

## TOLLING AGREEMENT

This TOLLING AGREEMENT ("Agreement") is made and entered into by and among Honeywell International Inc. ("Honeywell"), The Lockformer Company, Inc., a division of Met-Coil Systems Corporation ("Met-Coil"), and Mestek, Inc. ("Mestek"), on behalf of themselves, their parents, subsidiaries, successors and assigns, and is effective as of February 7, 2003 (the "Effective Date").

### RECITALS

WHEREAS, Honeywell, Met-Coil and Mestek, (collectively referred to herein as the "Parties," or each individually referred to herein as a "Party") are involved or otherwise interested in the following captioned lawsuits: *Devane, et al. v. Lockformer, et al.*, No. 01 L 377 (DuPage County, Illinois); *Ehrhart v. Lockformer, et al.*, No. 02 C 7068 (Cook County, Illinois); *Hallmer v. Lockformer, et al.*, No. 02 C 7066 (Cook County, Illinois); *Mejdrech, et al. v. Lockformer, et al.*, No. 01 C 6107 (N.D. Illinois); *Meyer v. Lockformer, et al.*, No. 02 C 2672 (N.D. Illinois); *Pelzer v. Lockformer, et al.*, No. 01 C 6435 (N.D. Illinois); *People of the State of Illinois v. Lockformer, et al.*, No. 01 CH 0062 (DuPage County, Illinois); *Schrieber v. Lockformer, et al.*, No. 02 C 6097 (N.D. Illinois); *Wroble v. Lockformer, et al.*, No. 02 C 4992 (N.D. Illinois), and in such additional similar lawsuits and claims which they anticipate may be filed in the future involving one or more of the Parties, these cases being collectively referred to herein as the "Lockformer Litigation"; and

WHEREAS, in each of the above-entitled actions, Honeywell has timely filed cross-claims for contribution and indemnification ("Honeywell's Cross-Claims") Met-Coil and Mestek in, arising from, and related to the Lockformer Litigation, including a

demand for indemnification based upon a Settlement, Release and Indemnity Agreement executed by The Lockformer Company, Inc. and Met-Coil on December 6, 1994; and

WHEREAS, Met-Coil and Mestek have denied all of the material allegations of Honeywell's Cross-Claims; and

WHEREAS, the Parties wish to avoid undertaking any litigation at the current time in order to attempt to resolve by other means Honeywell's Cross-Claims, including by settlement if necessary or appropriate, without prejudice to whatever rights the Parties may have to pursue such claims or actions in the future; and

WHEREAS, in the event the respective claims are not settled or otherwise resolved, the Parties wish to preserve and protect Honeywell's Cross-Claims and any defenses by Met-Coil and Mestek, which have been or may be asserted in the Lockformer Litigation or any other action from being barred by the lapse of time or dismissed for lack of timely prosecution; and

WHEREAS, the Parties understand and intend to refrain from pursuing existing cross-claims or filing additional cross-claims related to the Lockformer Litigation against any other Party to this Agreement pending the resolution of the plaintiffs' claims giving rise to the Lockformer Litigation and so long as each Party remains a Party to the Agreement; and

WHEREAS, it is the desire of the Parties to this Agreement to toll the statute of limitations on any and all claims and defenses against each other, including, but not limited to Honeywell's Cross-Claims for contribution and indemnity; and

WHEREAS, the Parties do not wish their actions in the interim to operate to the prejudice of their respective legal positions or to constitute a waiver of those positions.

