

ISASecure-212
ISA Security Compliance Institute (ISCI)
Application and Contract for Inspection Bodies

Commencement Date: Day Month Year

LICENSOR:

Automation Standards Compliance Institute
3252 South Miami Boulevard Suite 102
Durham, NC 27703 USA
Tel: +1 (984) 514-9634
ISASecure@isa.org

LICENSEE:

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ISASecure®

Applicant and Licensee Information:

Name of Organization:	
Location of Organization's Main Office:	
Organization's web site:	
Location of Testing Laboratory, if different:	
List other Locations performing inspection and testing related to this Program:	(attach sheet)
Primary Contact Name,	
Telephone number,	
and Email:	
Secondary Contact Name,	
Telephone number,	
and Email:	
Accreditation body selected ¹ :	

¹ To be recognized as an inspection body for the ISASecure ACSSA program, an organization SHALL attain accreditation granted by an accreditation body that is a signatory to the Global Accreditation Cooperation Incorporated Multilateral Recognition Arrangement. Refer to ISASecure ACSSA-200 for more information.



WHEREAS

- (A) The LICENSOR operates as an international conformity assessment scheme owner for cybersecurity of automation and control systems under the ISASecure® brand.
- (B) The LICENSEE operates conformity assessment programs for international standards.
- (C) LICENSOR and LICENSEE wish to enter into this agreement to facilitate evaluation of products, systems, and processes in accordance with the ISASecure® program requirements and specifications.
- (D) Parties wish to proceed using the terms and conditions made in this agreement.

A. SCOPE

The scope of the ISASecure® program(s) for which the inspection body (IB) is applying includes:

- 1) **ACSSA** - ISASecure Automation Control System Security Assurance (ACSSA) certification approved by ISCI. The accreditation program is defined in the ISASecure document ACSSA-200 (latest version), and the certification program is defined in ISASecure document ACSSA-300 (latest version). ISASecure ACSSA documents (designated in this agreement by their numbers as “ACSSA-*nnn*”) are available at the website, <https://isasecure.org>, hereafter referred to as the ISASecure website.

The above-mentioned ISASecure® programs described in number 1 above shall hereinafter collectively be referred to as the **Program**.

B. OBLIGATIONS

- 1) The **Program** includes certain data, information and material and associated trademarks and certificates owned by the LICENSOR.
- 2) The LICENSOR is the sole legal and beneficial owner of the **Program**. Nothing in this agreement transfers ownership of the Programs to LICENSEE in any fashion.
- 3) The LICENSEE shall acquire worldwide, revocable non-exclusive rights to inspect records, processes, systems, and organizations for security assurance using the **Program**.
- 4) The LICENSOR has agreed to grant the LICENSEE the non-exclusive rights as set forth in #3 directly above.
- 5) This agreement shall commence on the latest date this agreement is signed below and continue for 2 years. After the expiration of this initial term, this agreement shall automatically renew annually unless terminated in accordance with Section M of this agreement.

C. DEFINITIONS



ISASecure®

In this agreement, LICENSEE and LICENSOR jointly are also referred to as **Parties** and each individually as **Party**.

D. GRANT of LICENSE

- 1) It is a condition precedent to the grant of the License that the LICENSEE undergo evaluation by a LICENSOR designated Global Accreditation Cooperation Incorporated (formerly IAF/ILAC) recognized accreditation body with scope, outcome, and timeline per the requirements stated in ISASecure accreditation document(s).
- 2) The LICENSEE must issue only the inspection report(s) and cover letters designed by Automation Standards Compliance Institute for the use in the **Program**. The LICENSOR provides the format for the inspection report(s) along with the ISASecure symbol, on the ISASecure website in the ACSSA-204 use of symbols specifications (latest version).
- 3) LICENSEE's Auditors shall complete the ISA IC-49 training course as specified in ISASecure document ACSSA-200. LICENSOR shall provide discounted tuition to the LICENSEE at the ISASecure member rate.
- 4) The Intellectual Property shall at all times be the property of the LICENSOR and no consideration shall be payable by either the LICENSEE or the LICENSOR for the new or existing Intellectual Property. The Intellectual Property is subject to the License granted to the LICENSEE hereunder and shall be covered by the provisions of this agreement.
- 5) Subject to satisfaction of the condition in clause D.1 of this agreement and in consideration for the payment to be made under Clause K of this agreement, the LICENSOR hereby grants to the LICENSEE and the LICENSEE hereby accepts a non-exclusive, revocable, non-transferable and non-assignable license for the sole purpose of performing the ISASecure inspection service under the terms and conditions set forth in this agreement (**License**.)

