

MTConnect® Institute Public Comment and Evaluation License Agreement

Effective 6/10/2015

AMT-The Association For Manufacturing Technology, a non-profit organization (“AMT”), and the MTConnect® Institute jointly sponsor a Technical Advisory Group (“TAG”) forum. TAG develops technical standards, specifications, and materials intended to foster greater interoperability between automation/control applications, field systems/devices, and business/office applications in the manufacturing industry (the “MTConnect® Specifications”), as well as schema, prototype software examples, related documentation and materials to facilitate the implementation of the MTConnect® Specifications in compliant applications, drivers, and other services (together with the MTConnect® Specifications, any updates or modifications thereto, and any other materials made available by the MTConnect® Institute, AMT or TAG for use pursuant to this agreement (“Agreement”), the “MTConnect® Materials”).

TAG makes certain drafts of the MTConnect® Specifications and other MTConnect® Materials available for review and comment by interested parties and the general public, pursuant to the terms and conditions of this Agreement. TAG will accept comments, such as written suggestions and other feedback, about the MTConnect® Materials only pursuant to the terms and conditions herein. You may not submit, and none of the MTConnect® Institute, AMT or TAG will accept, suggestions, feedback, or comments in any form about the MTConnect® Materials unless you affirmatively agree to be bound by the terms of this Agreement in the manner specified on the Site (defined below).

This Agreement grants you an evaluation license to use the MTConnect® Materials for the sole and exclusive purposes of testing, evaluation and — if you chose to do so — submitting comments. The terms of this Agreement regarding comments apply to you only if and when you chose to provide comments regarding the MTConnect® Materials. By choosing to provide comments: (i) you grant MTConnect® Institute and AMT any and all rights, licenses and permissions necessary to use your comments as permitted in this Agreement; (ii) you grant those who develop and sell any product or service that complies with the MTConnect® Specifications a license to any intellectual property you own or control that is necessary to comply with the MTConnect® Specifications; and (iii) you warrant that you have the right to provide such comments and to grant the license rights set forth herein.

By agreeing to the terms of this Agreement and by using any of the MTConnect® Materials (the date of your first use of such MTConnect® Materials, the “Effective Date”), you, on your own behalf (and if you are or will be using the MTConnect® Materials on behalf of another person or entity, on behalf of such other person or entity), hereby accept the terms of and enter into this Agreement. In consideration of the covenants and agreements contained herein, you agree as follows.

1. The terms “you” and “your” as used in this Agreement include you and any other person or entity on behalf of whom you may use the MTConnect® Materials or submit comments.
2. MTConnect® Materials and Evaluation License.

- a. Based on your agreement to the terms and conditions of this Agreement, AMT and the MTConnect® Institute grant to you, during the term of this Agreement, a non-exclusive, non-transferable, revocable, non-sublicensable, fully-paid-up copyright license to use the MTConnect® Materials made available to you pursuant to this Agreement, solely for purposes of testing, evaluation and — if you chose — the submission of comments in accordance with the terms of this Agreement. You agree, to the extent copies and redistributions of the MTConnect® Materials are permitted, that you will only copy or redistribute the MTConnect® Materials in the form in which you received them, without modifications, and with all copyright notices and other notices and disclaimers contained in the MTConnect® Materials.
- b. You acknowledge and agree that MTConnect® Institute has the right to determine, in its sole discretion, the nature and scope of the MTConnect® Materials made available to you pursuant to this Agreement. You acknowledge and agree that the license grant in this Agreement does not extend to any MTConnect® Materials that are not made available to you pursuant to this Agreement.
- c. As among the parties, AMT or the MTConnect® Institute, as identified in the applicable copyright notice, retains all of its right, title, and interest in the MTConnect® Materials, except for the limited license rights expressly granted to you in this Agreement. You agree not to use the MTConnect® Materials for any purposes (commercial or otherwise) not expressly permitted pursuant to this Agreement.

