provide us with full and safe access to the Equipment any Software for the purposes of this Agreement, including remote electronic access using methods deemed suitable by us at our sole discretion for remote diagnosis where appropriate.

(j) Provide adequate working space around the Equipment or use of our personnel and make available such reasonable facilities as may be requested from time to time by us.

(k) Return to us, or at our option erase, copies of Software immediately after installing an updated version of that Software.

(l) Make available to us such programs, operating manuals, data files and information as may be necessary to enable us to perform our obligations hereunder and if requested by us provide staff familiar with the Customer's programs and operations, which staff shall co-operate fully with our personnel.

(m) Make available to us free of charge all facilities and services reasonably required by us to enable us to perform the Services.

(n) Provide such telecommunication facilities as are reasonably required by us for testing and diagnostic purposes at the Customer's expense including fully functional compatible electronic equipment where remote diagnostics are intended to be used in the Services.

(o) Notify us if any or all of the Equipment or Software is to be moved to another Site and where required by us engage our Personnel to

move the Equipment and/or Software and pay our standard charges for doing so.

(p) Notify us of any major changes in the use of the Equipment or Software.

(q) Ensure that only Nominated Persons shall make Requests.

(r) Refer to users instructions and training notes and make reasonable efforts to resolve a problem before making a Request.

(s) Take regular backups of all Software and data files.

(t) On request advise us which version of Software is in use.

13. APPROVALS

It may be necessary to obtain approvals to use the Software and/or Equipment from third parties including but not limited to Trading Standards Officers (scales and fuel dispensing equipment), Banking Authority (electronic funds transfer equipment) and the Telecom Provider (for remote diagnostic links). Where we have supplied the Software or Equipment we will use reasonable endeavours to assist the Customer in complying with and obtaining necessary approvals and re-approvals for that Software and Equipment if regulations change but we do not undertake to obtain such re-approvals, and all approval and re-approval fees are payable by the Customer.

14. UPGRADES

Updated Software provided by us will at our sole discretion either be despatched postage paid to the Customer on suitable Media or be sent by electronic means or be made available for download and the Customer is responsible for installing such Software on receipt. Once updated Application Software is made generally available to Customers we do not guarantee to provide the Services for previous versions although Services will normally be available on the version immediately prior to the latest one.

15. LOSS OR DAMAGE IN TRANSIT

15.1 We will repair or, at our option, replace for no additional charge any Software supplied by us which is lost or damaged in transit, provided that we are given written notification of such loss or damage within such time as will enable us to comply with the carrier's conditions of carriage as affecting loss or damage in transit or, where delivery is made by our own transport, within a reasonable time (and in the absence of agreement14 days) after despatch of the advice note.

15.2 We do not accept responsibility for, or risk in, any of the Equipment or any other goods delivered to or by us except to the extent that any loss arising is covered by and reimbursed under our insurance on our carrier's insurance any claim should be met under that policy in priority to claims under our or our carrier's policies.

16. SOFTWARE AND CONFIDENTIALITY

16.1 Title to the Media, if any, on which the Software is recorded will be transferred to the Customer

or us respectively on delivery but title to the copyright and all other intellectual property right to all Software, specifications, user instructions, drawings and technical descriptions supplied by us will remain vested in us.

16.2 The Customer acknowledges that the copyright in the Software is and remains our property and that the Software consists of information proprietary to us and which is confidential.

16.3 The Customer shall treat and keep strictly confidential, entirely secret and shall not without our prior consent in writing disclose to or use on behalf of any third party or permit such third party to use or copy any Software specifications, user instructions, drawings, designs or information (whether of a commercial, technical, proprietary or other nature) relating to the Software, this Agreement and the Services provided hereunder or disclosed to or communicated to you(whether orally or in writing) ("Confidential Information").

16.4 The Customer undertakes to procure that all Confidential Information, including the Software, is kept safe and to prevent any unauthorised use, loss, theft, destruction, copying or disclosure thereof. The Customer shall arrange for and ensure that all persons using or having access to the Confidential Information, including the Software, are made aware of, are bound by and enforce the security arrangements set out in Conditions 16.3 and 16.4

16.5 Where the Customer has reason to believe that any Confidential Information, including the Software has been wrongfully used, disposed or disclosed to any third party he shall give notice of this fact immediately to us and shall co-operate with us in any way we may require.