E. LICENSEE'S COVENANTS, REPRESENTATIONS AND WARRANTIES

The LICENSEE shall:

- 1) Exercise reasonable commercial efforts to provide inspection services subsequent to becoming an accredited inspection body and to arrange for adequate financing and professional management for the provision of meeting the requirements of the **Program**.
- 2) Maintain accreditation and perform inspection activities as required by the **Program** (ACSSA-200, and the documents it references).
- 3) Exercise its rights under the License and deliver the **Program** in accordance with the ISASecure program specification document(s) ACSSA-300.
- 4) Use reasonable commercial efforts to meet the **Program** requirements.
- 5) Use the certification trademark symbol in accordance with this agreement and the conditions outlined in the ISASecure symbol usage document(s) ACSSA-204.



- 6) Pay its own costs for all printing, artwork, production of electronically stored information and any other such costs for any material used, sold, and distributed by the LICENSEE in relation to promoting the **Program**.
- 7) Not make any statement in promotional materials or other material or to any person with respect to the **Program** which is a misrepresentation, or which breaches any applicable law.
- 8) Not create, derive, or establish a competing automation control system security assurance inspection scheme or certification scheme.

The LICENSEE acknowledges and agrees that:

- 9) The LICENSEE shall have no right to enter into any agreement on behalf of the LICENSOR.
- 10) Notwithstanding anything herein to the contrary, the LICENSOR may at its own discretion amend or vary the **Program** requirements at any time and for any reason whatsoever and the amended or varied **Program** requirements will form part of this agreement without unnecessarily interrupting or degrading, given that the ISASecure **Program's** functionality.
- 11) The LICENSOR may appoint third parties to also provide the **Program** and the LICENSOR has made no representations to the LICENSEE, and has made no representations and has provided no warranty as to the commercial profitability or success of the LICENSEE in providing the **Program**, other than as set out in this agreement.
- 12) Neither LICENSOR nor LICENSEE will provide information to external parties or the public regarding individual inspections. The LICENSOR may include references to the LICENSEE and the LICENSEE's Clients, who have obtained inspection, upon receiving written permission from the LICENSEE's Clients.

Regarding Intellectual Property, the LICENSEE acknowledges and agrees that:

- 13) Except for the rights described herein, nothing in this agreement confers upon the LICENSEE any Intellectual Property Rights as a result of the provision of the **Program** by the LICENSEE or otherwise, and:
 - (a) the Intellectual Property and all Intellectual Property Rights are and shall remain the sole property of the LICENSOR and neither the LICENSEE nor any of the related parties, employees, consultants, contractors, agents, or auditors shall at any time or in any way whatsoever dispute the validity of any Intellectual Property Rights or the LICENSOR's ownership of the Intellectual Property and shall not assist any third party to so dispute them;
 - (b) the LICENSEE will not cause or permit anything to be done which may damage or endanger the Intellectual Property or the Intellectual Property Rights;



- (c) the LICENSEE has no claim whatsoever to any rights of ownership in the Intellectual Property or the Intellectual Property Rights and warrants that no such claim will be made in the future unless by agreement with the LICENSOR; and
- (d) the LICENSEE shall not have the right to authorize or sub-license any person or entity to market or sell the **Program** or the Intellectual Property or the Intellectual Property rights to any third party.
- (e) The LICENSEE shall not include Intellectual Property, in whole or in part, in any LICENSEE work products that are used for purposes other than to support the requirements of this agreement.

F. LICENSOR'S COVENANTS, REPRESENTATIONS AND WARRANTIES

The LICENSOR shall provide:

- 1) via the ISASecure website, as of the Commencement Date, the **Program** technical requirements necessary to enable the LICENSEE to perform the inspection of the items in accordance with the requirements of the **Program** and this agreement; and
- 2) at a charge determined by the LICENSOR, such assistance and support as the LICENSEE may reasonably require to acquire knowledge relating to the delivery of the **Program**.

