

VERY WEIGH-TRONIX - CANADA: CONDITIONS OF SALE

1. INTERPRETATION

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

Application Software - means software programs (which may be AWTX Software or Third Party Software) detailed in the Order Acknowledgement which will run on the Products or the Customer Equipment and which enable the Products or the Customer Equipment to perform a particular function.

AWTX Software - means collectively our proprietary Application Software (if any) and Operating Software (if any), or Application Software or Operating Software that is licensed to us for sublicense to Customer, pursuant to the Contract. AWTX Software does not include Third Party Software.

Commissioning - means the checking, calibration, adjusting and testing of the Products, as detailed in the Order Acknowledgement.

Conditions - means these terms and conditions.

Contract - means the Order Acknowledgement accepting the order for the supply or Installation of the Products as detailed or referred to in such Order Acknowledgement, which together with the Conditions and any documents referred to in the Order Acknowledgement constitute the entire contract for the supply or Installation of the Products.

Contract Price - means the amount stated in the Order Acknowledgement as the Contract Price unless this has been expressly varied by agreement with us and recorded in writing.

Customer - means the individual, corporation, partnership, limited liability company, association, or any other entity or organization named in the Order Acknowledgement.

Customer Equipment - means all machinery, apparatus, materials and articles to be provided by the Customer or the End User on the site, and to be used in association or conjunction with the Products.

Deliver and Delivery - means unless stipulated to the contrary in the Order Acknowledgement available for delivery, F.O.B. shipping point at such of our sites as we shall specify.

End User - means any individual, corporation, partnership, limited liability company, association, or any other entity or organization who ultimately is authorized to use the Products.

Installation - means the placing and if appropriate fixing in position of the Products, its mechanical connection with the Customer Equipment, and its connection to the electrical power supply as detailed in the Order Acknowledgement.

Installation Package - means collectively delivery (other than F.O.B. shipping point), Installation, Commissioning of the Products, and any training or other services provided by us and related thereto. Only that Installation Package that is detailed, or referred to, in the Order Acknowledgement will be provided by us pursuant to the Contract.

Operating Environment - means a dry, dust free, low humidity environment with moderate and constant temperatures in which the Products will be operated unless different operating conditions are agreed to by us.

Operating Software - means all software or firmware programs, other than Application Software (which may be AWTX Software or Third Party Software), which is integral to the Products and without which the Products could not function.

Order Acknowledgement - means the last document issued (which in the event of any uncertainty shall be determined by reference to the date stated on such document) by us to acknowledge or accept the Customer's order for the Products or

by which we have offered, quoted or tendered to supply the Products. The Order Acknowledgement is issued, and the Products will be supplied, upon these Conditions only.

Products - means the products, apparatus, machinery, materials, spare parts and articles (if any), other than Application Software detailed in the Order Acknowledgement to be provided by us pursuant to the Contract.

Software - means collectively Application Software (if any) and Operating Software (if any).

Specification - means the performance and other functions expected of the Products full details of which are conclusively detailed in or referred to in the Order Acknowledgement.

Standard Warranty - means the limited warranty for each Product, which is provided by us to the Customer at the time of the Order Acknowledgement.

Third Party Items - means any Third Party Products or Third Party Software.

Third Party Products - means any of the products, machinery, apparatus, materials, spare parts and articles (if any) designed and created by third parties and provided by us without modification or customization which are necessary to the successful operation and performance of the Products or any of the products, machinery, apparatus, materials, spare parts and articles (if any) to be provided pursuant to the Contract that are not manufactured or supplied by us.

Third Party Software - means any Application Software or Operating Software that is designed, developed or provided (but not licensed) to us by third parties, and that we provide (but do not sublicense) to Customer.

We, our and us - means us, the company supplying the Products to the Customer pursuant to the Contract or our successors or assigns. Our full name and address is: Weigh-Tronix Canada ULC, a company incorporated in Nova Scotia and whose principal place of business is at 217 Brunswick Blvd., Pointe-Claire, QC, H9R 4R7. Avery Weigh-Tronix and Pacific Industrial Scale are trading names of Weigh-Tronix Canada ULC

2. FORMATION OF CONTRACT

2.1 Each Contract shall be deemed to incorporate these Conditions. No variation of or addition to these Conditions shall form part of any Contract unless made or specifically accepted by us in writing.

2.2 Except 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 Contract with us.

3. VALIDITY AND ACCEPTANCE

Unless previously withdrawn, quotations are valid for the period stated therein, or if no period is stated, for 30 days from the date of issue. Any order placed in compliance with a quotation is subject to acceptance by us through issue of the Order Acknowledgement.

4. LIMITS OF CONTRACT

4.1 We are only obligated to supply those Products and the Installation Packages which are specified in the Order Acknowledgement.

4.2 Notwithstanding the above we reserve the right, in our sole and absolute discretion, to make minor changes to the Products or the Installation Package, provided that such changes shall not affect the Contract Price (or the performance of the Products to

conform to the Specification to the extent that one is detailed in the Order Acknowledgement).