16.6 The Customer warrants that all Software is properly licensed for use by the Customer and that all conditions of such licences are complied with, and the Customer hereby indemnifies us against all claims arising by means of any breach of such licences.

16.7 Where the Software is licensed from us and upgrades or modifications are provided by us in accordance with Condition 5 such replacement Software is licensed by us in accordance with the license agreement for the Application Software unless alternative terms are notified in writing to the Customer, in particular:

(i) The Software will be used for the Customer's own internal purposes only.

(ii) The Customer may copy the Software for backup purposes only but not otherwise and may use the Software only upon the Equipment.

(iii) Without our prior written agreement the Customer may not modify, copy, amend or

adapt (other than configuring where configuring is implicit in the design of the Software) the Software nor reverse compile or do any other thing to produce the source codes of the Software (except to the extent that such activities cannot be prohibited by law).

16.8 The provisions of this Condition 16 shall continue to apply notwithstanding the termination of the Agreement or any part thereof howsoever arising.

17. TELECOMMUNICATIONS

17.1 If the Equipment (or any part thereof) is or is to be connected to the Telecom Provider's telecommunications network then the Customer shall be responsible for obtaining and keeping in force the necessary consent of such connection.

17.2 We shall not be liable under this Agreement for any delay, failure, breakdown, damage, loss or injury caused by any requirements of the Telecom Provider and we do not warrant the continuation of the consent of the Telecom Provider to the connection of the Equipment to Telecom Provider's network .

18. TERMINATION

18.1 Notwithstanding anything else contained herein, this Agreement may be terminated:

(i) At our option in the event that the Customer shall fail to pay any sum due under the terms of this Agreement (or the appropriate part thereof if payable by instalments) on or before the due date and in which event we may serve notice on the Customer terminating the Agreement forthwith whereupon we shall be relieved from all the obligation to further provide any Services hereunder and any Services hereafter provided for at our standard rate.

(ii) By the Customer forthwith on giving notice in writing to us if all of the Equipment and Software is lost, stolen, scrapped or destroyed or damaged beyond economic repair and ceases to be used.

18.2 If the Customer shall make default or commit any breach of any of its obligations under this Agreement or any licences or if any distress of execution shall be levied upon the Customer, its property or assets or if the Customer shall make or offer to make any arrangement or composition with creditors or commit any act of bankruptcy or if any bankruptcy petition shall be presented or made against him or if the Customer shall be a limited company and any resolution or petition to wind up the business of such company shall be passed or presented otherwise than for reconstruction or amalgamation or if a receiver or administrative receiver of such company's undertaking property or assets or any part thereof shall be appointed or a petition for an administration order shall be presented the Customer shall be

deemed to be in breach of the Agreement and any Software licence and we shall have the right forthwith to determine the Agreement including any Software licences and upon written notice of such determination being posted by us to the Customer's last known address this Agreement and any Software licences shall be deemed to have been determined without prejudice to any claim or right we might otherwise make or exercise.

18.3 The parties acknowledge that the termination of this Agreement or any part thereof for whatsoever cause shall not release them from any of their obligations under the Agreement arising prior to termination or which expressly or by implication becomes effective or continues to be effective on or after the termination of the Agreement including without prejudice to the generality of the foregoing, the provisions relating to confidentiality set out in Condition 16.

19. LIABILITIES

19.1 We will indemnify the Customer against direct damage or injury to the Customer's property or person to the extent that this is caused by our negligent acts or omissions or those of our sub-contractors or agents whilst providing the Service, but not otherwise, by making good such damage to property or compensating personal injury. Provided that:

(a) except where the Customer deals with us as a consumer, and subject to Condition 19.1(b), our total liability for damage to the Customer's property (including damage caused by our breach of contract, tort, negligence or breach of statutory duty) shall not exceed the greater of (a) the Total Order Price or (b) £100,000, in respect of any claim or series of claims arising out of one incident and £500,000 in the aggregate in respect of all claims whether arising from one incident or more than one incident under this Agreement;

(b) we shall not be liable to the Customer for any loss of use, or loss of profit, contracts, or anticipated savings, nor for any loss or spoiling of Software or data nor for any special or indirect or consequential loss or damage of any kind whatsoever and whether caused by our breach of contract, tort, breach of statutory duty or otherwise howsoever, and

(c) subject to Condition 19.1(a) and save where the Customer deals with us as a consumer, the Customer shall indemnify us against any liability claim, loss, damage, costs, fees or expenses suffered by us as a result of any claim or action brought by any third party in respect of any damage or injury caused whether direct or indirect as a result of or in connection with the

performance or non-performance by us of our obligations under this Agreement.