NOW, THEREFORE, in consideration of and reliance upon the terms, covenants, and conditions set forth below, and intending to be legally bound, the Parties agree as follows:

1. Recitals Integral. The foregoing recitals are incorporated herein by reference as if fully set forth.
2. Tolling Provision. The Parties agree that all cross-claims and defenses which have not yet expired as of the Effective Date, including, but not limited to, claims for contribution and indemnity, and any defense based upon the statute of limitations, statute of repose, waiver, estoppel, or laches, pertaining to the claims that any Party may have against another Party which arise out of or are related in any way to the Lockformer Litigation shall be tolled from the Effective Date pursuant to the Tolling Period as set forth, *inter alia*, in paragraph 5 of this Agreement.
3. Tolling Defined. "Tolled" as used in this Agreement shall refer to the term's ordinary legal meaning whereby the period during which this Agreement remains in force, as set forth *inter alia*, in paragraph 5 of this Agreement, shall not be considered in calculating the length of any applicable limitations period, statute of limitations, statute of repose, or other time limitations or time bar to the maintenance of any claim, suit or defense, and shall not be considered in connection with whether any such limitations period, statute of limitations, statute of repose or other time limitations or time bar has expired.
4. Claims Already Barred. This Agreement has no effect on any claims already barred, tolled or otherwise extinguished as of the Effective Date. This

Agreement is intended only to protect and preserve the claims which may exist or are not otherwise barred as of the Effective Date.

5. Tolling Period. Unless terminated pursuant to the termination provision set forth herein or extended in writing by the parties, this Agreement shall terminate sixty (60) days following the date that the last claim brought by any plaintiff or plaintiffs in connection with the Lockformer Litigation is resolved by final judgment or dismissed with prejudice, and all time for appeals or further appeals has expired. No Party to this Agreement shall, during the term of this Agreement, commence any action against any of the other Parties to this Agreement based upon any claims contemplated by this Agreement relating to or arising out of the Lockformer Litigation.

- a. The applicable statute of limitations or repose for any claims, cross-claims or counterclaims contemplated by this Agreement, including all such claims not filed as of the date of execution of this agreement, shall be tolled during the term of this Agreement. If any Party terminates the agreement pursuant to paragraph 6 below, the tolling provided herein will continue for an additional sixty (60) days subsequent to the effective date of such termination.
- b. Without limiting the above, no Party shall assert, by way of defense to a claim, cross-claim or counterclaim initiated by another Party, the running or expiration of the statute of limitations or repose or any similar defense, including, but not limited to, the doctrine of laches or estoppel, during the term of this Agreement

plus a period of sixty (60) days following the termination by any party pursuant to paragraph 6 below.

6. Termination. Any Party may terminate this Agreement upon written notice to the parties as provided by paragraph 8 below. Upon any Party's termination of the Agreement, the tolling provided herein will continue for an additional sixty (60) days subsequent to the effective date of such termination.

7. Bankruptcy. This Agreement shall terminate immediately upon (1) any Party to this Agreement instituting voluntary proceedings in bankruptcy, dissolution, liquidation or rehabilitation, (2) any Party to this Agreement becoming the object of the institution of involuntary proceedings in bankruptcy, dissolution, liquidation or rehabilitation, or (3) upon the appointment of a receiver with respect to any part of its assets. Upon the termination of this Agreement set forth in this paragraph, the tolling provided herein will continue for the greater of (1) sixty (60) days subsequent to the effective date of such termination, or (2) sixty (60) days after notice of the termination or expiration of any stay with respect any proceedings in bankruptcy, dissolution, liquidation or rehabilitation.

8. Notice. Any notice or presentation required or permitted to be given pursuant to this Agreement shall be in writing and shall be deemed to be given: (i) when served personally; or (ii) on the day such notice is received when such notice is sent by United States Mail, certified mail, postage prepaid and return receipt requested, addressed to the address for each party as set forth below:

- (a) Honeywell International Inc.  
c/o H. Roderic Heard  
Wildman, Harrold, Allen & Dixon  
225 West Wacker Drive

Chicago, Illinois 60606

(b) Met-Coil Systems Corporation  
c/o Vincent S. Oleszkiewicz  
Baker & McKenzie  
120 E. Randolph  
Chicago, Illinois 60601

(c) Mestek, Inc.  
c/o George N. Vurdelja, Jr.  
Vurdelja & Heaphy  
120 N. LaSalle Street, Suite 1150  
Chicago, Illinois 60602

9. Voluntary Dismissal of Indemnification Claims. Within thirty (30) days of the execution of this Agreement by all Parties, the Parties shall file an agreed joint motion to dismiss, without prejudice, all cross-claims for indemnification, including all defenses thereto, currently pending against any other Party in the Lockformer Litigation.