4.3 For any Third Party Products, we will not be liable in respect of any loss or damage caused by or resulting from any variation for whatever reason in the manufacturer's specifications or technical data of the Third Party Products or any part thereof and will not be responsible for any loss or damage resulting from curtailment or cessation of supply following such variation. We will attempt to advise the Customer of any such impending variation as soon as we receive notice thereof from the manufacturer. The Customer will accept delivery of the Third Party Products in this varied form as though the variation had been incorporated in and formed part of the Contract.

4.4 The Customer acknowledges that we do not own the Third Party Items; and, except for the obligation to pay us for the Third Party Items, all of Customer's rights and obligations with respect to the Third Party Items flow from and to the manufacturers or vendors (other than us) of the Third Party Items. We shall provide Customer with all warranties, license agreements or other documentation, as applicable, for the Third Party Items which are provided to us by the manufacturers or vendors. Customer will comply fully and completely with its obligations under all license agreements or other documentation, as applicable, for the Third Party Items.

5. 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 Contract.

6. SUPPLY OF INFORMATION BY US

All drawings and particulars of all weights, measurements, powers, capacities and other particulars of the Products produced or submitted by us are approximate only and the descriptions and illustrations contained in our catalogues, price lists, and other advertising matter are intended merely to represent a general idea of such Products as may be described therein, and none of these shall form part of the Contract.

7. INSPECTIONS AND TESTS

7.1 If the Customer requires any specific tests, such tests will, if agreed to by us in writing (such agreement not to be unreasonably withheld), be conducted at our site, at the Customer's expense.

7.2 If the Customer requires such specific tests to be held in the presence of the Customer or the Customer's representatives, the Customer will be charged for any additional expenses. In the event of any delay by the Customer or the Customer's representatives attending such tests or in carrying out any inspection required by the Customer after 48 hours notice that we are ready, the tests or inspection will proceed in the Customer's representatives absence and will be deemed to have been made in the Customer's or their representative's presence.

7.3 It will be the Customer's responsibility to ensure that during the period of any tests at the Customer's site the Customer Equipment is working normally, the correct Operating Environment exists, and the members of the Customer's staff whose acts or omissions may affect the operation of the Products exercise all appropriate skill and care.

7.4 For the purpose of Section 12 (Price and Terms of Payment) any tests shall nevertheless be deemed to have been successfully carried out if, due to circumstances within the Customer's control or that of the Customer's other contractors:

(a) The tests are prevented, delayed, interrupted or terminated beyond the time stated in the Order Acknowledgement or when no time is stated within 48 hours of the expiration of the 48 hour notice period, or

(b) The Products fail to comply with the tests.

7.5 If the Products fail to comply with the tests then the tests shall, if required by either party, be repeated at a time to be agreed and in the event that the Customer or its or another's contractor is responsible for such failure then all our reasonable expenses incurred in repeating the tests shall be paid by the Customer.

8. ACCEPTANCE; PERFORMANCE

8.1 The Products and any part thereof shall be deemed to be accepted upon the earliest to occur of any of the following: 14 days after Delivery, upon shipment to an End User, upon completion of the Installation of the Products or where Products have been brought into earlier commercial use. This date shall not be delayed on account of additions, minor omissions or defects which do not materially affect the use of the Products.

8.2 The Customer assumes sole responsibility that any Products ordered by the Customer are sufficient and suitable for the Customer's intended use and that of any End User.

8.3 We accept no liability for failure to attain any performance figures quoted by us unless these are expressly warranted in writing in the Order Acknowledgement and then subject to any exceptions or limitations specified in the Order Acknowledgement. If the performance figures obtained on any test stipulated in the Order Acknowledgement performed upon the Products or any part are outside any acceptance limits specified therein, the Customer will be entitled to reject the Products or any non-performing part thereof in accordance with these Conditions.

8.4 Before the Customer becomes entitled to reject the Products we are to be given reasonable time and opportunity to rectify their performance. If the Customer becomes entitled to reject the Products we will repay the Customer any sum paid by the Customer to us on account of the Contract Price thereof and any sum that may have accrued to the Customer in respect of delay in Delivery pursuant to Section 9 up to the date of such rejection. Such payment shall be the Customer's sole and exclusive remedy and in full satisfaction of our liability arising directly or indirectly from the non performance of the Products or any part thereof.

9. LIABILITY FOR DELAY

9.1 We will use reasonable efforts to comply with any date quoted for Delivery, or for the performance of any other obligation, but unless specifically described as a fixed date in the Order Acknowledgement, any such date is an estimate only and is calculated from whichever shall be the later of (i) the date of our acceptance of the Customer's offer, or (ii) receipt by us of an official written order to proceed, (iii) receipt of all necessary information and drawings to enable us to perform the Contract, or (iv) receipt of any payment, guarantee or other documentation due under the Contract on the making of the Contract.

9.2 We will use reasonable efforts to Deliver by any date appearing in the Order Acknowledgement, but shall not be liable whatsoever for failure to do so, unless the Customer shall have suffered loss thereby and we expressly agreed in the Order Acknowledgement to pay liquidated damages upon the occurrence of such event, in which case our liability shall be limited to an amount calculated in accordance with Section 9.3.

