TERMS & CONDITIONS – eF@CTORY ALLIANCE PROGRAM

Information Subject to Change. Information provided in these terms and conditions or otherwise provided by the Industrial Automation Division of Mitsubishi Electric US, Inc. ("MEUS-IAD") is subject to change without notice.

I. DEFINITIONS

Affiliate means an entity controlling, controlled by or under common control with a party.

Customer means a third party that has licensed from Company a MEUS-IAD Product and/or Service, or a Company Product that is licensed with, or contains as a component, a MEUS-IAD Product or technology.

Extension Term means each additional twelve (12) month period for which the Agreement is extended.

Initial Term shall mean one year following the Effective Date.

Insolvency Event means:

A. the party ceases to carry on business;
B. the party becomes subject to any form of insolvency administration;
C. the party ceases to be able to pay its debts as they become due;
D. any step is taken by a mortgagee to take possession or dispose of the whole or part of the party's assets, operations or business;
E. any step is taken to enter into any arrangement between the party and its creditors; or
F. any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a provisional liquidator, a liquidator, a controller, an administrator or other like person of the whole or part of the party's assets, operations or business.

Intellectual Property or "IP" means: patents, trademarks, trade names, services marks, design rights (whether registered or unregistered and including any applications for these rights), copyrights (including future copyright) throughout the world in all literary works, artistic works, computer software, and any other works or subject matter in which copyright subsists and may in the future subsist, know-how, Confidential Information and trade secrets, and any other similar rights or obligations whether registrable or not in any country.

Marks means MEUS-IAD's Marks, service marks, trade names, service names, logos and designations in or associated with MEUS-IAD Products or services.

MEUS-IAD IP means: (a) all Confidential or Proprietary Information of MEUS-IAD, whether provided or disclosed by MEUS-IAD or a MEUS-IAD Affiliate to Company; and (b) all other IP, including any IP in the Products.

Company Product means a non-MEUS-IAD Product offered for license to a Customer by Company, which is offered with or interoperates with a MEUS-IAD Product.

Products means the MEUS-IAD Products as updated, substituted and revised by MEUS-IAD or MEUS-IAD Affiliate from time to time.

Program means the MEUS-IAD eF@ctory Alliance Program described herein.

II. GENERAL TERMS AND CONDITIONS

General Requirements and Restrictions.

A. Business Requirements. Businesses applying for Program participation are required to have been in operation for a reasonable period, with audited financial records available for review by the Industrial Automation Division of Mitsubishi Electric US, Inc. ("MEUS-IAD").

B. Public Announcements. Any public announcements, postings, or other advertising or public relations activities related to or concerning this Agreement, or the relationship between MEUS-IAD and Company, must be reviewed and approved in writing by both Parties in advance.

Advertising/Trademarks and Trade Names of MEUS-IAD.

A. Company shall not be entitled to advertise and to use the trademarks, trade names, logos or service marks, whether or not registered, that appear on the Products and on MEUS-IAD's promotional materials therefor (the "Trademarks") in advertisements and other activities conducted by Company to promote the sale of the Products, without the express prior written approval of MEUS-IAD. Company shall submit samples of all proposed advertisements and other promotional materials for the Products to MEUS-IAD for review and approval and Company shall not use any such advertisements or promotional materials, including the Trademarks, nor issue any press releases, without having received the prior written consent of MEUS-IAD to do so.

B. Company grants and represents and warrant that it has the right to grant to MEUS-IAD, a license to use its trademarks solely in connection with the Program and consistent with its trademark guidelines.

C. Except for the limited right to use the Trademarks as set forth in this Article, Company acknowledges that it does not have and shall not acquire any right to or interest in any of the trademarks or trade names used on or affixed to any Products owned, used, licensed or otherwise claimed by MEUS-IAD. No right or license under any patent, copyright, trademark or trade name owned or used by MEUS-IAD is granted by, or is to be inferred from, any provision herein, except as expressly provided herein. Immediately upon the termination or expiration these terms, Company shall immediately discontinue all use of any Trademarks permitted under these Terms and Conditions and shall make no claim to any such Trademarks or against the use thereof by MEUS-IAD or any other person. Company shall also, as directed by MEUS-IAD, either deliver to MEUS-IAD or provide MEUS-IAD with a statement signed by an officer of Company certifying destruction of all materials in Company's possession or control which bear any of MEUS-IAD's trademarks or trade names.

Non-Exclusivity. It is agreed and understood that either party reserves the right to market, sell, compete directly with and to appoint resellers, distributors, or dealers to market, sell and/or compete directly with the other party. For the avoidance of doubt, this provision shall not require the disclosure of any quote/pricing information and neither party shall have the right or ability to influence the price quoted to any integrator or end-customer by the party acting as a reseller.

Confidentiality. The parties agree to refrain from disclosing any confidential or proprietary information regarding their respective businesses.

No Reliance. Company agrees and acknowledges that any decisions it has made or may make to join the Program, and/or execute this Agreement are not and will not be based upon, nor rely on, representations regarding the MEUS-IAD Products or business strategies.