3. Comments.

You agree that, if you chose to provide comments with respect to any MTConnect® Materials, your contribution of such comments is made subject to the following terms:

- a. You hereby grant MTConnect® Institute, AMT and TAG a non-exclusive, transferable (without consent), worldwide, perpetual, irrevocable, royalty-free, fully paid-up license, with the right to sublicense (without consent), under all applicable intellectual property rights, including patents and copyrights, owned or controlled by you, to use, disclose, copy, reproduce, perform, display, publish, license, modify, create derivative works from, or otherwise distribute and exploit comments you provide for the purpose of developing and promoting the MTConnect® Materials, any other purpose or goal reasonably related to the MTConnect® Materials, or the purposes and goals of the TAG.
- b. You agree to grant, upon request, to each implementer of the MTConnect® Specifications and/or other MTConnect® Materials that incorporate or are based on your comments, a non-exclusive, transferable (without consent), worldwide, perpetual, irrevocable, royalty-free, fully paid-up license under all applicable intellectual property rights, including patents and copyrights, owned or controlled by you, to make, have made, use, import, offer to sell, sell, and otherwise distribute and dispose of any product or service or to practice any process that implements

and complies with the portions of the MTConnect® Materials that incorporate or are based on your comments.

- c. You represent and warrant: (i) that you have rights to provide comments, and if you are providing comments on behalf of another person or entity, you represent and warrant that you are authorized to provide comments and to make the foregoing license grants and commitments on behalf of such person or entity; (ii) that no patents or other intellectual property rights, held by a third party, cover your comments; (iii) that your comments are not subject to licensing restrictions or limitations that would require any implementing product or service to be disclosed or distributed in source code form, or require licensing for the purpose of making derivative works; and (iv) that you are authorized to enter into, and you are entering into, this binding Agreement on your behalf as well as on behalf of any other person or entity for whom you may be using the MTConnect® Materials or submitting comments.
- d. You also acknowledge and agree that the MTConnect® Institute, AMT and TAG are not required to incorporate your comments into any version of the MTConnect® Materials, that your comments are not confidential and that MTConnect® Institute, AMT or the MTConnect® TAG may disclose them to any party for any purpose.

4. Terms of Use and Privacy Policy. You acknowledge and agree that you have read and agree to the Terms of Use set forth at <http://www.mtconnect.org/> and the Privacy Policy set forth at <http://www.mtconnect.org/>, and that the terms thereof are incorporated herein.

5. Limitations.

a. No Obligations.

AMT and MTConnect® Institute have no responsibility to identify intellectual property rights that may relate to the MTConnect® Specifications or MTConnect® Materials, or to determine the legal validity or scope of intellectual property rights brought to their attention. For any testing and evaluation of MTConnect® Materials, it is your responsibility to secure your own licenses or rights to any patent or other intellectual property rights that may be necessary for such use, and neither AMT nor MTConnect® Institute has any obligation to secure any such rights on your behalf.

b. No Indemnification.

AMT and MTConnect® Institute do not provide and do not owe any duty of indemnification with respect to any use of your comments, MTConnect® Materials or MTConnect® Specifications, including drafts or works-in-progress.