9.3 If Delivery is to be undertaken by a fixed date, as stated in the Order Acknowledgement, and we fail to Deliver by that date or by any extended date permitted by this Section 9, and if as a result

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the Customer shall have suffered loss, and if it is expressly agreed in the Order Acknowledgement that liquidated damages would in such circumstances be payable then we undertake to pay the Customer for each full week of delay, liquidated damages at the rate of 0.25% up to a maximum of 2.5% of that portion of the Contract Price which referable to such part only of the Products as cannot in consequence of the delay be used commercially and effectively. Such payment shall be the Customer's sole and exclusive remedy and in full satisfaction of our liability arising directly or indirectly from the delay.

10. DELIVERY

10.1 In the event of the Customer returning or failing or refusing to accept Delivery of the Products or any part thereof in accordance with the Contract, we shall be entitled at our option to: (a) advise the Customer that the Products are available for Delivery and invoice the Customer for the Products or any parts of the Products then remaining undelivered, or,

(b) suspend or cancel that Delivery, and any further Deliveries under the Contract, or,

(c) place in a commercial storage facility or place in our own storage facility or warehouse the Products or any part thereof and take reasonable steps to prevent the Products' deterioration until the actual Delivery. The Customer shall in such an event be liable to reimburse us all additional cost and expenses of placing the Products in a commercial storage facility.

If the Products are placed in our own storage facility or warehouse, the Customer shall additionally be liable to pay to us prior to us releasing the Products to the Customer liquidated damages for the cost of storage based on the then-current and reasonable market rate for the total square footage occupied by the Products (including, where appropriate, the packing for the Products) for each week or part thereof. This action is without prejudice to our right at any time to Deliver and or cancel in accordance with the foregoing provisions of this Section. The powers granted by this Section shall be in addition to and not in substitution for any other obligations for payment or damages for which the Customer may become liable for its failure to take Delivery at the appropriate date. Moreover, payment of the Contract Price shall become due when we place into storage the Products pursuant to Section 10.2(c) as though the Products had been duly Delivered in accordance with the Contract.

10.2 We may Deliver the Products in installments. Payment is to be made separately, in accordance with the payment terms, for each installment Delivered having regard to the value that each installment bears in relation to the value of the Products as a whole.

11. LOSS OR DAMAGE IN TRANSIT

When Delivery is stated in the Order Acknowledgement to be other than F.O.B. shipping point, we will repair or, at our option, replace free of charge any Products lost or damaged in transit, only if such damage is caused to the Products before Delivery takes place, and 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 shipping terms and conditions 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 agreement, 14 days) after receipt of the written notification of damage.

12. PRICE AND TERMS OF PAYMENT

12.1 The Contract Price is exclusive of national, provincial or local taxes or any similar taxes or tariffs. Customer shall be solely responsible for payment of, and shall indemnify and hold us harmless from and against, all taxes, duties and levies imposed by all foreign, national, provincial, local or other taxing authorities (including export, sales, use, excise, and valued-added taxes), other than taxes imposed on our net income. Customer shall provide us with evidence of exemption for payment or withholding of use or sales taxes, tariffs, duties or assessments as requested by us.

12.2 Subject to Customer's establishing and maintaining credit approval as determined by us in our sole and absolute discretion, payment of the Contract Price shall be made on or before the date(s) stipulated for payment in the Order Acknowledgement. If no date is so stipulated, such other payment terms agreed to by the parties. We reserve the right to charge the Customer a minimum administration fee of CDN\$40.00 in the event payment of the Contract Price is not paid within the date stipulated for payment in the Order Acknowledgement. All payments shall be made in Canadian currency. We reserve the right to apply any and all outstanding credits due Customer from us or any of our affiliates against any indebtedness of Customer, whether due or to become due to us or any of our affiliates.

12.3 Where payment of the Contract Price or any part thereof has not been made in accordance with the terms set out in the Order Acknowledgement or these Conditions, then without prejudice to any statutory or common law rights we may have, we reserve the right and the Customer hereby agrees that we may at our option withhold manufacture, supply of the Installation Package or Delivery of the Products, or any part, until full payment is received in accordance with the terms hereof, or withdraw credit terms and require full payment in advance of shipment, or impose additional credit terms if payment on any previous order was not received by us when due.

12.4 All sums due from the Customer to us including any payments due at a later date shall become immediately payable if the Customer is in breach of any of its obligations under the Contract including these Conditions.

12.5 Where we agree to give a discount to the Customer we reserve the right to cancel such discount if the Customer breaches any of the terms of the Contract, and the Contract Price, plus the amount discounted, will then become immediately payable.

12.6 Interest shall be payable by the Customer on any amount not paid by the Customer when due at the rate of one and one-half percent (1.5%) per month, or the maximum rate allowable by law, whichever is less.

12.7 The Customer shall indemnify us in respect of all collection costs, court costs, administration costs, investigation costs, legal fees and all other incidental costs, charges or expenses incurred in the collection of past due amounts or otherwise resulting or arising from any breach by the Customer of these Conditions or any other part of the Contract.

13. TITLE; SECURITY INTEREST

13.1 Title, possession and risk of loss with respect to the Products shall pass when the Products are tendered to the common carrier. Customer will keep any Products supplied by us fully insured for their full replacement value until payment is made in full.

