



MTS Systems Corporation

Professional Services Agreement

1. GENERAL; ACCEPTANCE. This Professional Services Agreement ("Agreement") is entered into between MTS Systems Corporation ("MTS") with its principal location at 14000 Technology Drive, Eden Prairie, MN 55344, and Rodney Larson DBA Far East Controls LLC with its principal location at PO Box 44847, Eden Prairie MN 55344, ("Contractor") on June 4th, 2012 ("Effective Date"). All purchase orders, statements of work, or other orders for Services ("Order") furnished by MTS or its subsidiaries are conditioned upon Contractor's acceptance of the terms and conditions set forth herein. This Agreement constitutes the entire agreement of the parties and supersedes all other agreements and undertakings, whether written or oral, between the parties with respect to the subject matter of this Agreement. MTS hereby rejects the inclusion of any different or additional terms proposed by Contractor, including those contained on any purchase order or similar document proposed or delivered by Contractor.

2. SERVICES. Contractor shall provide to MTS certain services in accordance with an Order ("Services") which will be incorporated as part of this Agreement.

3. TERM AND TERMINATION. The term of this Agreement commences on the Effective Date. Either party may terminate this Agreement with fifteen (15) calendar days' notice to the other party. MTS may terminate this Agreement immediately upon written notice if Contractor acts in a manner harmful to MTS. Contractor shall immediately cease performing any Services under this Agreement and shall not bill further unless pre-approved by MTS in writing.

4. FEES. MTS will pay Contractor for Services rendered, on a Time & Materials basis, pursuant to this Agreement, and detailed Statement Of Work (SOW), payable within fifteen (15) days of receipt of an undisputed, itemized invoice along with any other supporting detail requested by MTS relating to the Order. Such detail will, at a minimum, include the MTS purchase order number, a project description or title, and hours and date(s) worked for each project. Contractor shall submit an invoice to MTS on a monthly basis) OR (and applicable Order for Services)>. If MTS disputes any part of the invoice, MTS is entitled to withhold payment of that portion of the invoice until the dispute is resolved. Any such dispute shall be considered a priority for both Contractor and MTS and efforts shall be used to resolve the dispute expeditiously. Pending resolution of the dispute, Contractor shall continue to perform the Services in the manner required by this Agreement and any Order. Payment to Contractor shall not constitute or imply acceptance by MTS of Contractor's Services. Services will be assumed to have been rendered to and accepted by MTS within thirty (30) days of the conclusion of the Contractor's Services unless MTS provides notice in writing to the Contractor that such Services were considered by MTS as unsatisfactory and Contractor shall have fifteen (15) days to cure said unsatisfactory work.

5. EXPENSES. Contractor shall supply all equipment, materials, and supplies necessary to perform the Services. MTS shall not be liable to Contractor for any expenses paid or incurred by Contractor unless otherwise agreed to in writing.

6. INTELLECTUAL PROPERTY RIGHTS; WORK PRODUCT.

6.1 "Intellectual Property" means all works, including but not limited to graphic works, architectural works, works of visual art and any other work that may be the subject of copyright protection; information, formulae, designs, models, drawings, computer programs, computer software, systems, programs, data, documentation, design specifications, flowcharts, ideas, know-how, trade secrets and any inventions, including all processes, machines, manufactures and compositions of matter and any other invention that may be the subject of patent protection and all intellectual property rights and statutory protection relating to any of the foregoing.

6.2 All Intellectual Property authored, prepared, created, made, delivered, conceived or reduced to practice, in whole or in part, by Contractor or individuals provided by it in the course of providing the Services or which involved the use of information, materials or facilities of MTS ("Work Product"), are the sole and exclusive property of MTS and shall be considered works made for hire. To the extent any such Work Product does not fall within the specifically enumerated works that constitute works made for hire under the United States copyright laws, Contractor hereby irrevocably, expressly and automatically assigns all right, title and interest worldwide in and to such Work Product to MTS, including without limitation all copyrights, patent rights, trade secrets, trademarks, moral and artist's rights and all other applicable proprietary and intellectual property rights to the Work Product. Contractor shall not be required to assign all concepts, ideas, materials, proposals, prototypes, advertising and promotional material, copy, graphics, themes, strategies, inventions, computer software programs, files, specifications, and any documentation which are conceived, made, proposed, or developed by Contractor or its Subcontractors, that was developed entirely on its, his, or her own time and without the use of any of MTS' equipment, supplies, facility, know how, or information and: (1) does not relate to the business of MTS' actual or anticipated business, production, products, research or development; or (2) does not result from any MTS work performed by Contractor or its Subcontractors. MTS may reproduce, create derivative works of, publicly perform and publicly display the Work Product in any medium or form, whether now known or later developed, use, offer for sale, sell, translate, distribute, loan, lease, export and import products utilizing such Work Product. Contractor will promptly disclose to MTS all such Work Product and shall execute all such documents and perform such other acts as requested by MTS to secure or enforce statutory protection for such Work Product, including patent, trademark, trade secret or copyright protection.

