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MASTER SERVICE AND CONSTRUCTION AGREEMENT
BETWEEN
~~UNIVERSITY OF KANSAS MEDICAL CENTER~~ *State University*
AND
HONEYWELL INTERNATIONAL INC.
(collectively, the "Parties")

This Agreement is made as of September, 2011 by Kansas State University ("Owner") with its principal facilities offices at Dykstra Hall, Manhattan, KS 66506, and Honeywell International, Inc., a Delaware corporation acting through its Honeywell Building Solutions ("HBS") business group doing business at 1985 Douglas Drive North, MN10-1428, Golden Valley, MN 55422, (collectively, "Honeywell"). Owner and Honeywell are collectively referred to herein as the "Parties."

RECITALS

WHEREAS, from time to time Owner may elect to place purchase orders or service orders (collectively, "Orders") with Honeywell for certain purchases of products and services to be provided by HBS, which is a business unit within the Automation and Control Solutions business group; and

WHEREAS, the Parties seek to establish terms and conditions to facilitate the provision of such products and services;

NOW THEREFORE, the Parties agree as follows:

1. DEFINITIONS.

- 1.1. "Agreement": means these terms and conditions and applicable Order(s) that form the contract between Honeywell and Owner.
- 1.2. "Archival Copies": means copies of the Licensed Software in non-printed, machine-readable form, used solely for archival or backup purposes.
- 1.3. "Equipment": means Goods, Product, Hardware, End Items, Components, Parts, including detail components thereof and parts provided by Honeywell as described in the Order.
- 1.4. "Hazardous Substances": means all of the following, whether naturally occurring or manufactured, in quantities, conditions or concentrations that have, are alleged to have, or are believed to have an adverse effect on human health, habitability of a Site, or the environment: (a) any dangerous, hazardous or toxic pollutant, contaminant, chemical, material or substance defined as hazardous or toxic or as a pollutant or contaminant under state or federal law, and (b) any petroleum product, nuclear fuel or material, carcinogen, asbestos, urea formaldehyde, foamed-in-place insulation, polychlorinated biphenyl (PCBs), and (c) any other chemical or biological material or organism, that has, is alleged to have, or is believed to have an adverse effect on human health, habitability of a Site, or the environment.
- 1.5. "Installation Projects": means Work that includes Honeywell Product, labor and/or Work By Others in which Honeywell installs on Owner's premises equipment, material and/or systems.
- 1.6. "Licensed Software": means the binary, object code format of all Software, including all related updates, modifications, changes or revisions, if any, purchased made and licensed pursuant to this Agreement and full or partial copies thereof.
- 1.7. "Licensed Use": means a particular use as described in the Order, for which the Owner is authorized to use the Licensed Software.
- 1.8. "Maintenance and Service Projects": means Work that involves maintaining, servicing, repairing and/or testing equipment, Product and/or systems installed on Owner's premises.
- 1.9. "Mold": means any type or form of fungus or biological material or agent, including mold, mildew, moisture, yeast and mushrooms, and any mycotoxins, spores, scents, or by-products produced or released by any of the foregoing. This includes any related or any such conditions caused by third parties.