13.2 Customer hereby grants to us a continuing purchase money security interest to secure payment, performance and satisfaction of all present and future debts, obligations or other indebtedness of Customer to us, in all Products acquired from us or in which

Customer has or may have or acquire an interest, whether now owned or existing or hereafter created, acquired or arising and whosoever located, as well as all accounts receivable and all other identifiable proceeds from the sale of such Products. The Customer, upon our request, shall provide, execute, file or record any notice, financing statement, continuation statement, instrument or other document which we shall consider necessary to create, preserve, continue, effect or validate the security interest granted hereunder. Customer hereby irrevocably authorizes us at any time and from time to time to file in any filing office in any jurisdiction a copy of the Contract, any initial financing statements, continuation statements and any amendments thereto in order to perfect our security interest and provide any other information required for the sufficiency or filing office acceptance of any such filing, financing statement or amendment. At our request, the Customer shall pay the cost of filing a copy of the Contract, any initial financing statements, continuation statements or any amendments thereto or promptly reimburse us for the cost thereof, as applicable. The Customer shall provide us with forty-five (45) days' prior written notice of any name change, change in place of business, or, if more than one, its chief executive office, or its mailing address, its organizational number, type of organization, jurisdiction of organization or other legal structure. The Customer hereby appoints us as the Customer's attorney-in-fact for the purposes of carrying out the provisions of this Section 13 and taking any action and executing any instrument which we may deem necessary or advisable to accomplish the purposes hereof, which appointment is irrevocable and coupled with an interest. A financing statement or continuation statement may be filed by us without Customer's signature on the basis of the Contract where permitted by law. This Section 13 is intended to enable us to avail ourselves, in addition to all other rights and remedies available at law, in equity or as contemplated in these Conditions, of all rights and remedies of a holder of a purchase money security interest and Customer agrees to cooperate with us and take all necessary actions, including without limitation, executing any and all additional documents requested by us, to cause us to receive all such rights and remedies.

14. SOFTWARE AND CONFIDENTIALITY

14.1 Title to the media on which the AWTX Software is recorded will be transferred to the Customer in accordance with Section 13 but title to the copyright and all other intellectual property rights in all AWTX Software, Specifications, drawings and technical descriptions supplied with or in connection with any Contract will remain with us or our Licensor and will not vest in the Customer.

14.2 The Customer acknowledges that the copyright in the AWTX Software is and remains our or our Licensor's property and that the AWTX Software consists of information proprietary to us or our Licensor and which is confidential. AWTX Software that is licensed to us will be licensed to the Customer under our Licensor's software license, details of which will be supplied with the AWTX Software. The terms of such license form part of this Contract.

14.3 We may provide Customer with certain confidential or proprietary information ("Proprietary Information"). Proprietary Information includes information, whether written, electronic or oral, which Customer knows or reasonably should know is proprietary, confidential or a trade secret of ours, including any and all technical or business information, AWTX Software, including its source codes and documentation, Specifications, drawings and design information for the Products, servicing

information, customer lists, pricing information, marketing information, policies, procedures and manuals regarding our customers or distribution channels, research and development and other proprietary matters relating to the Products, our customers or our business. Proprietary Information does not include such information, data and materials which are or become publicly available by other than unauthorized disclosure by Customer. Proprietary Information does not include such information, data and materials which are or become publicly available by other than unauthorized disclosure by Customer. 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 Proprietary Information. The Customer shall ensure that all Proprietary Information including the AWTX Software, is kept safe and shall prevent any unauthorized use, loss, theft, destruction, copying or disclosure thereof. Customer shall restrict its disclosure of all Proprietary Information (including the AWTX Software) to those who have a need to know such information. Such persons shall be informed of and agree to the provisions of this Section 14, and Customer will remain responsible for any unauthorized use or disclosure of the Proprietary Information by any of them. Upon our written request, and in any event upon termination of the Contract, Customer shall promptly return to us (or destroy, if requested to do so by us) any documents (whether written or electronic) in its possession or under its control that constitute Proprietary Information.

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

14.6.1 Upon and subject to the due performance by the Customer of all those obligations imposed on the Customer by the Contract we hereby grant the Customer the non-exclusive non-transferable right and license to use the AWTX Software in object code form, for its own internal purposes only.

14.6.2 The Customer may copy the AWTX Software for back up purposes only but not otherwise and may use the AWTX Software only on, or in connection with the Products or the Customer Equipment.

14.6.3 The Customer shall have no right to grant any sub-licenses hereunder save where and to the extent that such a right is expressly stipulated in the Order Acknowledgement. The Customer may in such circumstances grant non-exclusive non-transferable, non-sublicensable sub-licenses hereunder upon terms identical to this Section 14 and shall promptly notify us of the terms thereof. For the avoidance of all doubt, any such sublicense shall specify that while Customer is in privity of contract with the sub-licensee, the sub-licensee's obligations are owed to us and accrue to our benefit, and we or our licensor(s) retain all intellectual property rights in the sublicensed items. The Customer shall enforce and shall indemnify us and hold us harmless against any breach of any such sub-license.

14.6.4 Without our prior written consent, the Customer may not modify, copy, amend or adapt (other than configuring where configuring is implicit in the design of the AWTX Software) the AWTX Software nor reverse compile or do any other thing to produce the source codes of the AWTX Software.

14.6.5 The End User shall ensure that the AWTX Software and every copy thereof or part thereof shall carry a prominent copyright notice to be determined by us.