6.3 If MTS is unable to secure Contractor's signature on any documents deemed necessary by MTS to carry out the

purposes of this section 6, Contractor hereby irrevocably designates and appoints MTS and its designee(s) as Contractor's agent and attorney-in-fact, which appointment is coupled with an interest to act for and in Contractor's behalf to execute, verify and file any such documents.

6.4 Contractor will not provide MTS with any designs, plans, models, samples, software, integrated circuits, reports or other writing or product which Contractor either knows or has reason to believe are covered by any patent, copyright or other form of intellectual property right of a third party.

7. WARRANTY. Contractor represents and warrants that (a) Contractor has the experience and ability to perform the Services with a high standard of quality and consistent with the applicable professional standards of care; (b) the Services will be performed in a workmanlike and professional manner; (c) is not knowingly utilizing any patents, trade secrets or other proprietary rights or intellectual property of another party in providing Services contemplated by this Agreement; and (d) Contractor has the right and unrestricted ability to assign the Work Product to MTS as set forth in section 6 (including without limitation the right to assign any Work Product created by Contractor's employees or subcontractors).

8. CONFIDENTIAL INFORMATION.

8.1 "Confidential Information" as used in this Agreement means any and all proprietary information that is disclosed by MTS to Contractor, including, but not limited to, matters of a technical nature such as trade secret processes or devices, techniques, data, formulas, inventions (whether or not patentable), specifications and characteristics of products planned or being developed, and research subjects, methods and results; matters of a business nature such as information about costs, margins, pricing, markets, sales, customers, product plans and marketing plans or strategies; and other information of a similar nature that is not generally disclosed by MTS to the public.

8.2 Confidential Information expressly includes (a) information disclosed as a result of the parties' discussions, and that which should reasonably have been understood by Contractor, because of legends or other markings, the circumstances of disclosure, or the nature of the information itself, to be proprietary and confidential to MTS; (b) any and all information inherent in the Confidential Information, including information made available to MTS by third parties that MTS is required to maintain confidential; (c) the existence and terms of this Agreement; and (d) any and all information derived from the Confidential Information. Confidential Information may be disclosed in written or other tangible form (including on magnetic media) or by oral, visual or other means.

8.3 Contractor's obligations under this Agreement expire five (5) years from the termination date of this Agreement. Notwithstanding the above, Contractor's obligations regarding Confidential Information that constitutes trade secrets (as defined by the Uniform Trade Secrets Act) shall not expire or terminate until such Confidential Information ceases to be a trade secret for 15 years.

8.4 This Agreement imposes no obligation upon Contractor with respect to information that (a) is or becomes a part of the public domain without breach of this Agreement, however, the

act of copyrighting shall not be deemed to be placing the copyrighted material in the public domain; (b) was known to it or in Contractor's possession before receipt from MTS and was not acquired, directly or indirectly, from MTS; (c) is received in good faith by Contractor from a third party without a duty of confidentiality; (d) is disclosed by MTS to a third party without restrictions similar to those contained herein; or (e) is developed by or for Contractor without use of the Confidential Information.

8.5 Except as may be authorized by MTS in writing, Contractor will (a) copy the Confidential Information only as reasonably required to provide the Services; (b) not disclose or otherwise make available the Confidential Information to any third party except as permitted under this Agreement; (c) not reverse engineer, decompile or disassemble any computer program included in the Confidential Information; (d) not remove or obliterate markings on Confidential Information indicating its proprietary or confidential nature; (e) not use any Confidential Information to design, develop, provide or market any product or service that would compete with any product or service of MTS. At MTS's option and upon its request, Contractor will either destroy or promptly return to MTS all materials which comprise Confidential Information and any copies.

9. INDEMNIFICATION. Each Party agrees that they will be responsible for their own acts and the results thereof and shall not be responsible for the acts of the other Party and the results thereof. Each Party therefore agrees that it will assume all risk and liability to itself, its agents, or employees for any injury to persons or property resulting in any manner from conduct of its own operations and the operations of its agents, or employees under this Agreement, or for any loss, cost, damage, or expense due to any act or acts, negligence or the failure to exercise proper precautions, or by itself or its own employees, while occupying or visiting the premises under and pursuant to this Agreement, EXCEPT FOR ANY LOSS, COST, DAMAGE, OR EXPENSE ARISING OUT OF THE NEGLIGENT ACTS OR OMISSIONS OF THE OTHER PARTY.