- 1.10. "Notice": means a written communication from one Party to the other, and does not include facsimiles or email. Notices required under this Agreement will be deemed received when delivered either (a) two calendar days after mailing by first class mail; or (b) one business day after deposit for next day delivery with a commercial overnight carrier provided the carrier obtains a written verification of receipt from the receiving Party.
- 1.11. "Nonconformance": means failure to comply with, or failure to operate due to noncompliance with, applicable Honeywell drawings or having defects in workmanship or material. Normal wear and tear and the need for regular overhaul and periodic maintenance do not constitute Nonconformance.
- 1.12. "Order": means a purchase order, service order, work order or other written agreement or contract, including the Order documents defined therein, entered into between Owner and accepted in writing by an authorized Honeywell employee.
- 1.13. "Owner": means Honeywell's customer, whether a Owner, consignee, lessee or licensee.
- 1.14. "Party": means either Honeywell or Owner respectively.
- 1.15. "Product": means hardware provided by Honeywell as described in the Order.
- 1.16. "Proprietary Information": means: (1) any nonpublic information, technical data or know-how in whatever form, including, but not limited to, documented information, machine readable or interpreted information, information contained in physical components, maskworks and artwork, that is clearly identified as being confidential, proprietary, (2) business related information including but not limited to pricing, manufacturing, or marketing, (3) the terms and conditions of any proposed or actual agreement between the Parties, (4) either Party's business policies, or practices, and (5) the information of others that is received by either Party under an obligation of confidentiality.
- 1.17. "Provided Software": means Licensed Software and Unlicensed Software.
- 1.18. "Services": means the professional services, engineering services, labor, testing, remote support and any other project or product support services provided by Honeywell pursuant to this Agreement.
- 1.19. "Software": means machine-readable object and/or source code, including executable programs and firmware, and user documentation in written or electronic object code form.
- 1.20. "Unlicensed Software": means Software that is not Licensed Software that may be included on the storage media containing Licensed Software, such as features or options that the Owner has not purchased.
- 1.21. "Work": means the labor, goods, materials and services, as defined in the Order, to be provided by Honeywell.
- 1.22. "Work By Others": means the labor, goods, materials and services performed or furnished by Honeywell's subcontractors in performing the Work.
2. **TERM.** The term of this Agreement shall start on May 1, 2011 ("Commencement Date") and shall continue in effect for a period of 5 years from the Commencement Date (the "Term"), subject to annual escalation of labor and material rates as described in Section 5.4 herein.
3. **SCOPE OF THIS AGREEMENT.** This Agreement shall govern all Orders including but not limited to Orders for:
 - 3.1. Installation projects where goods and services (product and labor) are provided in the context of a project direct with Buyer.
 - 3.2. Purchases of on site services and maintenance.
 - 3.3. Purchase of material and equipment.

4. **ORDERS.** Orders shall be governed exclusively by the terms and conditions in this Agreement, and shall incorporate this Agreement by clear and conspicuous reference. The preprinted terms and conditions contained on the reverse of any Buyer Order or on any Honeywell order acknowledgment shall not apply to nor form a part of the contract formed by any such order.
- 4.1. Orders may specify: (1) the applicable Honeywell part number, a general description of the Equipment; and services (2) requested delivery dates; (3) applicable price; (4) quantity; (5) location to which the Equipment is to be shipped; and (6) location to which invoices will be sent for payment. Purchase orders are subject to acceptance by Honeywell.
 - 4.2. Honeywell's acknowledgment of purchase order receipt will not constitute acceptance. An Order will become binding upon written notice of acceptance by Honeywell or, if applicable, upon Honeywell's signing and returning the Order acknowledgment copy with notice of acceptance.
 - 4.3. Buyer and Honeywell agree that an Order may be issued by Owner, and accepted by Honeywell, via facsimile and that all Orders issued via facsimile will (a) be deemed to have been signed by an authorized representative of Buyer and (b) constitute originals.
5. **PRICING.** Pricing will be established using the labor rate schedules attached hereto as Exhibit A and material prices for Honeywell-manufactured equipment referenced in Exhibit B1 and B2 as applied in accordance with the following:
- 5.1. **Labor costs.** Labor costs for Honeywell Labor shall be computed using the rates listed in Exhibit A plus costs for mileage, if any, applied according to the prevailing rate. Mileage costs shall not exceed the published state of Kansas mileage reimbursement rate (K.S.A.75-3203.)
 - 5.2. **Material costs:** Material costs shall be discounted 30% from the prices listed in Exhibits B1 and B2. Any Product not identified under Exhibit B1 or B2 shall be designated as Product manufactured by a third party and resold to Owner at market price, or custom in nature.
 - 5.3. **Work By Others:** Work By Others shall be computed at its direct cost plus 15% overhead and 10% profit.
 - 5.4. **Price Escalation:** 30 days prior to the anniversary date of this Agreement, Honeywell shall deliver to Owner revised Exhibits A, B1 and B2, reflecting the labor and material costs for the subsequent contract year.
 - 5.5. **Freight Charges Included:** Product delivery will be FOB destination, standard freight charges included.
 - 5.6. **No Additional Terms and Conditions:** Notwithstanding anything to the contrary, any additional Terms and Conditions contained in Exhibits B1 or B2 are superseded by the Terms and Conditions contained in this Agreement and shall be of no effect.
6. **CONSENTS.** Any consents that must be obtained by either Party from the other under this Agreement shall not be unreasonably withheld or delayed.
7. **DISPUTES.**
- 7.1 Honeywell and Owner agree that before, and as a condition precedent to, the initiation of any legal action or proceeding, all claims, controversies and disputes ("Disputes") arising out of or in relation to the performance, interpretation, application or enforcement of this Agreement, including, without limitation, any breach hereof, the following process must be completed. In the event of a Dispute, the Parties agree that their respective counsel and their project representatives familiar with the issue will schedule a meeting (by telephone or in person) to discuss the dispute and to attempt in good faith to resolve it. If the matter is not resolved at such meeting, the Parties may, within the next 60 days, agree to private mediation of the dispute.
 - 7.2 If the dispute is not then submitted to mediation, or not resolved after the completion of such mediation, the Parties agree that any controversy or claim between Honeywell and Owner arising out of or relating to this Agreement, or the breach thereof, shall be settled by arbitration in a neutral