G. QUALITY CONTROL (MODIFICATIONS AND IMPROVEMENTS)

- 1) The LICENSEE shall not modify, amend, revise, enhance or improve any document and other materials developed, created, or provided by the LICENSOR without prior written approval of the LICENSOR.
- 2) The LICENSOR or its representative may - at its own cost and expense - at any reasonable time during the Term of this agreement make written request to inspect and audit the LICENSEE's facilities, books and records relating to:
 - (a) any audit materials;
 - (b) the LICENSEE's procedure and protocols that relate to the delivery of the **Program** requirements and;
 - (c) the LICENSEE's registered users, certificates, and reports of the **Program**;
 - (d) the quality of the LICENSEE's delivery of the **Program** and LICENSEE's conformance with this agreement.

The LICENSEE shall not unreasonably refuse such request and shall provide all reasonable assistance to the LICENSOR in making such assessment or evaluation. The LICENSEE shall pay all reasonable costs and expenses incurred by the LICENSOR for the assessment if a breach of contract is identified during the course of the assessment.



- 3) The LICENSEE shall immediately notify the LICENSOR in writing if any Related Party of the LICENSEE commences delivering the **Program** requirements in locations not specified in the application or this agreement.
- 4) The LICENSEE shall ensure that it only employs or subcontracts or otherwise engages as Auditors and CRT Testers, persons who satisfy the requirements and qualifications prescribed for these individuals in the **Program** document ACSSA-200.
- 5) The LICENSEE shall disclose the information it determines it is able to disclose without violating third party confidentiality obligations or disclosing LICENSEE's own confidential or proprietary information.
- 6) The LICENSEE shall execute all documents and declarations and do such things as may be reasonably necessary to vest in the LICENSOR the right to apply for registration for protection of the Intellectual Property of the **Program**.

H. DOCUMENTS AND RECORDS

The LICENSEE shall keep full and accurate records and reports relevant to this agreement during the Term, including but not limited to records of all registered users associated with each **Program**. The LICENSEE shall maintain all such records consistent with applicable law, and shall not share any personally identifiable or otherwise sensitive information with LICENSOR. LICENSEE shall, on LICENSOR's reasonable request, provide LICENSOR with aggregated, anonymized register-user information for LICENSOR's use in evaluating the **Program's** operation.

The accreditation body report, accreditation certificate, nonconformances (deficiencies) and LICENSEE's corrective actions must be submitted to the LICENSOR within 30 days following accreditation or accreditation renewal. These reports are to be submitted by the accreditation body to the LICENSOR. The LICENSEE must give to the accreditation body the information necessary to ensure the timely submittal of this information to the LICENSOR.

The LICENSEE shall keep and store all Client records and reports resulting from ISASecure assessments for a period of five (5) years following termination of this agreement and shall make them available to the LICENSOR for inspection upon reasonable request by the LICENSOR based on having a legitimate ground to inspect such Client records and reports (also taking into account the applicable privacy and data protection legislation and confidentiality requirements of LICENSEE and its Clients).

If LICENSOR so requests, LICENSEE shall promptly return to the LICENSOR all documents and other tangible manifestations of Confidential Information received by the LICENSEE, if any, pursuant to this agreement (and all copies and reproductions thereof) and shall also destroy all copies of any analyses, compilations, study, or other documents prepared by LICENSEE for its use containing or reflecting any Confidential Information. Notwithstanding the foregoing, LICENSOR agrees that for archival purposes and to satisfy requirements applicable to LICENSEE's business of conformity assessment, LICENSEE may retain on a



confidential basis one copy of the Confidential Information for a period of not more than ten (10) years.

I. RELIANCE; WARRANTY DISCLAIMER; LIMITATION OF LIABILITY; APPROVALS; COMPLIANCE WITH LAWS (ASSIGNMENT AND LIABILITY); GOVERNING LAW AND JURISDICTION

RELIANCE

The LICENSEE acknowledges that it has entered into this agreement in reliance upon its own examination and evaluation of the **Program** requirements and not upon any (or any alleged) statement, warranty, condition, or representation made or alleged to have been made by the LICENSOR or its employees or agents other than as contained in this agreement.

WARRANTY DISCLAIMER

THE INTELLECTUAL PROPERTY AND ALL OTHER PRODUCTS OR MATERIALS PROVIDED BY LICENSOR ARE PROVIDED AS-IS AND WITH ALL FAULTS, AND LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, OR THE PRESENCE OR ABSENCE OF ERRORS, WHETHER OR NOT DISCOVERABLE.

