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## Intellectual Property Policy and Agreement

MTConnect<sup>®</sup>, a forum sponsored by the MTConnect<sup>®</sup> Institute (“MTConnect”), in conjunction with AMT – The Association For Manufacturing Technology (“AMT”), is the sponsor of a collaborative effort to develop open technical standards and specifications intended to foster greater interoperability between equipment automation/control applications, and field systems/devices in the manufacturing industry (as defined below, “MTConnect Specifications”), as well as schema, prototype software examples, and related documentation in order to facilitate the implementation of the MTConnect Specifications in compliant applications, drivers, and other services.

This Intellectual Property Policy and Agreement (“IP Policy”) states the intellectual property policies for the MTConnect Technical Advisory Group and for all Participants and others developing, contributing to and using MTConnect Specifications and MTConnect Materials. This IP Policy and Agreement is intended to meet the following goals:

- Foster development of open standards and encourage participation in the MTConnect development work;
- Protect MTConnect copyright to maintain stable content and open process;
- Strike an appropriate balance between intellectual property rights and the needs of Implementers;
- Create a framework in which Implementers can develop and sell products based on or implementing MTConnect Specifications without incurring IP royalty fees as a result of complying with MTConnect Specifications;
- Confirm that Implementers have no obligation to make their own products based on MTConnect “open” and/or available for free – MTConnect Specifications set minimum requirements for interoperability, and developers are free to innovate and add proprietary value to MTConnect-compliant products;
- Recognize appropriate limited rights for patent holders to encourage them to participate in developing the standards and make the licensing commitments necessary for success; and
- Promote broad adoption of MTConnect Specifications to create a thriving, competitive marketplace.

*Version 1.3, revised 5/17/2010*

*MTConnect<sup>®</sup> Intellectual Property Policy and Agreement*

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MTConnect is a registered trademark of AMT – The Association For Manufacturing Technology.

The IP Policy and Agreement shall apply to all Participants, as defined below, in MTConnect, and to any other parties participating in MTConnect technical work. No Participant, entity or individual may participate in the work of MTConnect without agreeing to the terms and conditions in this IP Policy.

## 1. Definitions

<b>Affiliate</b>	means any entity (except an Excluded Affiliate) that is directly or indirectly controlled by, under common control with, or that controls another entity. For this purpose, “control” means direct or indirect ownership of, or the right to exercise, greater than 50% of the voting power, or greater than 50% of the ownership interest representing the right to make the decisions for the entity.
<b>Contribution</b>	means any technical submission, comment, idea, or suggestion made at any time, including such submissions made prior to the effective date of this IP Policy, to or for MTConnect and/or the MTConnect Technical Advisory Group, the Technical Steering Committee or any Drafting Committee, for incorporation into or modification of the content of a Specification, draft Specification, or other MTConnect Materials, provided that the submission is either (a) submitted in writing (including in electronic media); or (b) stated orally, and memorialized with specificity in written documentation (such as approved meeting minutes) that attributes the oral Contribution to the contributor(s), provided that the contributing Participant does not object or withdraw such oral submission in writing within forty-five (45) days after the contributing Participant’s receipt of such written documentation.
<b>Excluded Affiliate</b>	means an entity otherwise meeting the definition of Affiliate, but designated for exclusion by a prospective Participant at the time of application pursuant to Section 2.6 and approved as an Excluded Affiliate by the MTConnect Board of Directors.
<b>Excluded Claims</b>	means Necessary Claims that the Participant has timely disclosed with all the information specified in Sections 4.2 and 4.3 and declared to be subject to the patent licensing obligations defined in Section 5.1(b).
<b>MTConnect Specification or Specification</b>	means a final technical specification document, as adopted and approved by the Technical Steering Committee, following approval by majority vote of the Technical Advisory Group, for publication as an MTConnect Specification, that defines specifications, schemas, standard interfaces, objects, and methods for exchange of dynamic or measurement data, configuration data, and data representation among machines, software applications and controllers. Specifications shall include or incorporate software code only as reference implementations, optional examples, or other code that will be used for illustrative purposes only and will not be a required portion of the Specification.
<b>MTConnect Materials</b>	means MTConnect Specifications, draft versions of Specifications and works-in-progress, schema, prototype software examples, and related documentation or guides, and any materials, updates or modifications