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15. SITE FACILITIES

15.1 To enable our obligations under the Contract to be expeditiously and properly carried out the Customer will provide the following free of charge unless otherwise agreed in writing in the Order Acknowledgement:

Suitable access to and possession of the site, proper foundations (if any) (to drawings supplied by us), a satisfactory Operating Environment for the Products, all masons, joiners, builders and civil engineering work, suitable guarding and protection for the Products and the site from time of Delivery, necessary lighting and heating and all other necessary facilities and adequate assistance. Permanent, continuous, clean, safe, secure and suitable electrical supplies for the Products, suitable access to the Customer Equipment at reasonable times and for reasonable periods and competent operators and attendants for the Customer Equipment.

15.2 The Customer will be responsible for ensuring that the Customer Equipment is correctly installed and is sufficient and suitable for its purposes and that any minor adjustments that may be requested by us to be made to the Customer Equipment are carried out expeditiously before the Products are Delivered.

15.3 In addition the Customer will at its own expense and where necessary:

install, protect and connect all interconnecting cables, and supply all cabling and wiring, where not indicated otherwise, in accordance with instructions, drawings and wiring diagrams supplied by us.

16. INSTALLATION

Installation of Products

16.1 The provisions of Sections 16 and 20 shall only apply if we undertake, in the Order Acknowledgement, to perform the Installation Package.

16.2 Except where the parties otherwise agree, Installation of the Products will only take place during our ordinary working hours at any location in Canada. We reserve the right to make an extra charge for Installations on oil rigs, remote mainland and all island locations and outside our ordinary working hours.

16.3 Our Installation service will include only those of the following as are indicated in our Order Acknowledgement: delivery (other than F.O.B. shipping point), off loading, skilled supervision of Installation, provision of manual labor, hire of craneage, hire and cartage of test weights or test vehicle, legal for trade certification, Commissioning, and training of operatives.

Installation of Products in Overseas Territories

16.4 The Installation of Products in overseas territories will only be performed in accordance with the terms of Installation stated in the Order Acknowledgement.

17. WARRANTY – PRODUCTS

17.1 The Company makes no representations or warranties to Customer or to any other person or entity as to the performance of the Products except as specifically set forth in the Standard Warranty (if any) or the Contract. We give no warranty for Third Party Items, used Products, thermal print heads or consumable items. A three (3) month warranty period is given for spare parts and computers (which terms shall include smart cards). Subject to the above, all other Products receive a 12 month warranty period from the date of delivery or from the date of our invoice whichever is the sooner. Extended guarantees and warranties are available by agreement, as set forth in the Order Acknowledgement.

17.2 The provision of spare parts or replacement Products during any warranty period shall not extend the warranty period for the Products into which these are incorporated.

17.3 We may, in our sole and absolute discretion, modify any Standard Warranty without liability to Customer or to any other person or entity upon the earlier to occur of the following: (i) upon a minimum of thirty (30) prior written notice to Customer of the effective date of any such changes; or, (ii) thirty (30) days after the change is posted on our website (and notwithstanding whether such change is posted on a secure or insecure portion of such website); provided, however, that any modification shall not apply, and the previously existing version of any Standard Warranty shall apply, with respect to any event that is covered by the applicable Standard Warranty and that occurs before we provide notice of the modification.

18. WARRANTY - SOFTWARE

18.1 We warrant that for a period of three months from the date of Delivery to the Customer:

(a) the material of the media upon which the AWTX Software is recorded is not defective.

(b) the AWTX Software is properly recorded upon the media.

(c) documentation, where provided by us, contains all the information we deem necessary for proper use and operation of the AWTX Software, and

(d) the AWTX Software functions substantially as described in the Specification (if any) attached to the Order Acknowledgement under proper use, care and maintenance.

If the Customer returns AWTX Software to us which we do not accept as failing to comply with the warranty set out in this Section 18, we reserve the right to charge the Customer an inspection fee.

18.2 Our entire liability arising out of the supply of AWTX Software which fails to comply with the warranty set out in Section 18.1 shall be limited to and the Customer's exclusive remedy shall be, the replacement of AWTX Software recorded upon media provided always that it has been returned to us, shipping prepaid, immediately upon the Customer becoming aware of any defect covered by the warranty set out in Section 18.1.

18.3 Our liability under Sections 18.1 and 18.2 is in lieu of and shall be deemed to exclude all other warranties and conditions whether express or implied and whether arising by common law statute or otherwise. Subject to Sections 18.1 and 18.2, the Software is provided "as is" without warranty of any kind and we shall not be liable for the failure of any of the Software supplied to be fit for any particular purpose for which it is required. Except as provided in this Section 18, we shall not be under any liability, whether in contract, tort or otherwise, in respect of defects in the Software or for any damage or loss (including any loss of data or corruption to Customer's information) resulting from such defects or from such defects or from any work done in connection therewith or injury, other than death or personal injury caused by our negligence.

18.4 We do not warrant that the operation of the Software will be uninterrupted or error free.

19. EXCLUSION OF WARRANTIES

19.1 We shall have no liability under Sections 17 or 18 in respect of Products or Software which has been altered in any way whatsoever or has been subjected to misuse or unauthorized remedial work, has been improperly installed or connected and

where such misuse, alteration, remedial work, installation or connection caused or contributed to the defect.