LIMITATION OF LIABILITY

UNDER NO CIRCUMSTANCES, EXCEPT FOR LICENSOR'S ALLEGED OR ACTUAL INFRINGEMENT OF THIRD PARTY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS TO WHICH LICENSOR WILL PROVIDE LICENSEE A FULL AND COMPLETE INDEMNIFICATION, SHALL LICENSOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL, OR PUNITIVE DAMAGES HOWEVER CAUSED AND ON ANY LEGAL THEORY OF LIABILITY, WHETHER FOR CONTRACT, TORT, STRICT LIABILITY, OR A COMBINATION THEREOF (INCLUDING NEGLIGENCE OR OTHERWISE) ARISING IN ANY WAY OUT OF THE USE OF THE INTELLECTUAL PROPERTY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH RISK AND POTENTIAL DAMAGE.

APPROVALS

The LICENSEE covenants that prior to entering into any contract, agreement or arrangement and delivering the **Program** it will be accredited to do so and it will obtain all legally necessary consents and approval from the relevant government and from all relevant statutory and other bodies (including pursuant to any exchange control regulations) to enable it to carry out its activities and perform its obligations under this agreement. The LICENSOR undertakes and agrees that whenever and wherever possible it will provide all reasonable assistance to the LICENSEE to obtain these consents and approvals at the LICENSEE's cost.



COMPLIANCE WITH LAWS

The LICENSEE and the LICENSOR shall at all times during the Term of this agreement comply with all applicable laws.

ASSIGNMENT

The LICENSEE acknowledges that the LICENSOR may, at any time, transfer or assign its rights and obligations under this agreement to other than a direct or indirect competitor of LICENSEE. In the event that LICENSEE does not wish to engage in a business relationship with the assignee party related to the matters described herein, it may terminate this agreement upon thirty (30) days' written notice. The LICENSEE acknowledges that this agreement is personal and that it will not (and will not agree to) assign all or any part of the benefit of or its interest in this agreement, without the prior written consent of the LICENSOR (which consent the LICENSOR will not unreasonably or unduly withhold) and in any event subject to the LICENSOR satisfying itself concerning the financial good standing and provisional and technical competence and reputation of the proposed assignee.

GOVERNING LAW AND JURISDICTION

This agreement is governed by and interpreted in accordance with the substantive laws of the State of North Carolina exclusive of any rules with respect to conflict of laws. With preventing any other mode of service, any document in an action (including with limitation, any writ of summons or other originating process or any third or other party notice) may be served on any Party by being delivered to or left for that Party at its address identified on the title page. The State or Federal courts in or for Wake County, in the State of North Carolina shall be the sole and exclusive forum for the resolution of any controversy or claim between the parties arising out of or relating to this agreement, or the breach thereof.

J. INDEMNITY, INSURANCE, INFRINGEMENT

- 1) The LICENSOR shall indemnify the LICENSEE, and shall defend the LICENSEE against any suits, claims or demands by any third party alleging that LICENSOR has infringed on a third party's intellectual property or breached LICENSOR'S obligations of confidentiality.
- 2) The LICENSEE shall indemnify the LICENSOR, and shall defend the LICENSOR against any suits, claims, or demands by any third party to the extent attributable to the misuse of the Intellectual Property by the LICENSEE.
- 3) Excluding materials developed and supplied by the LICENSOR (to the extent not enhanced or modified by the LICENSEE, in which event, the enhancement or modifications to such materials shall be included), the LICENSEE shall immediately give the LICENSOR written notice of and shall indemnify the LICENSOR and shall keep the LICENSOR defended against any suits, claims, or demands by any third party to the extent attributable to:
 - (a) any breach of this agreement by the LICENSEE or its auditors, or the LICENSEE's or its auditor's failure to perform any of its obligations under this agreement.