	related to any of the foregoing.
<b>MTConnect Implementer or Implementer</b>	means any party that executes a MTConnect Implementer License Agreement for the purpose of adopting or implementing an MTConnect Specification in a product, whether hardware or software.
<b>Necessary Claims</b>	<p>means those claims of all patents and patent applications that an entity owns or controls that would necessarily be infringed by implementation of an MTConnect Specification. A claim is “necessarily infringed” when there is no reasonable non-infringing alternative for implementing the required portions of the Specification. Notwithstanding the foregoing, Necessary Claims do not include the following:</p> <ul style="list-style-type: none"> <li>(a) claims other than those set forth above even if contained in the same patent or patent application as Necessary Claims;</li> <li>(b) claims that are necessarily infringed only by portions of a product or implementation that are not required for compliance with the Specification;</li> <li>(c) claims covering any enabling technologies that may be necessary to make or use any product or portion thereof that complies with a Specification, but are not themselves expressly set forth in a Specification;</li> <li>(d) claims covering reference implementations or other implementation examples (i.e., examples that may be included in the text of a Specification and which illustrate how the Specification could be properly implemented); or</li> <li>(e) claims covering the implementation of other published specifications not developed by or for MTConnect or AMT, but referred to in the body of a Specification.</li> </ul>
<b>Observer</b>	means an entity, company, organization or individual that is invited to observe and assist the work of the MTConnect Technical Advisory Group solely for the purpose of providing input and perspectives on the needs of users and customers who will use MTConnect-compliant products, but without making specific technical Contributions subject to this IP Policy.
<b>Participant</b>	means an entity, company, organization or individual that participates in the technical work of the MTConnect Technical Advisory Group, Technical Steering Committee, Drafting Committee, or any other committee or group created by the Technical Steering Committee to make Contributions and otherwise assist in technical work to develop MTConnect Materials.
<b>Review Period</b>	means the 90-day period for technical and intellectual property review of a proposed Specification, prior to approval by the Technical Advisory Group, as further defined in Section 4.1.

## 2. Development Process and Contributions

- 2.1. Technical Work Procedures. The specific procedures for technical development work and approval of MTConnect Specifications and MTConnect Materials shall be as defined in the Technical Work Procedures, as approved by the Technical Advisory Group. Subject to the Technical Work Procedures, the MTConnect development process shall have the following general features.
- (a) Technical Steering Committee. The Technical Steering Committee for MTConnect shall have at least three and no more than seven members, named by the MTConnect Institute President and Chair of the MTConnect Technical Advisory Group. The Technical Steering Committee shall direct and oversee the technical work to develop MTConnect Specifications and other MTConnect Materials, with consultation and advice of the MTConnect Technical Advisory Group.
  - (b) Technical Advisory Group. The MTConnect Technical Advisory Group shall advise the Technical Steering Committee on the development of MTConnect Materials and the initiation of Drafting Committees, and shall approve final MTConnect Specifications for publication by majority vote, under the procedures outlined below and defined in the Technical Work Procedures.
  - (c) Drafting Committees. The Technical Steering Committee may establish one or more Drafting Committees to assist in the development of draft MTConnect Materials and/or to develop specified elements of draft MTConnect Materials. The Technical Steering Committee shall define the charter, purpose and scope of work for each Drafting Committee. Each Drafting Committee shall provide its drafts and other work product to the Technical Steering Committee for consideration, feedback and use as part of draft versions of MTConnect Materials, and shall provide reports of its progress on request to the Technical Steering Committee.
  - (d) Observers. The Technical Steering Committee may, at its discretion, invite Observers to observe and assist the work of the MTConnect Technical Advisory Group solely for the purpose of providing input and perspectives on the needs of users and customers who are expected to use MTConnect-compliant products, to ensure that the MTConnect Specification and the products that comply with it will efficiently and effectively meet the actual needs of users. Observers will not ordinarily provide Contributions or comment on specific technical solutions or content for draft MTConnect Specifications or MTConnect Materials, however. So long as the input from an Observer is limited solely to input and perspectives on user requirements and preferences, without specific technical Contributions, this IP Policy imposes no licensing or other obligations on that Observer except the confidentiality obligations of Section 2.4. Section 2.2(b) defines the procedures to be followed, and imposes additional obligations, if and when an Observer chooses voluntarily to make a Contribution.
  - (e) Public comment. The Technical Steering Committee may also, at its discretion, release particular versions or portions of draft Specifications or other MTConnect Materials for public comment and feedback, subject to Section 2.5 below and the Technical Work Procedures.