19.2 THE STANDARD WARRANTY AND THE LIMITED WARRANTY PROVIDED IN SECTION 18.1 ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES NOT EXPRESSLY SET FORTH HEREIN, AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL IMPLIED WARRANTIES, WHETHER BY STATUTE, COMMON LAW, CUSTOM, USAGE OR OTHERWISE AS TO ANY MATTER, INCLUDING PERFORMANCE, SECURITY, NONINFRINGEMENT OF THIRD PARTY RIGHTS, INTEGRATION, MERCHANTABILITY, QUIET ENJOYMENT, SATISFACTORY QUALITY OR FITNESS FOR ANY PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED BY US.

20. LIABILITY

20.1 Except as otherwise provided or limited in the Contract, each party ("Indemnifying Party") shall indemnify, hold harmless and defend the other party and its respective affiliates, directors, employees, agents or representatives against any liability, damages, penalties, fines, judgments, amounts paid in settlement and reasonable costs and expenses (including attorneys' fees, court costs, accountants' fees and fees of expert witnesses, which shall be paid as incurred), arising out of or relating to:

(a) death, personal injury or property damage caused by any negligent or willful act or negligent or willful omission by the Indemnifying Party or the Indemnifying Party's affiliates, directors, employees, agents or representatives;

(b) any alteration or modification of the Products or Software or the use or combination of the Products with other products, devices or software by the Indemnifying Party, or the Indemnifying Party's affiliates, directors, employees, agents, sub-contractors, sub-distributors or representatives, that was not authorized by us.

A party seeking indemnification pursuant to this Section ("Indemnified Party") shall give notice to the Indemnifying Party of any claim for which it is seeking indemnity under this Section (a "Claim"), but failure to give such notice shall not relieve the Indemnifying Party of any liability hereunder (except to the extent that the Indemnifying Party has suffered actual prejudice thereby). The Indemnified Party shall provide all necessary and required information and reasonable assistance regarding any such Claim.

20.2 Customer shall inform all of its End Users of all applicable terms, conditions and limitations set forth in these Conditions and shall take all necessary actions to cause End Users to comply with all such applicable terms, conditions and limitations set forth in these Conditions. Customer shall be solely responsible for any breaches of any applicable terms, conditions and limitations set forth in these Conditions by its End Users, and shall indemnify and hold us harmless from and against, all any liability, damages, penalties, fines, judgments, amounts paid in settlement and reasonable costs and expenses (including attorneys' fees, court costs, accountants' fees and fees of expert witnesses, which shall be paid as incurred), arising out of or relating to any such breach.

20.3 REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN OR IN ANY STANDARD WARRANTY FAILS IN ITS ESSENTIAL PURPOSE OR OTHERWISE, WE WILL NOT BE LIABLE FOR ANY LOST PROFITS, ECONOMIC LOSS, LOSS OF BUSINESS, LOSS OF CONTRACTS OR LOSS OF DATA, OR FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER

SPECIAL DAMAGES SUFFERED BY CUSTOMER, END USERS OR OTHERS ARISING OUT OF OR RELATING TO THIS CONTRACT OR THE PRODUCTS OR SOFTWARE, FOR ALL CAUSES OF ACTION OF ANY KIND (INCLUDING TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY AND BREACH OF WARRANTY) EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL OUR TOTAL CUMULATIVE LIABILITY TO CUSTOMER FOR EACH EVENT, OR SERIES OF RELATED EVENTS, GIVING RISE TO LIABILITY EXCEEDING THE AGGREGATE NET AMOUNT PAID BY CUSTOMER HEREUNDER TO US DURING THE THREE (3) MONTHS PRIOR TO THE DATE ON WHICH THE EVENT OR OMISSION GIVING RISE TO SUCH LIABILITY OCCURRED.

21. INTELLECTUAL PROPERTY

21.1 We will, at our own expense, defend, indemnify and hold Customer harmless from and against any liability, damages, penalties, fines, judgments, amounts paid in settlement and reasonable costs and expenses (including attorneys' fees, court costs, accountants' fees and fees of expert witnesses, which shall be paid as incurred), arising out of claims brought against Customer by a third party alleging that any Products infringe such third party's Canadian patent existing as of the date stated in the Order Acknowledgement, copyright, trademark, or other intellectual property rights, provided that Customer promptly notifies us of such claim and provides all necessary and required information and reasonable assistance regarding such claim. We will have sole authority to defend, negotiate or settle the claim. With regard to any Products that are determined by a non-appealable or non-appealed decision of a court of competent jurisdiction to be infringing, or that Customer has been enjoined from marketing or selling by a court of competent jurisdiction, we may (in our sole and absolute discretion):

(a) obtain for Customer the right to continue to promote, sell and distribute the Products;

(b) replace or modify the Products in Customer's inventory so that such Products no longer infringe, to enable Customer to continue to promote, sell and distribute such Products; or

(c) direct Customer to cease promoting, selling and distributing the Products and provide a credit to Customer for the depreciated value of such Products in Customer's inventory and accept the return of such Products. The depreciation shall be taken equally over the lifetime of the Products (as determined by us in our sole and absolute discretion). We will have no obligation under this Section to the extent that the alleged infringement arises from any alteration or modification to the Products not authorized by us, or the use or combination of the Products with other products, devices or software that were not supplied or approved by us. THE FOREGOING STATES OUR ENTIRE LIABILITY FOR ANY INTELLECTUAL PROPERTY INFRINGEMENT ARISING UNDER THE CONTRACT OR RELATED TO THE PRODUCTS.