venue, conducted in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association. Any award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Any controversy or claim arising out of or related to the installation, monitoring, and/or maintenance of systems associated with security and/or the detection of, and/or reduction of risk of loss associated with fire shall be resolved in a court of competent jurisdiction.

8. **PROPOSAL ACCEPTANCE AND TERMS.** Unless otherwise specified in writing, all Honeywell proposals are valid and may be accepted by Owner for a period of thirty (30) days from the date of issuance. Acceptance of the proposal after this 30-day period will not create an Order unless accepted by Honeywell in writing. All Honeywell proposals, Orders, sales and licenses are conditional upon Owner's acceptance of these terms and conditions, notwithstanding receipt or acknowledgment of the Order, specifications containing additional or different terms, or conflicting oral representations by any agent or employee of Honeywell. The Order and all sales and licenses by Honeywell under the Order are governed exclusively by these terms and conditions and all preprinted terms and conditions contained on Orders or acknowledgments are excluded. Unless otherwise expressly noted in the Order, the provisions of the applicable Honeywell proposal shall take precedence over any conflicting provisions in any other document made part of the Order.

9. **DELIVERY TERMS AND RISK OF LOSS.** Delivery terms are FOB Owner's facility, freight charges included (Uniform Commercial Code). Honeywell will schedule delivery in accordance with its standard lead-time unless (i) Owner's Order requests a later delivery date; or (ii) Honeywell agrees in writing to a separate delivery date. If Honeywell prepays transportation charges, Owner will reimburse Honeywell upon receipt of an invoice for those charges. Title will pass to Owner when Seller places Product at the disposal of Owner at Seller's facility. Honeywell reserves the right to quote additional charges for any special routing, packing, labeling, handling or insurance requested by Owner.

10. TERMS OF PAYMENT.

10.1 Payment by Owner is due in the time and manner required by the Kansas prompt payment act (K.S.A. § 75-6401 *et seq.*) ("Prompt Payment Act"). Payments must be made in U.S. currency. If Owner is delinquent in its payment obligation to Honeywell, then after providing Notice to Owner and after reasonable opportunity to cure not to exceed thirty (30) days after Owner's receipt of such Notice, Honeywell may stop Work and withhold future shipments until all delinquent amounts and late interest, if any, are paid. Additionally Honeywell may (i) charge interest on delinquent amounts at the rate defined in the Prompt Payment Act; (ii) suspend work; (iii) recover costs of collection; or (iv) combine any of the above rights and remedies as may be permitted by applicable law.

10.2 For all Service and Maintenance Agreements, Owner shall be invoiced in advance, thirty (30) days prior to commencement of the Work, and are due in accordance with Subsection 10.1.

11. TERMINATION.

11.1 By Honeywell. Honeywell may terminate this Agreement for cause (including, but not limited to, Owner's failure to make payments as agreed herein) after giving Owner written notice of its intent to terminate. If, within seven (7) days following receipt of such notice, Owner fails to make the payments then due, or otherwise fails to cure or perform its obligations, Honeywell may, by written notice to Owner, terminate this Agreement and recover from Owner payment for Work executed and for losses sustained for materials, tools, construction equipment and machinery, including but not limited to, reasonable overhead, profit and applicable damages.

11.2 By Owner. Owner may terminate this Agreement for cause if Honeywell defaults in the performance of any material term of this Agreement, or fails or neglects to carry forward the Work in accordance with this Agreement, after giving Honeywell written notice of its intent to terminate. If Honeywell has not, within seven (7) business days after receipt of such notice, acted to remedy and make good such deficiencies, Owner may terminate this Agreement and take possession of the site together with all materials thereon, and move to complete the Work itself expeditiously. Upon request of Honeywell, Owner will furnish to Honeywell a detailed accounting of the costs incurred by Owner in finishing the Work. If the unpaid balance of the contract price exceeds the expense of finishing the Work, the excess shall be paid to Honeywell, but if the expense exceeds the unpaid balance, Honeywell shall pay the difference to Owner.