- (f) Review Period for Proposed Specifications. When the Technical Steering Committee determines that a draft version of an MTConnect Specification is ready for approval and publication as a final Specification, it shall present that draft version to the MTConnect Technical Advisory Group for its consideration and approval. To assure that the Technical Steering Committee, the Technical Advisory Group and all Participants and each other party subject to this IP Policy have adequate opportunity to review proposed specifications for technical merit and for intellectual property matters, the Technical Steering Committee shall follow the procedures set forth in Section 4 below, including ensuring a Review Period of at least 90 days is observed, before the Technical Advisory Group takes final action to approve the draft for publication as a final MTConnect Specification.
- (g) Approval or suggestions for revisions by the Technical Advisory Group. When the Review Period has expired, the Participants in the Technical Advisory Group shall vote under the procedures prescribed by the Technical Work Procedures. Approval by the Technical Steering Committee, and by at least a majority vote of the Participants in the Technical Advisory Group that cast a vote, shall be required to approve a draft Specification for publication as a final MTConnect Specification. If the proposed Specification is not approved by at least a majority of the Participants that cast a vote, the Technical Advisory Group may return it to the Technical Steering Committee with the Group's suggestions for revisions or changes, if any. Observers shall not have a vote in decisions of the MTConnect Technical Advisory Group to approve a draft Specification for final publication or for other purposes.

## 2.2. Contributions.

- (a) Participants. Participants may make Contributions to the Technical Advisory Group, the Technical Steering Committee, and Drafting Committees, subject to the terms and conditions of this IP Policy and the Technical Work Procedures. AMT, the MTConnect Institute, the Technical Advisory Group, and the Technical Steering Committee shall have no obligation to include any Contribution in any MTConnect Specification or other MTConnect Materials.
- (b) Observers. As described in Section 2.1(d), Observers are invited to observe and assist the work of the MTConnect Technical Advisory Group by providing input and perspectives on the needs of users, rather than developers, of MTConnect-compliant products, and will not ordinarily provide Contributions or comment on specific technical solutions or content for draft MTConnect Specifications or MTConnect Materials. An Observer may nonetheless choose to volunteer a technical Contribution for incorporation into or modification of the content of a Specification, draft Specification, or other MTConnect Materials. If so, the Observer shall either (1) agree to abide by the terms of this IP Policy and accept the rights and obligations of a Participant; or (2) make a specific and binding commitment to offer comparable licensing terms to all Implementers covering its Necessary Claims, with respect to that particular Contribution, but only that Contribution. AMT, the MTConnect Institute, the MTConnect Technical Advisory Group, the Technical Steering Committee, and Drafting Committees shall not accept or consider that Contribution unless the Observer has agreed to the IP Policy as a Participant or made such a binding commitment satisfactory to the Chair of the Technical Advisory Group.