21.2 Customer's access to or use of the Products, either alone or with us or others, may result in inventions, discoveries, developments, modifications, procedures, ideas, innovations, systems, programs, know-how, literary properties and other work products (collectively, "Work Product"). Customer agrees that all Work Product invented, discovered, conceived or created by it that pertains to the Products or the marketing, sale, distribution or servicing thereof shall be the sole and exclusive property of us (or our nominee). Customer hereby assigns and transfers any and all

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intellectual property rights in and to any Work Product to us (or our nominee) and agrees to execute any and all additional documents that may be reasonably necessary to effectuate the intentions of the parties under this Section.

22. PACKING

Unless otherwise specified in any Order Acknowledgement, packing in accordance with our standard practice is included in the Contract Price. Except where specified in the Order Acknowledgement, packing cases and packing materials are non returnable.

23. VENUE/GOVERNING LAW

The parties agree that all litigation between us and Customer which may arise out of or in connection with this Contract or any transaction between them shall be subject to the exclusive jurisdiction of the courts of the Province of Quebec, and each hereby consents to the jurisdiction of such courts. Customer agrees that any and all processes directed to it in any such litigation may be served upon it outside of Quebec with the same force and effect as if such service had been made within Quebec. Nothing contained in this Contract shall prevent us from applying to the appropriate court in any part of the world for an injunction or other like remedy to restrain Customer from committing any breach or anticipated breach of this Contract and for consequential relief. The Contract, these Conditions and the legal relations between the parties in connection herewith shall be exclusively governed by and construed in accordance with the applicable national, provincial, and local laws, constitutions, codes, statutes, and ordinances of the applicable governmental authority or jurisdiction within Canada. For the avoidance of all doubt, unless expressly set forth herein, the parties do not intend for the Contract, these Conditions and the legal relations between the parties in connection herewith to be governed by and construed in accordance with any laws of any governmental authority or jurisdiction outside of Canada.

24. STATUTORY AND OTHER REGULATIONS

If the cost to us of performing our obligations under any Contract shall be increased by reason of the making or amendment, after the date of acceptance of the Customer's order, of any law or of any order, regulation or judicial decision having the force of law that shall affect the performance of our obligations under the Contract, the amount of such increase shall be added to the Contract Price.

25. EXTRA COST; EXTENSION OF TIME

We shall have the right to extend the Delivery or completion date by a reasonable period and to amend the Contract Price to include any additional costs, including a reasonable element of profit, due to any variation, suspension or delay of the manufacture of the Products, Delivery of the Products or completion of the Installation Package (or any other work) resulting from or related to: (i) the information or instructions provided by the Customer (or the lack thereof), or any subsequent changes to, or errors and inconsistencies in, such information or instructions; (ii) any delays arising from the Customer failing suitably to prepare the site to receive the Products, or to provide the Operating Environment for the Products; (iii) any interruptions, overtime, unusual hours, mistakes, or works for which we are not responsible.

26. TERMINATION OF CONTRACT

26.1 If the Customer shall make, default or commit any breach of any of its obligations under this Contract or any Software licenses,

or upon dissolution, insolvency, or any adjudication or bankruptcy of, or any assignment for the benefit of the creditors by the other party, or immediately if required by law or by any rule, regulation, order, decree, judgment or other act of any governmental authority, then we shall have the right to terminate the Contract including any Software license by providing Customer notice as provided in these Conditions. The Contract (including any Software license) shall be deemed to have been terminated without prejudice to any claim or right we might otherwise make or exercise. Termination of the Contract and any of the Customer's Software licenses shall not affect the validity of valid granted sub-licenses granted to End User.

26.2 Upon termination of this Contract or any part thereof for whatever reason the Customer shall return all copies of the Application Software to us, or, if requested by us, the Customer shall immediately destroy them and certify to us that there has been such destruction.

26.3 The parties acknowledge that the termination of this Contract or any part thereof for whatsoever cause shall not release them from any of their obligations under the Contract arising prior to termination or which expressly or by implication become effective or continue to be effective on or after the termination of the Contract including, without prejudice to the generality of the foregoing, the provisions relating to confidentiality and Proprietary Information set out in Section 14.

27. FORCE MAJEURE

Neither party shall be liable for damages under the Contract for a delay or failure in its performance of any obligation (except the obligation to make payments when due) under the Contract (including for the avoidance of doubt obligations arising under these Conditions and the documents referred to in these Conditions) as a result of causes beyond its reasonable control, including war, strikes, lockouts, embargoes, terrorism, insurrection, riots, inability to obtain materials or labor due to governmental acts, rules, regulations or directives, breakdown of machinery, accidents, fires, floods or other natural disasters. Upon the giving of prompt written notice to the other party of any such causes of a delay or failure in its performance of any obligation under the Contract, the time of performance by the party so affected shall be extended to the extent and for the period that its performance of said obligations is prevented by such cause.

28. 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.