- (b) the negligence or intentional act or willful misconduct of the LICENSEE or its auditors
 - (c) any performance, non-performance, or purported performance in supplying the certification Programs by the LICENSEE or its auditors;
 - (d) any real or alleged infringement of a third party's intellectual property or proprietary rights by any information or materials created, produced, or supplied by the LICENSEE, except for materials solely created, produced, or supplied by the LICENSOR except to the extent that such suits, claims, or demands are caused by the LICENSOR's actions or inactions.
- 4) The indemnities contained in this section are continuous obligations separate and independent from the other obligations of the LICENSEE and LICENSOR and survive termination of this agreement for whatever reason.
 - 5) The LICENSEE agrees that taking out a General Liability and Professional Indemnity Insurance shall be the responsibility of the LICENSEE. The LICENSEE shall arrange and maintain a minimum coverage of not less than \$1M in respect of any one occurrence and \$2M in general aggregate for General Liability and \$1M per claim and \$2M annual aggregate for professional liability, each coverage with an insurance company rated by A.M. Best as A- or better. Upon request of the LICENSOR, the LICENSEE shall provide evidence of the existence of a General Liability and Professional Indemnity Insurance during the Term of this agreement.
 - 6) Each Party shall give immediate written notice to the other Party of any real infringement or alleged infringement of the Intellectual Property rights and/or any unauthorized dissemination or use of Confidential Information of which it becomes aware.
 - 7) If the LICENSOR identifies, commences or is involved in any proceedings for infringement of the Intellectual Property rights and/or any unauthorized dissemination or use of Confidential Information, or any part thereof, by third parties, the LICENSEE will upon request by the LICENSOR give to the LICENSOR all information in its possession, that it is reasonably able to provide, with respect to the infringement or suspected infringement (if any) and may join with the LICENSOR in bringing the said proceedings, if so requested by the LICENSOR. Costs, expenses, and attorneys' fees incurred in such proceedings shall be borne by the LICENSOR and LICENSEE in proportion to be agreed upon taking into account their respective interest in bringing the proceedings. Should the LICENSEE join pending proceedings and invite the LICENSOR to start proceedings for infringement, then costs, expenses and attorneys' fees incurred in such proceedings shall be borne by the LICENSOR and LICENSEE in proportion to be agreed upon taking into account their respective interest in bringing the proceedings. Where the LICENSEE and the LICENSOR successfully prosecute to judgment any proceedings, the costs thereof and incidental thereto and any damages recovered thereby shall be borne and shared pro rata between them in the proportions that the individual damages for loss as adjudged are to the total damages recovered by the LICENSEE and the LICENSOR unless otherwise agreed upon.

K. PAYMENT AND COSTS



- 1) The annual *membership fee* is revenue-based and prescribed on the ISASecure website. The annual membership fee must be paid by January 31 each year. If LICENSEE does not agree to pay the annual fee within 30 days of this due date, the LICENSOR may terminate this agreement, suspend the ISASecure accredited inspection body license, and terminate access to ISASecure membership websites and document repositories.
- 2) The ***Program's licensing fee*** for each inspection report shall be collected by the LICENSEE and remitted to the LICENSOR within 30 days from the beginning of the inspection. Licensing fees for each ***Program*** are prescribed in the current fee schedule on the ISASecure website.
- 3) The annual membership fee and license fee may be adjusted from time to time by an amount determined by the LICENSOR. The LICENSOR will notify the LICENSEE of the adjusted fees 30 days in advance of the effective date.
- 4) All sums payable by the LICENSEE to the LICENSOR shall be paid in US Dollars by electronic bank transfer to a bank account specified by the LICENSOR.
- 5) All payments are to be received in full by the LICENSOR with all required deductions for withholding taxes, Value Added Tax (VAT) or any other indirect taxes in the LICENSEE's country if required.
- 6) Each Party will pay its own legal fees incidental to the preparation and execution of this agreement.

L. TERMINATION

- 1) This agreement may be terminated without cause at any time, upon mutual written agreement of the Parties (consent to not be unreasonable withheld or delayed) and sufficient wind-down time provided to LICENSEE.
 - 2) Either Party is entitled to terminate this agreement in writing for convenience reasons after the expiration of the initial term as set forth in clause B.5 of this Agreement on 3 months' written notice.
 - 3) This agreement may also be immediately terminated by the following Party under the following conditions by providing the other Party with a written notice:
 - (a) by the LICENSOR in the case of negligence or misconduct by the LICENSEE or any of its auditors, including where the LICENSEE has failed to ensure that any Auditor has complied with this agreement;
 - (b) by the LICENSOR if the LICENSEE fails to pay any payment pursuant to Section L within 60 days from the written notice of failure to pay;
 - (c) by the LICENSOR if the LICENSEE or any Auditor has not complied with the ISASecure program requirements and this agreement, or any Auditor has been found to have a conflict to interest as outlined in the ISASecure program requirements.
- (d) by the LICENSOR if the LICENSEE ceases to hold accreditation;