- (c) Contribution Limits. No Participant or any other contributing party shall knowingly make a Contribution that (a) infringes intellectual property rights that it does not have the right to license as required by this IP Policy (including intellectual property rights of an Excluded Affiliate), or that violates the copyright or trade secret rights of any unaffiliated party or Excluded Affiliate, or (b) that would require any implementing product to be disclosed or distributed in source code form, licensed for the purpose of making derivative works, or distributed at no charge.
- 2.3. Contributions Not Confidential. All Contributions and other information disclosed by any Participant or any other contributing party shall be considered nonconfidential. Neither the MTConnect Institute, the MTConnect Technical Advisory Group nor any Participant or Observer shall have any obligation to treat such information as confidential, except as provided in Section 2.4 below, and shall be free to disclose such Contributions to each other and any third parties.
- 2.4. Confidential Treatment of Works-in-Progress. Draft Specifications or other work-in-progress MTConnect Materials that are designated as “confidential” by the Steering Committee shall be treated as confidential and disclosed only to other Participants, Observers, MTConnect Consultants, AMT and MTConnect Institute staff or personnel working on behalf of MTConnect Institute, until the Technical Steering Committee has published or approved the document for disclosure or release to the public.
- 2.5. Public Comment and Feedback. As provided in the Technical Work Procedures, the Technical Steering Committee may release particular versions or portions of draft Specifications on the MTConnect web site for review and comment or feedback by the general public. MTConnect Institute, AMT, the MTConnect Technical Advisory Group, the Technical Steering Committee, and Drafting Committees shall not accept or consider public comments, submissions or feedback of any kind unless (i) the public comment is submitted in writing (including electronic writing), and (ii) the proposing party has agreed to the terms and conditions set forth on the MTConnect web site, or has instead agreed in writing to be bound by all of the obligations of Participants in this IP Policy.
- 2.6. Participants and Excluded Affiliates. At the time a prospective Participant submits an application to join MTConnect, it may identify one or more entities, which would otherwise be an Affiliate of that Participant, that it wishes to have designated an Excluded Affiliate. The MTConnect Board of Directors shall determine, on a case-by-case basis, whether designation of the identified entity or entities as an Excluded Affiliate is consistent with and will further the goals and purposes of MTConnect as stated in the Preamble to this IP Policy. A designated entity shall be an Excluded Affiliate upon written approval of the MTConnect Board of Directors; provided that, if at any time the Excluded Affiliate asserts, in court or otherwise, that any implementation of the MTConnect Specification by any Implementer or Participant infringes any Necessary Claims that it owns or controls as a basis to block or obtain royalty payments with respect to that implementation, the Participant that designated that Excluded Affiliate shall automatically lose all license rights, past or future, under Section 5.1 to implement the MTConnect Specification in a product, and its rights to continue as a Participant shall be terminated.

### **3. Ownership and Copyright**

- 3.1. Ownership and Copyright in Specifications and MTConnect Materials. AMT shall own the copyright in Specifications and other MTConnect Materials developed by the MTConnect

Institute, the MTConnect Technical Advisory Group, the Technical Steering Committee, any Drafting Committee, or by any contractors or consultants performing work for AMT, the Technical Steering Committee and/or the MTConnect Technical Advisory Group, subject only to the underlying rights in Contributions as described in Section 3.2 below. AMT may in the future contribute the MTConnect Specifications and other MTConnect Materials to the MTConnect Institute or another appropriate standards organization that will take over administration and further development, and for that purpose AMT may transfer, assign, contribute or license its copyright, in whole or in part, to that organization.

- 3.2. Contribution Ownership and License. Each Participant shall own the copyright in Contributions it makes, and copyright in Contributions developed jointly by more than one Participant shall be owned jointly by the contributing parties, without any obligation of accounting to each other or to other Participants. Participants shall grant to AMT a nonexclusive, worldwide, perpetual, irrevocable, royalty-free, copyright license, with the right to sublicense, to use, disclose, copy, reproduce, perform, display, publish, license, modify, create derivative works of, and otherwise distribute and exploit the Contribution for purposes of developing, distributing and promoting Specifications and MTConnect Materials, including drafts and works-in-progress, and any other purpose reasonably related to the MTConnect Materials or MTConnect. The right to sublicense shall include any rights necessary to enable AMT, at its discretion, to transfer, assign, contribute or license its copyright in MTConnect Materials, to another organization that will take over administration and development of the MTConnect Specification and other MTConnect Materials.