DISCLAIMER OF WARRANTY. ANY PRODUCTS, SOFTWARE, MATERIALS OR INFORMATION PROVIDED BY MEUS-IAD FOR DEMONSTRATION, EVALUATION, AS PART OF A TESTING PROCEDURE, OR OTHERWISE UNDER OR IN CONNECTION WITH THE PROGRAM OR THESE TERMS AND CONDITIONS ARE PROVIDED "AS IS", AND MEUS-IAD DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, OR STATUTORY, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OF REASONABLE CARE OR WORKMANLIKE EFFORT, OF RESULTS, OF LACK OF NEGLIGENCE, OR OF ACCURACY OR COMPLETENESS OF RESPONSES. THERE IS NO WARRANTY OF NONINFRINGEMENT OR TITLE WITH RESPECT TO SUCH SOFTWARE, MATERIALS AND INFORMATION.

Indemnification. Company shall indemnify, defend, and hold harmless MEUS-IAD against any and all third party damages, liabilities, penalties, costs and expenses, including reasonable attorneys' fees, arising out of claims, actions, disputes, demands, orders, suits, or other proceedings ("Claim") arising from or related to (i) death, bodily injury, or property damage caused by Company's acts or omissions; (ii) a breach of Company's representations, warranties, or obligations under this Agreement; (iii) any negligent or willful act or omission by Company in the performance of the Services or provision of Products; (iv) a claim that the Services (or use by MEUS-IAD thereof) infringe or misappropriate any Intellectual Property Rights or other proprietary right (including right of publicity or

privacy) of any third party or violate any applicable law; (v) the placement of any Company personnel to perform the Services; (vi) any breach of Company's privacy, security, or confidentiality obligations hereunder.

LIMITATION OF LIABILITY. MEUS-IAD SHALL NOT BE LIABLE TO COMPANY, NOR TO ANY THIRD PARTY FOR
(A) ANY SPECIAL, INDIRECT, INCIDENTAL AND CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS) ARISING UNDER OR RELATED TO THIS AGREEMENT, OR (B) CLAIMS MADE THE SUBJECT OF AN ARBITRATION PROCEEDING MORE THAN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES. FOR PURPOSES OF THIS ARTICLE, "MEUS-IAD" SHALL INCLUDE MEUS-IAD, ITS PRESENT AND FORMER DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS, AND MEUS-IAD'S AFFILIATED CORPORATIONS AND THEIR RESPECTIVE PRESENT AND FORMER DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS. MEUS-IAD'S TOTAL LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL IN NO EVENT EXCEED $50,000.00.

Arbitration.

A. Except as hereinafter provided, all disputes arising out of or in any manner relating to this Agreement which the parties do not resolve in good faith within twenty (20) days after either party notifies the other of its desire to arbitrate such dispute or controversy shall be settled by binding arbitration by Judicial Arbitration and Mediation Services, Inc. ("JAMS"), in accordance with its then standard prevailing commercial rules, as modified or supplemented by this article. The arbitration shall be held in Chicago, Illinois before a single arbitrator with experience in arbitrating commercial contract disputes. The costs of the arbitration will be divided equally between the parties. However, the prevailing party, as determined by the arbitrator, shall be reimbursed its costs, including reasonable attorneys' fees and arbitration expenses, from the other party. The arbitration award shall be in writing and shall specify the factual and legal bases of such award. The arbitration award shall be final and binding, and a judgment consistent therewith may be entered by any court of competent jurisdiction. The parties agree that the arbitration award shall be treated confidentially, and the parties shall not, except as otherwise required by law or court order, disclose the arbitration award to any third party, excluding personnel in their affiliated companies and their attorneys and accountants with a need to know, provided that such recipients agree to be bound by the same restrictions as are contained in this Agreement. The arbitrator shall not have the power to render an award of punitive damages. To the extent of any conflict, this article shall supersede and control AAA rules.

B. **Exceptions**. Nothing in this article shall be construed to preclude or in any way prohibit MEUS-IAD from seeking any provisional remedy, such as injunction or a temporary restraining order, to enforce the confidentiality provisions of this Agreement. In addition, this article shall not be construed as in any way affecting MEUS-IAD's right to institute and prosecute a lawsuit in any court of competent jurisdiction to collect any monies due MEUS-IAD from Company or to protect its intellectual property rights.

C. **Discovery**.

    a. Except as provided in this section, neither MEUS-IAD nor Company shall have the right to take depositions or obtain discovery of documents or other information which is relevant to this subject matter of any arbitration which is required under this article.

    b. After the appointment of the arbitrator, MEUS-IAD and Company shall agree to (1) a reasonable number of and schedule for depositions which the parties may take and (2) a reasonable scope and schedule for the production of documents or other information which is relevant to the subject matter of the arbitration. If MEUS-IAD and Company cannot reach agreement on the number of depositions, the scope of production of documents or other information or the schedule therefor, the arbitrator shall make such determination. All discovery shall be completed no later than 30 days prior to the arbitration hearing. The arbitrator shall have the power to enforce any discovery agreed upon by the parties or otherwise required to be taken pursuant to this section by imposing the same terms, conditions, sanctions and penalties as can be or may be imposed in like circumstances in a civil action before the Cook County Circuit Court, except the power to order the arrest or imprisonment of a person.