29. GENERAL

29.1 The Contract may not be assigned or transferred by Customer by operation of law, a change of control event (such as a merger, acquisition, reorganization, sale of substantially all its assets or stock or any similar event) or otherwise without our express written consent. Customer may not sub-contract or delegate its obligations hereunder without our express written consent. We shall have the right to assign the Contract, or any part of the rights and obligations created hereunder to any third party in our sole and absolute discretion.

29.2 Any failure by any party to enforce at any time any term or condition under the Contract shall not be considered a waiver of

that party's right thereafter to enforce each and every term and condition of the Contract.

29.3 Except as expressly provided herein, all notices shall be in writing and deemed duly given, if delivered: (a) personally by hand or by a nationally recognized overnight courier service, when delivered at the address specified in this Section; (b) by certified or registered first class mail when delivered at the address specified in this Section, on the date appearing on the return receipt therefor; (c) by facsimile transmission, when such facsimile transmission is transmitted to the facsimile transmission number specified in this Section, if any; or (d) by electronic mail when such electronic mail is transmitted to the electronic mail address specified in this Section, if any, and the sender receives confirmation of receipt from recipient. In the event that a party is unable to deliver such notice due to the inaccuracy of the address, electronic mail address or facsimile transmission number provided by the other party pursuant to this Section, or the other party's failure to notify the party of a change of its address, electronic mail address or facsimile transmission number as specified pursuant to this Section, such notice shall be deemed to be effective upon confirmation by a nationally recognized overnight courier service of its failure to complete delivery to the other party's address as set forth in this Section (or other address duly given to the party by the other party in accordance with this Section). Addresses, electronic mail addresses, and facsimile transmission numbers (unless and until written notice is given of any other address, electronic mail address or facsimile transmission number) for purposes of this Section are as follows: if to Customer to the addresses designated in the Order Acknowledgement; if to us, to Avery Weigh-Tronix, 217 Brunswick Blvd., Pointe-Claire, QC, H9R 4R7, Canada, Attention: President, Fax: 507-238-2373 E-mail: formalnotices@awtxglobal.com.

29.4 If any term, provision, section or clause of the Contract or any application thereof shall be invalid or unenforceable for any reason in any particular jurisdiction, the remainder of the Contract and any other application of such term, provision, section or clause shall not be affected thereby in such jurisdiction (where such remainder or application shall be construed as if such invalid or unenforceable term, provision, section or clause had not been inserted), and the Contract and such application of such term, provision, section or clause shall not, in any manner, be affected thereby in any other jurisdiction. In the event that any term, provision, section or clause of the Contract or any application thereof shall be invalid or unenforceable for any reason in any particular jurisdiction, the parties shall use their best efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by the applicable law, achieves the purposes intended under the invalid or unenforceable provision.

29.5 Each party warrants that:

- (i) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization and is duly qualified to do business under the laws of each jurisdiction which requires such qualification;
- (ii) it has full right, power and authority to enter into the Contract and perform the acts required of it pursuant to the Contract; and
- (iii) the execution of the Contract and the performance thereof shall not violate any agreement to which it is a party, or the rights of any third party.

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

29.7 The words "or" and "nor" are inclusive and include "and". "Including" means "including without limitation" and does not limit the preceding words or terms. The singular shall include the plural and vice versa. References to "Sections" shall mean the Sections of these Conditions, unless otherwise expressly indicated. The headings or titles preceding the text of the Sections or subsections are inserted solely for convenience of reference, and shall not constitute a part of the Contract, nor shall they affect the meaning, construction or effect of the Contract.

29.8 The Customer warrants and undertakes that during the performance, and for a period of nine (9) months following the completion of the Contract, 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 Contract and not directly or indirectly to induce any such person to leave our employment as aforesaid.

29.9 The provisions of Incoterms 2000 shall apply to these Conditions except where they are inconsistent with these Conditions.

29.10 The Customer acknowledges that we are subject to and must comply with Canadian, US, EU and UK law in respect of sanctions, other trade restrictions and export licencing requirements ("Sanctions"). Accordingly it is a condition of this Agreement that in the event of the Customer shipping any of the Products outside of Canada the Customer shall comply with all such Sanctions in respect of the Products and any other products supplied directly or indirectly by us or by other members of our group of companies. Breach of this clause shall be grounds for termination and shall not be considered a breach capable of remedy.

29.11 The Customer acknowledges that we are subject to and must comply with Canadian, US, EU and UK law in respect of bribery and corruption. Accordingly it is a condition of this Agreement that the Distributor shall comply with all such law in respect of the subject matter of this Contract. Breach of this clause shall be grounds for termination and shall not be considered a breach capable of remedy.

29.12 The Customer shall not at any time during the continuance of this Contract 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.

29.13 Nothing in the Contract is intended, or shall be construed, to give any person (including End Users and any sub-distributors) other than the parties hereto and their affiliates any legal or equitable right, remedy or claim under or in respect to the Contract or any of the provisions contained therein.

29.14 The provision of the Contract (including these Conditions) that, by their express terms will not be fully performed prior to the termination of the Contract, including Sections 4.3, 4.4, 8.2, 8.3, 8.4, 9, 10, 11, 12, 13, 14.2, 14.3, 17, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28 and 29 of these Conditions, shall survive the termination of the Contract.