6. Disclaimer.

THIS SITE AND ALL MTCONNECT® MATERIALS ARE PROVIDED “AS-IS.” AMT, MTCONNECT® INSTITUTE, AND EACH OF THEIR RESPECTIVE MEMBERS, OFFICERS, DIRECTORS, AFFILIATES, SPONSORS, AND AGENTS (COLLECTIVELY, THE “AMT PARTIES”) MAKE NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER RELATING TO THIS SITE, ANY SITES LINKED-TO FROM THIS SITE, OR OTHER CONTENT THAT MAY BE ACCESSIBLE DIRECTLY OR INDIRECTLY THROUGH THIS SITE, INCLUDING BUT NOT LIMITED TO THE MTCONNECT® MATERIALS (COLLECTIVELY, THE “SITE”). THE AMT PARTIES DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW ANY AND ALL SUCH REPRESENTATIONS AND WARRANTIES. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE AMT PARTIES DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW ANY AND ALL (a) WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, (b) WARRANTIES OF TITLE, QUIET ENJOYMENT, NO ENCUMBRANCES, OR AGAINST INFRINGEMENT OF ANY THIRD-PARTY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS, (c) WARRANTIES RELATING TO THE TRANSMISSION OR DELIVERY OF THIS SITE, (d) WARRANTIES RELATING TO THE ACCURACY, RELIABILITY, CORRECTNESS, OR COMPLETENESS OF THE MTCONNECT® MATERIALS OR ANY OF THE OTHER CONTENT MADE AVAILABLE ON THIS SITE OR OTHERWISE BY ANY OF THE AMT PARTIES, AND (e) WARRANTIES OTHERWISE RELATING TO PERFORMANCE, NONPERFORMANCE, OR OTHER ACTS OR OMISSIONS OF ANY OF THE AMT PARTIES OR ANY THIRD PARTY. FURTHER, THERE IS NO WARRANTY THAT THIS SITE WILL MEET YOUR NEEDS OR REQUIREMENTS OR THE NEEDS OR REQUIREMENTS OF ANY OTHER PERSON. THE AMT PARTIES MAKE NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, (i) THAT THE MTCONNECT® MATERIALS OR OTHER CONTENT PROVIDED THROUGH THIS SITE WILL BE FREE FROM ERROR, OMISSION, INTERRUPTION, DEFECT, OR DELAY IN OPERATION, OR FROM TECHNICAL INACCURACIES OR TYPOGRAPHICAL ERRORS; (ii) THAT THIS SITE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION; (iii) THAT DEFECTS OR ERRORS IN THIS SITE WILL BE CORRECTED; OR (iv) THAT THE MTCONNECT® MATERIALS OR OTHER CONTENT ON THIS SITE SHALL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE MTCONNECT® MATERIALS AND ANY OTHER CONTENT ON THIS SITE SHALL BE SUBJECT TO CHANGE WITHOUT NOTICE, AND THE AMT PARTIES DISCLAIM ALL RESPONSIBILITY FOR THESE CHANGES.

7. Limitation of Liability.

YOUR SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THIS AGREEMENT OR FOR ANY OTHER CAUSE OF ACTION ARISING UNDER THIS AGREEMENT (OR RELATING TO THE MTCONNECT® MATERIALS OR OTHER CONTENT INCLUDED IN THIS SITE) IS YOUR RIGHT TO TERMINATE THIS AGREEMENT IMMEDIATELY UPON NOTICE TO MTCONNECT® IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. IN NO EVENT WILL ANY OF THE AMT PARTIES OR ANY PARTY INVOLVED IN CREATING, PRODUCING, OR DELIVERING THIS SITE, OR ANY OF THEIR RESPECTIVE MEMBERS, SPONSORS, AFFILIATES, OFFICERS, DIRECTORS, AND AGENTS BE LIABLE FOR ANY DIRECT, INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES ARISING OUT OF YOUR ACCESS, USE, MISUSE, OR INABILITY TO USE

THIS SITE OR ANY SITES OR MATERIALS LINKED-TO OR ACCESSIBLE FROM THIS SITE, OR IN CONNECTION WITH ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, OR LINE OR SYSTEM FAILURE, EVEN IF THE REMEDY PROVIDED IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE. IN THE EVENT THAT YOU HAVE A DISPUTE WITH ANOTHER USER RELATED TO, ARISING FROM, OR IN ANY WAY CONNECTED WITH USE OF THIS SITE, YOU RELEASE THE AMT PARTIES FROM ANY CLAIMS, DEMANDS, AND DAMAGES OF EVERY KIND AND NATURE ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH A DISPUTE. These limitations apply whether the alleged liability is based on contract, tort, negligence, strict liability, or any other basis, even if the MTConnect® Institute, AMT and/or TAG has been advised of the possibility of such damage. Because some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, the AMT Parties' liability in such jurisdictions shall be limited to the extent permitted by law.