19.2 We shall not be liable for any delay in responding to a Request and any date or time given for responding no matter howsoever described is an estimate only and is not binding upon us.

19.3 Except as expressly provided herein no warranty condition or representation on our part is implied by the Agreement or given by us in relating to the Software or any update or the provision of the Services nor is any warranty condition or representation or to be taken to have been given or implied from anything said or given in negotiations between the parties prior to the Agreement and any statutory (or other) warranty condition or restriction expressed or implied as to the state quality of fitness of the Software or any update or the provision of the Service is hereby expressly excluded.

19.4 We accept no responsibility for faulty or corrupted data or the consequence thereof regardless of the cause of such faults or corruptions.

19.5 Notwithstanding any other provision to the contrary nothing in this Agreement shall limit or exclude each party's liability for death or personal injury caused by that party's negligence or that of its employees, sub-contractors or agents or for fraud or fraudulent misrepresentation.

20. PATENTS

We will indemnify the Customer against any claim for infringement of U.K. Letters Patent, Registered Design, Trade Mark or copyright (published at the date of the Agreement) by the use of the Software or updates supplied by us to the Customer and against all costs and damages which the Customer may incur in any action for such infringement or for which the Customer may become liable in any such action. Provided always that this indemnity shall not apply to any infringement which is due to our having followed a design or instruction furnished or given by the Customer or to the use of the Software in a manner for a purpose or in a foreign country not specified by or disclosed to us in writing, or to any infringement which is due to the use of the Software in association or combination with any other article or material not supplied by us. Provided also that this indemnity is conditional on the Customer giving to us the earliest possible notice in writing of any claim being made or action threatened or brought against the Customer and on the Customer permitting us at our own expense to conduct any litigation that may ensue and all negotiations for a settlement of the claim. The Customer on the Customer's part warrants that any design or instructions furnished or given by the Customer shall not be such as will cause us to infringe any letters patent, registered design, trade mark or copyright in the execution of this Agreement and agrees to indemnify and hold us harmless against any such claim arising therefrom. Our

liability under this Condition 20 shall in no event exceed £1 million.

21. PACKING

Unless otherwise specified packing of Media in accordance with our standard practice is included in the Total Order Price. Such or similar packing materials should be used to despatch Media to us where required under this Agreement.

22. LEGAL CONSTRUCTION

The construction validity and performance of this Agreement shall be governed by the laws of England and any claim or dispute arising therefrom shall be subject to the exclusive jurisdiction of and be determined by the English Courts. Nothing in this provision shall limit our right to take proceedings against the Customer in any other Court of competent jurisdiction.

23. STATUTORY AND OTHER REGULATIONS

If the cost to us of performing our obligations under the Agreement shall be increased by reason of the making or amendment, after the Commencement Date, of any law or of any order, regulation or bye-law having the force of law that shall affect the performance of our obligations under the Agreement, the amount of such increase together with a reasonable profit mark up shall be added to the Total Order Price.

24. PERFORMANCE

24.1 Unless expressly guaranteed by us in a separate contract, the Customer assumes sole responsibility that any Software ordered by the Customer is sufficient and suitable for the Customer's purpose and that of any purchaser from the Customer.

24.2 We accept no liability for failure to attain performance figures whatsoever.

25. SUSPENSION OF SERVICES

In the event of any breach by the Customer of any of these Conditions and not restricted solely to breach by non-payment of charges by the due date we shall be entitled to suspend delivery of all or any of the Services until such breach is rectified. In the event of such suspension all charges will continue to accrue for the Customer's accounts as if the delivery of Services had not been suspended.

26. FORCE MAJEURE

This Agreement (including for the avoidance of doubt obligations arising under these Conditions and the documents referred to in these Conditions) may be cancelled by us or suspended by us for such period or periods as we in our absolute discretion shall elect (and we shall have the right to cancel after a period or periods of suspension aggregating six months) without liability on our part in the event of us being unable to fulfil or being delayed or interrupted in the fulfilment of any of our obligations under this Agreement by reason of accidents, statutes, regulations, orders, restrictions, embargoes, boycotts, prohibitions, recommendations, requisitions or other act of national or local government, strikes, lockouts, trade disputes, war, invasion, act of foreign enemy, hostilities (whether war has been declared or not), civil war, rebellion, inclement or adverse weather conditions, fluctuations or failures of

electricity or power supplies or communication line failures, shortage of raw materials, or inability to secure materials, labour, transport or licences, suppliers' shortages or delays or otherwise or such other causes as are beyond our reasonable control and the Customer shall be obliged to pay for that part of the Agreement which is actually carried out by us on a pro-rata basis relation to the Total Order Price as a whole.