#### **4. IP Review and Disclosure**

- 4.1. Intellectual Property Review Period. To assure that the Technical Steering Committee, the Technical Advisory Group and all Participants have adequate opportunity to review proposed specifications for technical merit and for intellectual property matters, the Technical Steering Committee shall present any draft Specification to the Technical Advisory Group a minimum of 90 days (“Review Period”) before the Technical Advisory Group takes final action, by majority vote, to approve it for publication as a final MTConnect Specification. The Technical Steering Committee shall provide written notice of a Review Period to the Technical Advisory Group and to each Participant that shall (a) include a copy of, or links or other directions to access, a complete draft of the Specification considered for adoption; (b) state the dates on which the Review Period begins and ends; and (c) specifically refer to this IP Policy and the review and disclosure obligations of this Section.
- 4.2. Review and Disclosure Obligations. Before the end of the Review Period, each Participant shall disclose to the Technical Steering Committee and Technical Advisory Group any claims of patents or patent applications that it or its Affiliates own or control, and any claims of patents or patent applications of its Excluded Affiliates, that are personally known to the individuals acting on behalf of Participant in MTConnect work and that, in the judgment of Participant, would likely be Necessary Claims if the draft were to become a final MTConnect Specification. No Participant or individual representative shall be required to conduct a patent search for that purpose, however. Participants and their representatives shall act in good faith to meet the disclosure obligations of the IP Policy, and no Participant shall intentionally isolate its representatives from potentially relevant patent information to avoid disclosure under this IP Policy.

- 4.3. Excluded Claims. During the Review Period, a Participant may identify Excluded Claims that it expects to license on reasonable and non-discriminatory terms, but with the possibility of royalty, pursuant to Section 5.1(b). Participant must designate any such Excluded Claims, and disclose all information required by this Section, before the end of the designated Review Period; any Necessary Claims not timely disclosed shall be subject to the default royalty-free licensing obligations of Section 5.1(a). A Participant may not designate as Excluded a claim that is infringed only by reason of the Participant's own Contribution(s).

The Participant's disclosure statement to the Technical Steering Committee must specifically identify the patent or published patent application containing the Excluded Claim(s) and the portions of the proposed Specification that Participant believes would infringe the Excluded Claim(s). In the case of unpublished pending patent applications, the Member must only identify with reasonable particularity the sections or portions of the specification that the Member believes would be infringing if implemented, and is not required to disclose confidential information concerning its patent application. The disclosure statement may, if the Participant chooses, state the principal license terms, including royalty terms, that the Participant expects to offer pursuant Section 5.1(b).

The Technical Steering Committee, with the advice of the Technical Advisory Group, may at its discretion take any action that it deems necessary or desirable to amend or revise the proposed Specification to avoid the infringement of Excluded Claims disclosed during the Review Period or at any other time, but it is not required to do so. If such action is taken, the revised Specification shall be released for a new Review Period before final approval by the Technical Advisory Group and publication by the Technical Steering Committee.

## 5. Minimum Patent Licenses

- 5.1. Patent Licensing Obligation. Effective upon adoption and publication by the Technical Steering Committee, following approval by the Technical Advisory Group, of a final Specification, and subject to Section 7 (withdrawal and survival), each Participant and its Affiliates, and each other party subject to this IP Policy, shall grant to any Participant (but not to any Excluded Affiliates) and any MTConnect Implementer, upon request, licenses to its Necessary Claims as follows:

- (a) Default royalty-free RAND licensing. A nonexclusive, worldwide license to its Necessary Claims, royalty-free and under otherwise reasonable and non-discriminatory (RAND) terms, solely to make, have made, use, import, offer to sell, sell and otherwise distribute and dispose of products, whether hardware or software, that comply with all relevant required portions of that MTConnect Specification; provided that, such agreement need not extend to any part or function of a product that is not required for compliance with the Specification, including optional reference implementations or other implementation examples (i.e., examples that may be included in the text of a Specification and which illustrate how the Specification could be properly implemented), and need not extend to Necessary Claims for which a grant of such license would require payment of royalties or other consideration to unaffiliated parties.
- (b) RAND Licenses with the Possibility of Royalty. Solely as to Excluded Claims timely disclosed as required by Section 4.3, and solely as to portions of the Specification



not based on the Participant's own Contributions, a license of the same scope as set forth in 5.1(a) above and likewise on reasonable and non-discriminatory (RAND) terms, but with the possibility of royalty payments not to exceed the maximum amount stated in the disclosure statement made during the Review Period pursuant to Section 4.3; provided, however, that the license may impose royalties only to the extent that the Excluded Claim is infringed by an implementation of some portion of the Specification that is not based on the Participant's own Contributions. Each Participant shall grant a royalty-free license as defined in 5.1(a) above for any Necessary Claim, whether or not designated as an Excluded Claim, to the extent that the claim is or would be infringed by an implementation of any portion of the Specification that is based on or incorporates the Participant's own Contribution(s).

- 5.2. Reciprocity. A Participant shall have no obligation to grant licenses or license rights under this IP Policy to or for the use of any Participant, any MTConnect Implementer, or any other party, including to any Excluded Affiliate of another Participant, if that party does not make available a reciprocal patent license to its own Necessary Claims of the same purpose and scope, by means of an MTConnect Implementer License Agreement or otherwise, to all Participants and to all other MTConnect Implementers. As further clarification, and for avoidance of doubt, if at any time an Excluded Affiliate asserts, in court or otherwise, that any implementation of the MTConnect Specification by any Implementer or Participant infringes any Necessary Claims that it owns or controls as a basis to block or obtain royalty payments with respect to that implementation, the Participant that designated that Excluded Affiliate shall automatically lose all license rights, past or future, under Section 5.1 to implement the MTConnect Specification in a product.
- 5.3. Transfer. Any transfer or assignment by a Participant or other party subject to this IP Policy, or its Affiliates, to a third party of a patent having Necessary Claims shall be made subject to the licensing obligations of this Section.
- 5.4. No other license. No Participant or other party shall be required to grant, or entitled to receive, any patent license or right or license, by implication, estoppel or otherwise, except as expressly provided by this IP Policy. Participants retain the independent right to grant or withhold other non-exclusive licenses of patents containing Necessary Claims to any party on such terms as Member may determine.

## 6. Trademark

- 6.1. Trademark. AMT may adopt and shall own MTConnect trademarks, and each may take steps to protect its rights in such trademarks. Participants and MTConnect Implementers shall have no right to use AMT or MTConnect trademarks except under license or under other conditions as AMT may establish.
- 6.2. Use of Name and Trademarks. No Participant, MTConnect Implementer or any other party may identify any product or service as being sanctioned by, sponsored by or associated with MTConnect Institute or AMT except in accordance with policies and procedures which MTConnect Institute and/or AMT may each establish, including, but not limited to, policies and procedures that require passing Compliance Tests as a condition of so identifying any product or service.

## 7. Withdrawal and Survival

- 7.1. Termination. The Technical Advisory Group may terminate a Participant's rights to continue as a Participant for the reasons and under the procedures specified in the Technical Work Procedures.
- 7.2. Withdrawal and disclosure. At any time, a Participant may withdraw from the MTConnect Institute and future participation in MTConnect development by providing written notice, including writing in electronic form, to the Technical Advisory Group. Such withdrawal shall become effective upon delivery of the notice. The withdrawal notice shall provide the Technical Advisory Group a disclosure statement of the scope defined in Section 4 above identifying any of the Participant's patents or patent applications that are personally known to the Participant's representative and that, in the judgment of the Participant, contain Necessary Claims with respect to any draft Specification then under development or consideration. Nothing in this Section or this IP Policy shall impose any duty or obligation for any Member or Representative to conduct any patent search, however.
- 7.3. Survival of licensing obligations. The patent licensing obligations under Section 5.1 of a terminated or withdrawing Participant shall survive termination or withdrawal with respect to:
- (a) any MTConnect Specification adopted and approved for publication by the Technical Steering Committee and the Technical Advisory Group, prior to the Participant's termination or withdrawal (and including technical revisions or updates thereto);
  - (b) any MTConnect Specification, whenever adopted or published, to the extent that it includes or incorporates an MTConnect Specification, or portion thereof, published prior to the Participant's withdrawal or termination;
  - (c) any portions of any MTConnect Specification, whenever adopted or published, that incorporate or are based on the withdrawing or terminated Participant's own Contribution(s); and
  - (d) with respect to a withdrawing (but not terminated) Participant, any MTConnect Specification that had been released by the Technical Steering Committee in substantially similar form for a Review Period as specified in Section 4.1 prior the Participant's withdrawal.