10. STANDARDS OF CONDUCT. Contractor acknowledges receipt of a copy of MTS's Code of Business Conduct (the "Code") located at <http://www.mts.com/en/about/terms/index.htm> and will conduct itself and otherwise perform the Services consistent with that Code. Contractor will notify MTS General Counsel/Chief Compliance Officer at 952.937.4286 promptly if Contractor becomes aware of any conduct inconsistent with the Code.

11. LIMITATION OF LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR OTHER DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFIT) WHETHER OR NOT THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS. EACH PARTY'S LIABILITY UNDER THIS AGREEMENT IS LIMITED TO THE FUNDED VALUE OF THIS AGREEMENT FOR THE SPECIFIC WORK PRODUCT OR SERVICE THAT GIVES RISE TO THE CLAIM. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THESE LIMITATIONS AND EXCLUSION WILL APPLY REGARDLESS OF

WHETHER LIABILITY ARISES FROM BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE) BY OPERATION OF LAW, OR OTHERWISE.

12. INDEPENDENT PARTY.

12.1 Contractor's relationship with MTS is that of an independent contractor, and nothing in this Agreement shall be construed as creating any other relationship. Contractor is not authorized to make any representation, contract or commitment on behalf of MTS. Contractor will secure, at Contractor's sole cost, worker's compensation insurance, disability benefits insurance, and any other insurance required by law. MTS will not provide, nor will it be responsible to pay for, employee benefits to Contractor or employees of Contractor. Contractor acknowledges and agrees to pay all required taxes, whether federal, state or local in nature, including, but not limited to, income taxes, FICA, payroll or self employment taxes, unemployment compensation taxes, and any other fees, charges, licenses, or other payments required by law on any compensation paid by MTS to Contractor pursuant to this Agreement. Contractor hereby waives any right to bring a claim or action against MTS or any of its affiliates as to entitlement to any employee benefits with respect to periods of performance hereunder.

12.2 Contractor retains the sole and exclusive right to control and direct the manner or means by which the Services are performed under this Agreement, provided that Contractor at all times complies with this Agreement and shall not misrepresent MTS or its services, nor alter or extend the scope of the Services without MTS's prior written consent. MTS may require reports from Contractor regarding the Services and may review Contractor's work to the extent necessary to assess Contractor's compliance with this Agreement.

13. **SEVERABILITY.** If any provision of this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby, unless the deletion of such provision or provisions results in such a material change so as to cause completion of the transactions contemplated herein to be unreasonable.

14. **ASSIGNMENT; NO WAIVER; AMENDMENTS.** Contractor may not assign this Agreement or any of its rights or obligations hereunder without MTS's prior consent and any assignment without such consent shall be null and void. Subject to the foregoing, this Agreement will be for the benefit of MTS's successors and assigns, and will be binding on Contractor's assignees. A waiver of any default hereunder or of any term or condition of this Agreement shall not be deemed to be a waiver of any other default or any other term or condition. This Agreement may only be amended or modified in a writing signed by the parties.

15. **NOTICES.** All notices and other communications relating to this Agreement, including consents, shall be in writing and shall be addressed to Contractor or MTS at the addresses set forth in section 1 and shall be considered given when (a) delivered personally; (b) sent by confirmed facsimile or email; (c) sent by commercial overnight courier with written verification receipt; or (d) three (3) days after having been sent, postage prepaid, by certified mail.

16. **SURVIVAL OF OBLIGATIONS.** The rights and obligations contained in sections 6, 7, 8, 9, and 11 will survive any termination or expiration of this Agreement.

17. **COUNTERPARTS.** This Agreement may be executed in one (1) or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument.

18. **GOVERNING LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota, excluding its conflict of law rules. Courts sitting in the Hennepin County of Minnesota will have exclusive jurisdiction and venue over all controversies arising out of or relating to this Agreement and the parties agree to the personal jurisdiction of such courts.

19. **COMPLIANCE WITH LAWS.** Contractor shall (a) comply with all applicable laws, regulations, rules or orders in connection with its performance hereunder; (b) not maintain any facilities that are segregated on the basis of race, color, religion, sex, or national origin and; (c) obey all applicable equal employment opportunity and affirmative action laws, regulations, and policies.

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

MTS Systems Corporation:

By _____
Signature

Printed Name

Title

Date

Rodney Larson DBA Far East Controls LLC:

By _____
Signature

Printed Name

Title

Date