8. Term and Termination.

This Agreement shall commence on the Effective Date and will continue until terminated in accordance with this Agreement. Each of MTConnect® Institute, AMT and TAG reserves the right, in its sole discretion, to terminate this Agreement with respect to such entity, and your access to and use of this Site, in whole or in part, including your access to the MTConnect® Materials and other content that may be accessible directly or indirectly through this Site, with or without notice. Otherwise applicable sections of this Agreement, including Sections 3 through 9 shall survive termination.

9. General Provisions

- a. Entire Agreement; Severability. This Agreement sets forth the entire agreement and understanding of the parties with respect to the subject matter hereof and supersedes any and all prior oral or written agreements and understandings, and any and all contemporaneous agreements and understandings, between you and MTConnect® Institute, AMT and/or TAG regarding the subject matter of this Agreement. No modification, amendment, or waiver of this Agreement or any term or condition hereof shall be binding unless evidenced in writing and signed by AMT and the MTConnect® Institute. In the event that any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, then (i) such provision shall be deemed modified in a manner that, to the maximum extent possible, effectuates the intent of the parties in a legal, valid and enforceable manner, and (ii) the remaining provisions shall continue in full force without being impaired or invalidated in any way.
- b. Interpretation; Relationship. You agree that a printed version of this Agreement and of any notice given in electronic form shall be admissible in judicial or administrative proceedings based upon or relating to this Agreement to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. The word "including" when used in this

Agreement means “including but not limited to.” The language of this Agreement shall be deemed to be the language mutually chosen by the parties and no role of strict construction shall be applied against or in favor of any party hereto. The section headings and other headings contained in this Agreement shall not affect the meaning or interpretation of this Agreement.

- c. Assignment. You may not assign or transfer this Agreement, or any of your rights or obligations hereunder, to any other party. AMT and MTConnect® Institute shall have the right to assign, transfer and sublicense this Agreement, and their rights and obligations hereunder, to one or more other persons or entities.
- d. Governing Law and Jurisdiction. This Agreement shall be governed by the substantive law of the Commonwealth of Virginia, without reference to any choice of law rules that would result in the application of the substantive law of any other jurisdiction. The parties agree that any disputes arising out of or relating to this Agreement shall be exclusively submitted to the federal courts having jurisdiction of the Eastern District of Virginia, or state courts having jurisdiction in the area in which such federal courts have jurisdiction, and the parties consent to the exclusive personal jurisdiction of such courts in respect of such disputes.
- e. No Waiver. The failure of AMT or MTConnect® Institute to enforce any provision of this Agreement or respond to a breach by you or other parties shall not in any way waive its or their rights to enforce subsequently any terms or conditions of this Agreement or to act with respect to similar breaches.

10. Acceptance of Terms

- a. Electronic Signature. This Agreement is an electronic contract that governs your use of and access to the MTConnect® Materials and your submission of comments. By indicating that you agree, you create an electronic signature that has the same legal force and effect as a handwritten signature.
- b. Electronic Form. When you indicate your acceptance of this Agreement via the means specified on this Site, you also consent to have this Agreement provided to you in electronic form.
- c. Tangible Copy. You have the right to receive this Agreement in tangible form. You may request a tangible copy of this Agreement, either before or after you electronically sign it. To receive a tangible copy of this Agreement, please send an e-mail to Tim Shinbara (tshinbara@amtonline.org) or a letter and self-addressed, stamped envelope to:

MTConnect® Institute
7901 Jones Branch Drive, Suite 900
McLean, VA 22102-3316
Attention: Tim Shinbara

- d. **Withdrawing Your Consent.** You have the right at any time to withdraw your consent to have this Agreement provided to you in electronic form. To withdraw your consent and/or request a non-electronic copy of this Agreement, please send an email to Tim Shinbara (tshinbara@amtonline.org) or a letter and self-addressed stamped envelope to:

MTConnect® Institute
7901 Jones Branch Drive, Suite 900
McLean, VA 22102-3316
Attention: Tim Shinbara

Your withdrawal of consent will be effective within a reasonable time after MTConnect® Institute receives the notice described above, and it will not affect any action taken in reliance on your consent or the continuing enforceability of this Agreement.

- e. **Access and Retention.** Please print or otherwise electronically save a copy of this Agreement for your records.