- (e) by the LICENSOR if the LICENSEE fails to maintain the insurances as required in this agreement;
- (f) by the LICENSEE if it is not able to obtain all necessary approvals as set forth in clause J of this agreement that are legally required to perform its obligations under this activity;
- (g) by either Party if an administrator, receiver, manager, official manager or provisional liquidator is appointed for the assets of the other Party, or where an order is made or a resolution is passed for the winding up of the other Party, whether voluntary or involuntary (except for the purpose of reconstruction or amalgamation provided that the control of the resultant company remains the same as the present control of the other Party) or the other Party ceases to carry on business;
- (h) by either Party if the other Party commits a breach of any term or condition of this agreement not expressly stated above and fails to take steps to remedy the same within 14 day of receipt of a written notice from the first Party requiring it to remedy the breach; or
- (i) as is otherwise provided in this agreement.

The termination of this agreement shall be without prejudice to any rights of either Party against the other accrued up to the date of such termination.

4) If this agreement is terminated:

- (a) The License granted hereunder will terminate and LICENSEE will cease to offer inspection services hereunder and the rights granted pursuant to this agreement shall immediately cease.
- (b) The LICENSEE will cease to declare that their inspection service is recognized as is permitted hereunder
- (c) The LICENSEE shall immediately, unless otherwise directed by the LICENSOR, return to the LICENSOR all Confidential Information, records and documents, papers, plans, specification, writings and any other form of material expression of the **Program** (whether recorded in physical, electronic, or other means) in its possession. Notwithstanding the foregoing, LICENSOR agrees that for archival purposes and to satisfy requirements applicable to LICENSEE's business of Testing and Conformity Services, LICENSEE may retain one copy of the Confidential Information for a period of not more than ten (10) years subsequent to the termination of any LICENSEE Approval of a product which utilizes the Confidential Information.
- (d))The LICENSEE will maintain all its records for a period of five (5) years from the date of termination of this agreement and the LICENSOR giving reasonable notice shall have the right to inspect and audit during that period at its own cost and expense for records purposes only. LICENSOR may not provide such records to any third party.



- (e) The Parties will cooperate and do all acts and things reasonably required to properly conclude matters pursuant to this agreement.

5) Force Majeure:

- (a) No Party shall be liable for any delay or failure to perform its obligations pursuant to this Agreement if such delay or failure is due to a force majeure event, including but not limited to act of God, compliance with law, storm, flood, terrorism, earthquake, war, rebellion, epidemic, revolution or strike or any other event, happening or occurrence beyond the reasonable control of any Party. For the purposes of this cause the term “force majeure” shall not include shortage of funds or cash flow difficulties.
- (b) On the occurrence of any event of force majeure causing a failure to perform or delay in performance, the Party so affected shall immediately provide written notice to the other Party of such date and the nature of such force majeure and the anticipated period of time during which the force majeure conditions are expected to persist.
- (c) The Party so affected shall make all reasonable efforts to reduce the effect of any failure or delay caused by the event of force majeure.
- (d) If the force majeure conditions persist for 90 days or more, the Party so affected may terminate this agreement by giving 30 days’ prior written notice to the other Party.

M. CONFIDENTIALITY AND NONDISCLOSURE

In consideration of the providing of certain proprietary and confidential information (**Confidential Information**) from the Automation Standards Compliance Institute having a place of business at 3252 South Miami Boulevard Suite 102 Durham, NC 27703, and LICENSEE having a place of business at the address entered on page 2 of application, agree as follows:

- 1) Confidential Information means information in oral (followed up in writing in seven (7) days), written, or electronic form, including but not limited to data, compilations, customer and prospect information, designs, procedures, business strategies, concepts, and ideas, relating to LICENSOR or LICENSEE activity (“**Information**”). Each party hereto may be a recipient (“Recipient”) of the other party’s Confidential Information, and a disclosing party “Disclosing Party”) of certain Confidential Information.
- 2) The Confidential Information shall not be disclosed to anyone other than persons within the Recipient organization or its legal counsel who have a need to know the Information set forth above and who have agreed to abide by the terms hereof or terms that are substantively similar. Unless otherwise agreed in this agreement, under no circumstances shall Confidential Information be disclosed to any third party without Disclosing Party’s prior written approval. Recipient may, however, disclose Confidential Information to the extent necessary to comply with applicable laws or governmental regulations or other valid operation of law, provided that Recipient provides prompt prior written notice of such disclosure to the Disclosing Party in order to afford the Disclosing Party a reasonable opportunity to take such protective action as the Disclosing Party



deems appropriate, at its own time and expense, and takes reasonable and lawful actions to avoid and/or minimize the extent of such disclosure.