D. **Disclosures**. No later than 30 days prior to the arbitration hearing, each party shall produce to the other party lists of the witnesses, documents and other information which such party intends to use at the arbitration hearing.

Termination.

A. Either party may terminate this Agreement immediately upon written notice at any time.

B. Effect of Termination. Immediately upon the expiration or termination of this Agreement for any reason, (i) all rights and licenses granted under this Agreement will terminate, (ii) Company and MEUS-IAD will immediately cease all use of the other party's Marks; and (iii) each party will (a) return or confirm destruction of all copies of the other party's marketing materials; and (b) return or confirm destruction of all Confidential Information of the other party provided under this Agreement, including all notes, files, and computer programs embodying such Confidential Information; provided, however, that each party may retain a file copy of Disclosing Party's Confidential Information in a confidential file for archival purposes.

C. Remedies. The remedies set forth in this Agreement are cumulative and will not exclude any other remedies to which a party may be entitled under this Agreement or at law or in equity (subject to the limitations on liability in **LIMITATION OF LIABILITY Section)**.

MISCELLANEOUS

A. **Assignment**. Company may not assign or transfer this Agreement, in whole or in part, by operation of law or otherwise, without MEUS-IAD's express prior written consent. Any attempt to assign or transfer this Agreement, without such consent, will be null and of no effect. For purposes of this Agreement, a change of control will be deemed to be an assignment. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

B. **Independent Contractors**. The relationship of MEUS-IAD and Company established by this Agreement is that of independent contractors. This Agreement does not give either party the power to direct and control the day to day activities of the other, nor create any fiduciary relationship between the parties nor deem or constitute the parties as joint venturers, co-owners, principal-agent, employer-employee or otherwise participants in a joint or common undertaking, or allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever.

C. **Entire Agreement**. This Agreement constitutes the entire agreement of the parties and supersedes any prior and contemporaneous oral or written understanding as to the subject matter hereof.

D. **Amendments; Waivers**. This Agreement may be modified only in writing signed by both parties. A waiver of any provision or breach is no waiver of any other provision or breach.

E. **Force Majeure**. Neither party will be liable to the other for its failure to perform any of its obligations hereunder during any period in which such performance is delayed by circumstances beyond its reasonable control including, but not limited to earthquake, fire, flood, war, embargo, strike, riot, inability to secure materials and transportation facilities, or the intervention of any governmental authority.

F. **Export Controls and Compliance with Laws**. Each party agrees to comply with all applicable laws, including, without limitation, all relevant export laws and regulations of the United States, to ensure that neither the MEUS-IAD Products or technical data related thereto is: (i) exported or re-exported directly or indirectly in violation such export laws and regulations; or (ii) used for any purposes prohibited by such export laws and regulations. Company shall comply with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act and the U.K. Anti-bribery Act. Company will have and maintain all permits and licenses required by any governmental unit or agency, and will comply with all applicable laws and regulations, in performing its obligations under this Agreement. Company shall take all necessary actions and precautions to ensure that Customers do not contravene such laws or regulations, including in such Customer's use of MEUS-IAD Products. Company shall certify its compliance with such laws and regulations in writing upon request of MEUS-IAD. Each party further acknowledges and agrees that it is or may be deemed a competitor to the other party for certain products and/or services and that all activities and dealings in furtherance of this Agreement shall be conducted in accordance with US antitrust laws, rules and regulations.

G. **Notices**. All notices and other communications hereunder will be given in writing and delivered (i) by personal delivery, by prepaid overnight or courier service to the addresses set forth herein, or (ii) by

facsimile to such facsimile number as may be provided in writing by a party. Notices are deemed given on receipt or attempted delivery (if receipt is refused). The foregoing notwithstanding, price and, new product change notices to Reseller will be given via email.

H. **Governing Law**. This Agreement and the rights and obligations of the parties to and under this Agreement shall be construed and interpreted in all respects in accordance with the laws of the State of Illinois without regard to principles of conflicts of law; provided that questions regarding the arbitrability of any claims and defenses shall be determined in accordance with the Federal Arbitration Act and that any questions regarding copyright, trademark, patent or intellectual property matters shall be determined in accordance with federal law. The parties specifically disclaim application of the United Nations Convention on Contracts for the International Sale of Goods.

   a. **Attorney's Fees**. In the event of litigation or arbitration hereunder, the court shall award reasonable costs and attorneys' fees to the prevailing party.

   b. **Severability**. The terms of this Agreement are severable. If any term hereof is held invalid, illegal, or unenforceable for any reason whatsoever, such term will be enforced to the fullest extent permitted by applicable law, and the validity, legality, and enforceability of the remaining terms shall not in any way be affected or impaired thereby.