10. Motion to Sever Contribution Claims. Within thirty (30) days of the execution of this Agreement by all Parties, the Parties shall file an agreed joint motion to sever all cross-claims for contribution currently filed in the Lockformer Litigation. The Parties shall further seek to stay all cross-claims for contribution until the date that the last claim brought by any plaintiff or plaintiffs in connection with the Lockformer Litigation is resolved by final judgment or dismissed with prejudice, and all time for appeals or further appeals has expired, or until this Agreement is terminated pursuant to the provisions set forth herein.

11. Renewal. Following the resolution of the plaintiffs' claims giving rise to the Lockformer Litigation, this Agreement may be renewed for an additional term of one

(1) year, upon the agreement of all Parties, in writing and prior to the termination of the term of this Agreement.

12. No Admission of Liability. Nothing in this Agreement shall constitute or be deemed to constitute an admission of liability on the part of any Party, and this Agreement shall not be admissible as evidence in any proceeding except in connection with a defense based on the passage of time.

13. Entire Agreement. This Agreement contains the entire Agreement among the Parties hereto and constitutes the complete, final and exclusive embodiment of their agreement with respect to the subject matter hereof and may not be amended, waived, altered, modified, extended, supplemented or discharged except by an instrument in writing executed by all of the Parties to this Agreement. The terms of this Agreement are contractual and not a mere recital. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any Party other than those expressly contained herein, and each Party represents that it has carefully read this Agreement, has been advised of its meaning and consequences by its own attorney, and enters into this Agreement voluntarily.

14. Successors and Assigns. This Agreement shall bind and inure to the benefit of the heirs, personal representatives, representatives, successors and assigns of each Party hereto, its parent corporation(s), shareholders, subsidiaries and affiliates, and its agents, directors, officers, employees, servants, successors or assigns.

15. Interpretation. The Parties expressly intend that this Agreement shall be construed and interpreted as broadly as possible to prevent the interposition of any defenses that are based in whole or in part on the passage of time that occurs while this

Agreement is in effect and for 120 days after the termination of this Agreement. The Parties acknowledge that they have jointly participated in the drafting of this Agreement and that this Agreement will not be construed to favor one Party over the other

16. Headings. The headings of each paragraph contained in this Agreement are inserted for convenient reference only and shall not limit or otherwise affect the meaning or interpretation of the paragraph to which they apply.

17. Governing Law. The interpretation of and all disputes or claims regarding this Agreement shall in all respects be governed by and construed in accordance with the substantive law of the State of Illinois, as applied to contracts made and to be performed entirely within the State of Illinois, without regard to choice of law principles of any court which may be called upon to construe this agreement. The Parties agree that they will not argue in any jurisdiction that this Agreement or any of its provisions are invalid, ineffective and/or unenforceable under any other system of law.

18. Warranty of Authority. Each signatory to this Agreement represents and warrants that it is authorized by the Party for whom it is signing to enter into this Agreement and to obligate its Party to the obligations and agreements set forth hereinabove. This Agreement shall not be binding upon or enforceable against any Party unless and until all Parties have executed this Agreement.

19. Counterparts and Fax Signatures. This Agreement may be executed in two or more counterparts, and photocopies or facsimile copies of this Agreement may be used as originals. Each such counterpart, photocopy or facsimile copy of this Agreement shall be deemed an original, but all of which taken together shall constitute one and the same instrument.



\* \* \* \* \*

IN WITNESS WHEREOF, the Parties through their authorized representatives, have executed this Agreement in counterparts on the dates set forth under their respective signatures.

HONEYWELL INTERNATIONAL INC.

By: *Andrew G. Hoff*

Title: *attorney*

Date: *2/7/03*

MET-COIL SYSTEMS CORPORATION

By: *[Signature]*

Title: *ATTORNEY*

Date: *2/8/03*

MESTEK, INC.

By: *[Signature]*

Title: *Attorney*

Date: *2/28/03*