- 3) Recipient will not use the Disclosing Party's Confidential Information other than in furtherance of the Programs relationship between the parties, and will protect the Disclosing Party's Confidential Information using the same degree of care it uses to protect its own Confidential Information, but in no event with less than a reasonable degree of care.

4) Limitation on Obligations.

Confidential Information shall not include information that:

- (a) is generally known to the public at the time of disclosure or becomes generally known through no wrongful act on the part of the Recipient
 - (b) is currently or hereafter becomes known to Recipient through disclosure by sources other than Disclosing Party having the legal right to disclose such Confidential Information;
 - (c) is independently developed by Recipient without any reference to or reliance upon the Confidential Information; or
 - (d) is necessarily to be provided to the certification applicants under the Program to complete the certification procedure.
- 5) **Ownership of Confidential Information.** The Parties acknowledge and agree that the disclosure of Confidential Information from Disclosing Party to Recipient does not grant or imply a conveyance of ownership or a license of any Confidential Information or the patent, copyright, trade secret, trademark and other intellectual property rights embedded therein.
 - 6) **Nondisclosure.** Receiving Party shall promptly advise Disclosing Party in writing of any unauthorized use or disclosure of Confidential Information of which Recipient becomes aware and shall provide reasonable assistance to Disclosing Party to terminate such unauthorized use or disclosure.

N. NOTICES

- 1) A notice, approval, consent or other communication pursuant to this agreement;
 - (a) must be in writing; and
 - (b) must be left at the address for the addressee or sent by prepaid ordinary post or if by email to the email of the addressee: (addresses presented on the title page of this agreement)
- 2) Either Party may be entitled to change such address for notices by giving written notice to the effect to the other in accordance with this section.
- 3) Notice will be deemed given:



- (a) in the case of hand delivery, upon written acknowledgment or receipt by an officer or other duly authorized employee, agent or representative of the receiving Party;
- (b) in the case of posting, five business days after dispatch and
- (c) in the case of email, upon completion of transmission, confirmed by an email delivery receipt.

O. MISCELLANEOUS

- 1) This agreement supersedes all prior agreements, written or oral, between the Parties relating to the subject matter of this agreement and may not be modified, changed or discharged, in whole or in part, except by an agreement in writing signed by both Parties.
- 2) This agreement will be binding upon and inure to the benefit of the Parties hereto and their respective heirs, successors and assigns, provided that neither Party shall assign or transfer any rights or obligations under this agreement without the prior written consent of the other Party, provided further, however, either Party may without such prior written consent assign or transfer its rights and obligations under this agreement in connection with a corporate reorganization or to its own subsidiary or an affiliated entity or to an entity to which it has sold all or substantially all of its assets or with which it has merged.
- 3) The provisions of this agreement are necessary for the protection of the business and goodwill of the Parties. Each Party agrees that any breach of this agreement will cause the other party substantial and irreparable damages and, therefore, in the event of any such breach, in addition to other remedies that may be available, the non-breaching party shall have the right to seek specific performance and other injunctive and equitable relief.
- 4) No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise of any right, power or privilege. If any provisions of this agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired, and the provision that is held to be invalid, illegal or unenforceable, shall remain in effect as far as possible in accordance with the intention of the Parties.
- 5) Any notice, approval, request, authorization, direction or other communication under this agreement shall be given or made in writing.

This agreement contains the entire understanding of the Parties with respect to the subject matter hereof and with respect to the matter contained herein and supersedes all prior agreements or understandings. This agreement shall not be modified except in writing and signed by both Parties hereto.

IN WITNESS WHEREOF, LICENSEE has executed this agreement by its duly authorized representatives with full rights, power, and authority to enter into and perform this agreement.



ISASecure-212 Application and Contract for Inspection Bodies

Agreed and Accepted:

LICENSEE

Printed Name:		Title:	
Signature:		Date:	
Email:		Telephone:	

LICENSOR

Automation Standards Compliance Institute
3252 South Miami Blvd, Suite 102 Durham, NC 27703 USA

Printed Name:	Claire Fallon	Title:	CEO and Executive Director
Signature:		Date:	
Email:	cfallon@isa.org	Telephone:	



ISASecure®