Owner may also terminate this contract without penalty if, within thirty (30) days after receiving Honeywell's price escalation information under Section 5.4, it notifies Honeywell that the new prices exceed Owner's cost tolerance.

- 11.3 **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration for the Owner, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, Owner may terminate this agreement at the end of its current fiscal year. Owner agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided Owner under the contract. Owner will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by Owner, title to any such equipment shall revert to contractor at the end of Owner's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor. Notwithstanding the foregoing, Owner shall retain title and possession of all Work for which Honeywell has received payment.
12. **TAXES.** Taxes charged as applicable. Tax exemption certificate required for non-tax.
13. **EXCUSABLE DELAYS.** Honeywell shall not be liable for damages caused by delay or interruption in the Work due to fire, flood, corrosive substances in the air, strike; lockout, disputes with workmen, inability to obtain material or services, commotion, war, acts of God, the presence of Hazardous Substances or Mold, or any other cause beyond Honeywell's reasonable control. Should any part of the system or any Equipment be damaged by fire, water, lightning, acts of God, the presence of Hazardous Substances or Mold, third parties, or any other cause beyond the control of Honeywell, any repairs or replacement shall be paid for by Customer.
14. **HAZARDOUS SUBSTANCES, MOLD AND UNSAFE WORKING CONDITIONS.**
- 14.1 Owner has not observed or received notice from any source (formal or informal) of (a) Hazardous Substances or Mold, either airborne or on or within the walls, floors, ceilings, heating, ventilation and air conditioning systems, plumbing systems, structure, and other components of the Site, or within furniture, fixtures, equipment, containers or pipelines in a Site; or (b) conditions that, to Owner's knowledge, might cause or promote accumulation, concentration, growth or dispersion of Hazardous Substances or Mold on or within such locations.
- 14.2 Honeywell is not responsible for determining whether the Covered Equipment or the temperature, humidity and ventilation settings used by Owner, are appropriate for Owner and the Site except as specifically provided in an attached Work Scope Document.
- 14.3 If any such materials, situations or conditions, whether disclosed or not, are in fact discovered by Honeywell or others and provide an unsafe condition for the performance of the work or Services, the discovery of the condition shall constitute a cause beyond Honeywell's reasonable control and Honeywell shall have the right to cease the work or Services until the area has been made safe by Owner or Owner's representative, at Owner's expense. Honeywell shall have the right to terminate this Agreement if Owner has not fully re-mediated the unsafe condition within sixty (60) days of discovery.
- 14.4 Unless otherwise provided in the Order, Owner represents that Owner has not retained Honeywell to discover, inspect, investigate, identify, prevent or remediate Hazardous Substances or Mold or conditions caused by Hazardous Substances or Mold.
- 14.5 TO THE FULLEST EXTENT ALLOWED BY LAW, OWNER SHALL INDEMNIFY AND HOLD HONEYWELL HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS AND COSTS OF WHATEVER NATURE, INCLUDING BUT NOT LIMITED TO, CONSULTANTS' FEES, DAMAGES FOR BODILY INJURY AND PROPERTY DAMAGE, FINES, PENALTIES, CLEANUP COSTS AND COSTS ASSOCIATED WITH DELAY OR WORK STOPPAGE, THAT IN ANY WAY RESULTS FROM OR ARISES UNDER THE BREACH OF THE REPRESENTATIONS AND WARRANTIES IN THIS SECTION, THE EXISTENCE OF MOLD

OR A HAZARDOUS SUBSTANCE AT A SITE, OR THE OCCURRENCE OR EXISTENCE OF THE SITUATIONS OR CONDITIONS DESCRIBED IN THIS SECTION, WHETHER OR NOT OWNER PROVIDES HONEYWELL ADVANCE NOTICE OF THE EXISTENCE OR OCCURRENCE AND REGARDLESS OF WHEN THE HAZARDOUS SUBSTANCE OR OCCURRENCE IS DISCOVERED OR OCCURS. THIS INDEMNIFICATION SHALL SURVIVE TERMINATION OF THIS AGREEMENT FOR WHATEVER REASON.