27. SET-OFF

The Customer shall not be entitled to withhold payment of any sums after they have become due by reason of any right of set off or counter claim which the Customer may have or alleged or for any reason whatsoever.

28. GENERAL

28.1 The Customer shall not, without our prior written consent, assign or sub-let any of its rights or duties under the Agreement and shall furnish copies of any such assignments or sub-contracts to us.

28.2 We shall have the right, without prior notice or penalty, and the Customer hereby consents to and shall do all acts and execute all documents necessary to enable us to assign the benefit of and/or by novation or otherwise transfer or sub-contract the obligations arising from the Agreement or any part thereof without restriction. We shall give to the Customer notice of any such assignment, novation or transfer within 14 days of its occurrence.

28.3 The failure on the part of either party to exercise or enforce any right conferred by the Agreement shall not be deemed to be a waiver of any such rights nor to operate so as to bar the exercise or enforcement thereof at any time thereafter.

28.4 Any notice required to be given under this Agreement shall be given in writing and shall be deemed to have been duly given if hand delivered or sent by prepaid post first class or email or facsimile addressed to the party concerned at its principal place of business or last known address and in the case of a notice sent by prepaid post shall be deemed to be served at the time of actual delivery or 48 hours after posting whichever is the earlier. Notices sent by email or facsimile shall be deemed delivered when transmitted. Notices delivered by hand shall be deemed served when delivered.

28.5 In the event that any one or more of the provisions contained in these Conditions shall be invalid, illegal or unenforceable in any respect the validity legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

28.6 The Customer warrants to us that:

(i) it has the power to engage in the transactions contemplated by and/or contained in this Agreement.

(ii) it has full power, authority and legal right to execute the Agreement and to comply with the provisions hereof.

(iii) the obligations expressed and or assumed constitute valid and binding obligations of the Customer.

(iv) all acts, conditions and things to be done and performed and to have happened prior to the execution and delivery of the Agreement in order to constitute all of the obligations of the Customer hereunder as valid and binding have been done and performed and have happened in due and strict compliance with all applicable laws.

28.7 We may advertise and make known that we are undertaking work for the Customer.

28.8 The Customer warrants and undertakes that during the performance, and for a period of nine (9) months following the completion of the Agreement, it will not, without our prior written agreement, employ or offer to employ or to introduce to any third party any person employed by us at the time of the making of this Agreement and not directly or indirectly to induce any such person to leave our employment as aforesaid.

28.9 The Customer shall not at any time during the continuance of this Agreement or for a period of five years thereafter make any public statements regarding us which could in any manner bring us or our services or products into disrepute.

28.10 The Customer acknowledges that the Company is subject to and must comply with UK, EU and US law in respect of sanctions, other trade restrictions, export licencing requirements, bribery and corruption. Accordingly it is a condition of this Agreement that the Customer shall comply with all such law in respect of goods and services supplied directly or indirectly by us or other members of our group of companies. All Customers buying goods or services for resale shall also comply with our group global anti-corruption policy as amended from time to time. This policy is available at http://investor.itw.com and is alternatively available upon request from us. Breach of this clause shall be grounds for termination and shall not be considered a breach capable of remedy.

28.11 Save as otherwise expressly stated, a person who is not a party to the Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

29. HEADINGS

The headings of these Conditions are for convenience only and shall in no way form part thereof.

30. INTELLECTUAL PROPERTY RIGHTS

30.1 The Customer shall not obtain any rights, in particular without limitation copyrights, in the Software.

30.2 The Customer shall ensure that the Software and every copy thereof or part thereof shall carry a prominent copyright notice to be determined by us.

30.3 The Customer shall bring to our attention any unauthorised use or infringement or suspected infringement by any third person of any copyright or other rights of ours in the Software and shall at our request take or join with us in taking all such action as we may reasonably require for the purpose of preventing such use of protecting such rights.