## 8. Limitations and Disclaimers

- 8.1. No Obligation. AMT and MTConnect Institute have no responsibility to identify Necessary Claims which may relate to a Specification, or to determine the legal validity or scope of Necessary Claims brought to their attention. Each MTConnect Implementer is responsible for securing its 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 have any obligation to secure any such rights.
- 8.2. No Indemnification. AMT and MTConnect Institute do not provide and do not owe any duty of indemnification with respect to any use of Contributions, MTConnect Materials or Specifications, including drafts or works-in-progress, nor does any Participant owe any such duty to MTConnect Institutes, AMT or to other Participants by reason of this Policy.

- 8.3. DISCLAIMER OF WARRANTY. ALL CONTRIBUTIONS, MTCONNECT MATERIALS AND SPECIFICATIONS, INCLUDING DRAFTS AND WORKS-IN-PROGRESS, AND ALL OTHER MATERIALS PROVIDED BY AMT, MTCONNECT OR ANY PARTICIPANT TO ANY PARTY ARE PROVIDED “AS IS” AND WITHOUT ANY WARRANTY OF ANY KIND. MTCONNECT INSTITUTE, AND ITS OFFICERS, DIRECTORS, AFFILIATES, SPONSORS, AND AGENTS (COLLECTIVELY, THE “MTCONNECT INSTITUTE PARTIES”); AMT AND ITS RESPECTIVE MEMBERS, OFFICERS, DIRECTORS, AFFILIATES, SPONSORS, AND AGENTS (COLLECTIVELY, THE “AMT PARTIES”); AND/OR PARTICIPANTS MAKE NO REPRESENTATION OR WARRANTY OF ANY KIND WHATSOEVER RELATING TO THESE MATERIALS, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTY OF NONINFRINGEMENT, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.
- 8.4. LIMITATION OF LIABILITY. IN NO EVENT SHALL AMT, MTCONNECT INSTITUTE OR ANY AMT OR MTCONNECT INSTITUTE PARTY, OR AMT OR ANY AMT PARTY, OR ANY PARTICIPANT BE LIABLE TO ANY PARTICIPANT OR THIRD PARTY OR TO THE MTCONNECT PARTIES OR THE AMT PARTIES FOR THE COST OF PROCURING SUBSTITUTE GOODS OR SERVICES, LOST PROFITS, LOSS OF USE, LOSS OF DATA OR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL OR PUNITIVE DAMAGES OR OTHER DIRECT DAMAGES, WHETHER UNDER CONTRACT, TORT, WARRANTY OR OTHERWISE, ARISING IN ANY WAY OUT OF MTCONNECT PARTICIPATION OR ACCESS, USE OR INABILITY TO USE MTCONNECT MATERIALS, WHETHER OR NOT SUCH PARTY HAD ADVANCE NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.
9. **Amendment of IP Policy.** This IP Policy may be amended from time to time by approval of AMT and the MTConnect Institute Board of Directors. Any such amendment shall not become effective until 45 days after notice of the amendment is given in writing to Participants and other parties subject to the IP Policy, and such amendment shall not apply to, and will have no effect upon, any Participant or other such party that gives timely notice in writing to the MTConnect Institute of its withdrawal and disclosure, pursuant to Section 7.2, before the amendment becomes effective at the end of this 45-day period.