- 14.6 Owner is responsible for the containment of any and all refrigerant stored on or about the premises. Owner accepts all responsibility for and agrees to indemnify Honeywell against any and all claims, damages, or causes of action that arise out of the storage, consumption, loss and/or disposal of refrigerant, except to the extent Honeywell has brought refrigerant onsite and is directly and solely negligent for its mishandling.

15. WARRANTY AND LIMITATION OF LIABILITY.

- 15.1. Honeywell will replace or repair any product Honeywell provides under this Agreement that fails within the warranty period (one) 1 year because of defective workmanship or materials, except to the extent the failure results from Customer negligence, or from fire, lightning, water damage, or any other cause beyond the control of Honeywell. This warranty applies to all products Honeywell provides under this Agreement, whether or not manufactured by Honeywell. The warranty is effective as of the date of Customer acceptance of the product or the date Customer begins beneficial use of the product, whichever occurs first.
- 15.2. ANY IMPLIED OR STATUTORY WARRANTY OF WORKMANSHIP, CONSTRUCTION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WITH RESPECT TO THE SERVICES, EQUIPMENT, AND MATERIALS PROVIDED HEREUNDER SHALL BE MEASURED AGAINST THE DEFINED SCOPE OR SPECIFICATION DEVELOPED FOR A PARTICULAR PROJECT. HONEYWELL SHALL NOT BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, ARISING FROM, OR RELATING TO, THIS LIMITED WARRANTY OR ITS BREACH.
- 15.3. Honeywell makes no representation or warranty, express, implied or otherwise, regarding Hazardous Substances or Mold. Honeywell shall have no duty, obligation or liability, all of which Customer expressly waives, for any damage or claim, whether known or unknown, including but not limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, adverse health effect or any special, consequential, punitive, exemplary or other damages, regardless of whether such damages may be caused by or otherwise associated with defects in the Services, in whole or in part due to or arising from any investigation, testing, analysis, monitoring, cleaning, removal, disposal, abatement, remediation, decontamination, repair, replacement, relocation, loss of use of building, or equipment and systems, or personal injury, death or disease in any way associated with Hazardous Substances or Mold.

16. SOFTWARE LICENSE.

- 16.1. License. Subject to Owner's compliance with the terms and conditions of this Agreement, Honeywell grants to Owner and Owner accepts a personal, limited, nontransferable, nonexclusive license, without the right to sublicense, to use the Licensed Software solely for Owner's own internal purposes in accordance with the Licensed Use.
- 16.2. Third Party Software. The Licensed Software may contain or be derived from materials of third party licensors. Such third party materials may be subject to restrictions in addition to those listed in this clause which restrictions, if any, are included in the Licensed Use as set forth in the proposal or statement of work for this Agreement.
- 16.3. Ownership. Honeywell and its third-party suppliers retain all right, title and interest in and to the intellectual property rights in all Provided Software. Except for the license expressly granted herein, no right, title, or interest in or to the Provided Software, or to any copies thereof, is transferred hereunder to Owner.
- 16.4. Restriction on Use of Provided Software. Except as set forth in the Transfer of Licensed Software clause below, Owner may not without Honeywell's prior express written consent (i) copy, modify,

sublicense, loan, or transfer in any manner the Provided Software; or (ii) create derivative or merged works with respect to the Provided Software.

- 16.5. Transfer of Licensed Software. Owner may transfer its license to use the Licensed Software to a third-party only in conjunction with: (i) the resale by Owner of any Honeywell Product on which the Licensed Software is installed and that Owner is authorized to resell; or (ii) the sale by Owner of Owner's property on which the Licensed Software is installed. Transfer by Owner of the Licensed Software as authorized herein must be under terms consistent with and no less stringent than the terms set forth in this Software license clause. Other than as expressed above, Owner may not delegate, assign or transfer this Agreement, the license(s) granted or any of Owner's rights or duties hereunder, including by way of merger (regardless of whether Owner is the surviving entity), acquisition, or operation of law, and any attempt to do so, without Honeywell's express prior written consent shall be void.
- 16.6. Copies of Licensed Software. Owner may make two (2) Archival Copies (or the maximum number of copies allowed under applicable law of the Licensed Software). Honeywell or its third-party suppliers solely own all Archival Copies. Owner will include all notices (e.g., copyright and trade secret) and serial numbers on the Archival Copies.
- 16.7. Protecting Integrity. Owner may not directly or indirectly make any effort to deconstruct the Provided Software, including (but not limited to) translating, decompiling, disassembling, reverse assembling, reverse engineering, or performing any other operation on the Provided Software to recover any portion of its contents. Owner will take all reasonable actions necessary to prevent unauthorized access to, and disclosure, distribution, possession, alteration, reproduction, transfer, or use of the Provided Software, and will train its employees, agents, and other persons who are permitted access to the Provided Software to ensure compliance by Owner with this Software license clause. Owner will not use or disclose the Provided Software, except as expressly authorized by this Agreement, and shall hold all such Provided Software in strict confidence. Owner will not allow its contractors or consultants to access or use the Provided Software without Honeywell's prior written consent. Owner agrees to defend, indemnify and hold harmless Honeywell from all damages and third party claims, causes of action or damage arising from unauthorized use of Provided Software to the fullest extent authorized by law.
- 16.8. Demonstration Use. Subject to Owner's compliance with the terms and conditions of this Agreement, if Provided Software has been delivered to Owner for demonstration or evaluation purposes, Owner may use the Licensed Software for such purposes only for a period of ninety (90) days from the date the Provided Software was delivered to Owner. After this 90-day period, Owner agrees to either (i) cease using and returns the Provided Software to Honeywell, or (ii) pay the applicable license fee for Owner's continued use of the Licensed Software and to abide by the provisions set forth in this Software license clause.
- 16.9. Term and Termination of License. The license granted herein is effective on the first date Honeywell ships or installs any Provided Software, and will continue until terminated as provided herein. Honeywell may terminate this license if Owner defaults under the Agreement for which the license was provided, and does not remedy such default within ten (10) days after receiving written notice thereof from Honeywell, or is in bankruptcy, insolvency, dissolution, or receivership proceedings. Upon termination of this license, Honeywell may repossess the Provided Software and all copies without further notice. Promptly upon termination of this license, Owner shall immediately cease all use of Licensed Software and return or destroy, as directed by Honeywell, all copies of the Provided Software.
- 16.10. Negation of Other Licenses. Except as expressly granted in this SOFTWARE LICENSE clause, no license or right, including sublicensing rights, either expressly, implicitly, by estoppel, conduct of the parties, or otherwise, is granted by Honeywell to Owner hereunder.
- 16.11. Records. Owner shall maintain complete, current and accurate records documenting the location of the Licensed Software (in all forms) in Owner's possession.
- 16.12. Compliance Verification. To ensure compliance with the terms of this Agreement, Honeywell or its designated representative shall have the right to: (i) request that Owner send a written certification of compliance with the terms and conditions of this Agreement within thirty (30) days of Honeywell's

request; and (ii) conduct an inspection and audit upon reasonable notice (but in any event such notice must be received by Owner not less than five (5) business days in advance) electronic logs of access to the Software, and the relevant books and records of Owner, and to obtain true and correct photocopies thereof, during regular business hours at Owner's offices and in such a manner as not to interfere unreasonably with Owner's normal business activities. In no event shall such certifications be requested or audits be conducted hereunder more frequently than once every twelve (12) months. If any such audit should disclose any underpayment of fees, Owner shall promptly pay Honeywell such underpaid amount, together with interest thereon at a rate of one percent (1%) per month or partial month during which such amount was owed and unpaid, or the highest rate allowed by law, from the date such amount originally became due until finally paid. If the audit reveals that Owner has underpaid Honeywell by five percent (5%) or more of the amount owed, Owner may contest such findings in accordance with the Dispute Resolution procedures set forth in Section 10 of this Agreement, and a determination may be made with regard to payment of reasonable costs and expenses associated with the audit.

17. PROPRIETARY INFORMATION.

- 17.1. All proprietary information (as defined herein) obtained by Owner from Honeywell in connection with this Agreement shall remain the property of Honeywell, and Owner shall not divulge such information to any third party without prior written consent of Honeywell. As used herein, the term "proprietary information" shall mean written information (or oral information reduced to writing), or information in machine-readable form, including but not limited to software supplied to Owner hereunder which Honeywell deems proprietary or confidential and characterizes as proprietary at the time of disclosure to Owner by marking or labeling the same "Proprietary", "Confidential", or "Sensitive". Owner shall incur no obligations hereunder with respect to proprietary information which: (a) was in the Owner's possession or was known to the Owner prior to its receipt from Honeywell; (b) is independently developed by the Owner without the utilization of such confidential information of Honeywell; (c) is or becomes public knowledge through no fault of the Owner; (d) is or becomes available to the Owner from a source other than Honeywell; (e) is or becomes available on an unrestricted basis to a third party from Honeywell or from someone acting under its control; (f) is received by Owner after notification to Honeywell that the Owner will not accept any further information.
- 17.2. Owner agrees that Honeywell may use nonproprietary information pertaining to the Agreement, and the work performed under the Agreement, for press releases, case studies, data analysis, promotional purposes, and other similar documents or statements to be publicly released, as long as Honeywell submits any such document or statement to Owner for its approval, which shall not be unreasonably withheld.

18. INSURANCE OBLIGATIONS.

- 18.1. Honeywell will, at its own expense, carry and maintain in force at all times from the effective date of the Agreement through final completion of the work the following insurance. It is agreed, however, that Honeywell has the right to insure or self-insure any of the insurance coverages listed below:
- (i) Commercial General Liability Insurance to include contractual liability, products/completed operations liability with a combined single limit of USD \$2,000,000 per occurrence. Such policy will be written on an occurrence form basis;
 - (ii) If automobiles are used in the execution of the Contract, Automobile Liability Insurance with a minimum combined single limit of USD \$2,000,000 per occurrence. Coverage will include all owned, leased, non-owned and hired vehicles.
 - (iii) Where applicable, "All Risk" Property Insurance, including Builder's Risk insurance, for physical damage to property which is assumed in the Contract.
 - (iv) Workers' Compensation Insurance Coverage A - Statutory limits and Coverage B-Employer's Liability Insurance with limits of USD \$1,000,000 for bodily injury each accident or disease.
- 18.2. Prior to the commencement of the Contract, Honeywell will furnish evidence of said insurance coverage in the form of a Memorandum of Insurance which is accessible at:

<http://places.honeywell.com/moi>. All insurance required in this Article will be written by companies with a rating of no less than "A-, XII" by A.M. Best or equivalent rating agency. Honeywell will endeavor to provide a thirty (30) day notice of cancellation or non-renewal to the Customer. In the event that a self-insured program is implemented, Honeywell will provide adequate proof of financial responsibility.

18.3. Honeywell will not issue coverage on a per project basis.

19. INDEMNITY. Honeywell will indemnify and hold Owner and its agents and employees harmless from all claims for bodily injury and property damages to the extent such claims result from or arise under Honeywell's negligent actions or willful misconduct in its performance of the Work required under this Agreement, provided that such indemnity obligation is valid only to the extent (i) Owner gives Honeywell immediate notice in writing of any such claims and permits Honeywell, through counsel of its choice and Honeywell's sole cost and expense, to answer the claims and defend any related suit and (ii) Owner gives Honeywell all needed information, assistance and authority, at Honeywell's expense, to enable Honeywell to defend such suit. Honeywell shall not be responsible for any settlement without its written consent. Honeywell shall not be liable for loss or damage caused by the negligence of Owner or any other party or such party's employees or agents. This obligation shall survive termination of this Agreement. Notwithstanding the foregoing, Owner agrees that Honeywell will not be responsible for any damages caused by Mold or any other fungus or biological material or agent, including but not limited to property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, adverse health effect or any special, consequential, punitive, exemplary or other damages, regardless of whether such damages may be caused by or otherwise associated with defects in the Services.

20. PATENT INDEMNITY.

20.1. Honeywell shall, at its expense, defend or, at its option, settle any suit that may be instituted against Owner for alleged infringement of any United States patents related to the hardware or software manufactured and provided by Honeywell under this Agreement ("the equipment"), provided that (i) such alleged infringement consists only in the use of such equipment by itself and not as part of, or in combination with, any other devices, parts or software not provided by Honeywell hereunder, (ii) Owner gives Honeywell immediate notice in writing of any such suit and permits Honeywell, through counsel of its choice, to answer the charge of infringement and defend such suit, and (iii) Owner gives Honeywell all needed information, assistance and authority, at Honeywell's expense, to enable Honeywell to defend such suit.

20.2. If such a suit has occurred, or in Honeywell's opinion is likely to occur, Honeywell may, at its election and expense: (i) obtain for Owner the right to continue using such equipment; (ii) replace, correct or modify it so that it is not infringing; or if neither (i) or (ii) is feasible, then (iii) remove such equipment and grant Owner a credit therefore, as depreciated.

20.3. In the case of a final award of damages in any such suit, Honeywell will pay such award. Honeywell shall not, however, be responsible for any settlement made without its written consent.

20.4. THIS ARTICLE STATES HONEYWELL'S TOTAL LIABILITY AND OWNER'S SOLE REMEDY FOR ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY PATENT BY THE HARDWARE MANUFACTURED AND PROVIDED BY HONEYWELL HEREUNDER.

21. LIMITATION OF LIABILITY.

21.1. IN NO EVENT SHALL EITHER PARTY TO THIS AGREEMENT BE LIABLE FOR ANY CONSEQUENTIAL DAMAGES, WHETHER ARISING FROM, RELATING TO, OR CONNECTED WITH THE SERVICES, EQUIPMENT, MATERIALS, OR ANY GOODS PROVIDED HEREUNDER. IF A PORTION OF THE SERVICES INVOLVES THE INSTALLATION AND/OR MAINTENANCE OF SYSTEMS ASSOCIATED WITH SECURITY AND/OR THE DETECTION OF AND/OR REDUCTION OF RISK OF LOSS ASSOCIATED WITH FIRE, SUBCONTRACTOR'S TOTAL LIABILITY ARISING OUT OF OR AS A RESULT OF ITS PERFORMANCE UNDER THIS CONTRACT AGREEMENT SHALL NOT EXCEED THE AMOUNT OF THIS AGREEMENT; HOWEVER, THE FOREGOING LIMITATION SHALL NOT APPLY WHILE HONEYWELL IS ON SITE PERFORMING WORK OR IN THE EVENT THAT IT IS DETERMINED THAT THE EQUIPMENT OR SERVICES PROVIDED ARE THE DIRECT CAUSE OR SOURCE OF THE LOSS.

- 21.2 Honeywell shall not be liable for damage to or loss of equipment and software after delivery to destination determined by this Agreement or any applicable prime contract. If thereafter, and prior to payment in full to Honeywell by Customer, any such equipment or software is damaged or destroyed by any cause whatsoever, other than by the fault of Honeywell, the Customer agrees promptly to pay or reimburse Honeywell for such loss.

22. MISCELLANEOUS.

- 22.1 This Agreement represents the entire Agreement between Customer and Honeywell for the Work described herein and supersedes all prior negotiations, representations or Agreements between the Parties related to the work described herein.
- 22.2 None of the provisions of this Agreement shall be modified, altered, changed or voided by any subsequent Purchase Order or other document unilaterally issued by Customer that relates to the subject matter of this Agreement. This Agreement may be amended only by written instrument signed by both Parties.
- 22.3 This Agreement shall be governed by the law of the State where the work is to be performed.
- 22.4 Any provision or part of this Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Honeywell and Customer, who agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
- 22.5 Customer may not assign its rights or delegate its obligations under this Agreement, in whole or in part, without the prior written consent of Honeywell. Honeywell may assign its right to receive payment to a third party.
- 22.6 Additional Terms. Additional terms to this Agreement are attached hereto and incorporated herein as Exhibit C.
- 22.7 The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 04-11), which is attached hereto as Exhibit C, are hereby incorporated in this contract and made a part thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

HONEYWELL INTERNATIONAL, INC.

KANSAS STATE UNIVERSITY

BY: James D. Mullavey
Name: JAMES D. MULLAVEY
Title: Branch General Manager
Date: 9/20/2011

BY: Bruce Shubert
Name: Bruce Shubert
Title: V.P.
Date: 8-30-11

EXHIBIT A

PREFERRED LABOR RATES FOR 2011

The following types of work are provided under this agreement, with corresponding labor by discipline:

Install Projects: Projects with defined labor and material content. Project has designated Project Manager. Technical and / or Engineering labor provided that is not service in nature.

Service Projects: Projects with defined labor and material content. Project does not have to have a Project Manager component. Install labor is provided by Service Technicians.

Service Agreements (Maintenance): Services provided in the context of upkeep, operation, or maintenance of systems or subsystems. Install sub-projects / components may be part of these agreements.

Service Calls (Spot Service): Service time and material.

Material Orders: Purchase of material only. One year warranty on product only.

The following rates apply, by discipline:

Straight Time: Work from 8:00AM to 5:00PM Monday through Friday, excluding Holidays

Project Manager =	\$144 / hr
Application Engineer =	\$114 / hr
Installation Technician =	\$114 / hr

Overtime: Work before 8:00AM or after 5:00PM Monday through Friday, Weekends, and Holidays

Project Manager =	\$216 / hr
Application Engineer =	\$171 / hr
Installation Technician =	\$171 / hr