# Carrier Corporation/Bryant Heating and Cooling Systems
# Open Access Alliance Program Agreement

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**This Carrier Corporation/Bryant Heating and Cooling Systems Open Access Alliance Program Agreement** (the "Agreement") is entered into and dated the day of_____ _____, 201_ (the "Effective Date") by and between [Company's Full Legal Name] ("Member"), a [State/Country of Incorporation/Registration] [Type of Business (Choose)] with its principal place of business at [Full Address], and Carrier Corporation ("Carrier"), a Delaware corporation with its principal place of business at 17900 Beeline Highway, Jupiter, FL 33458 USA.

## RECITALS

**WHEREAS**, Carrier develops and markets its Infinity® System and Evolution® System, referred to collectively as "Communicating Systems," which consists of software and accompanying hardware to third parties ("Licensees") for use in their HVAC systems;

**WHEREAS**, Member desires to work with Carrier and Carrier desires to cooperate with Member to make commercially available to present and future Licensees Member's Products, which consist of proprietary software and/or hardware product(s) and/or systems defined herein which are offered by Member, as well as the Interface Software that enables Member's Product to be used with the Communicating Systems;

**WHEREAS**, Member desires to itself develop Interface Software, for use with Member's Product and Carrier desires to see Member succeed in such endeavor;

**WHEREAS**, Carrier offers the Carrier Open Access Alliance Program ("OAAP") to assist Member in achieving the foregoing objectives, and Member wishes to join the OAAP.

**NOW THEREFORE**, for good and valuable consideration the receipt and sufficiency of which is hereby acknowledged and intending to be legally bound, Member and Carrier agree as follows:

1. **Definitions**

   As used in this Agreement the following terms have the indicated meaning.

   1.1. "Application Programming Interface(s)" or "APIs" means the functions, messages, data structures, data types, and statements provided to Member and used in creating an interface enabling Member's Product to work with the Communicating Systems.

   1.2. "API Documentation" means all information, whether in written, oral, or machine readable format, and any copies of the foregoing, in any medium, related to Communicating Systems and delivered to Member in connection with this Agreement, including but not limited to Carrier's manuals, program listings, data models, flow charts, logic diagrams, input and output forms, specifications, and instructions.

   1.3. "Confidential Information" means the non-public information about or embodied in the Communicating System, Program Concepts, API Documentation, Interface Software or Member's Product, including documentation, and any other financial, business, marketing, customer, operations, technical, economic or engineering information, trade secrets, data or software, including all originals, copies, notes, analyses, digests and summaries in any form, which is disclosed by or for a party in relation to this Agreement, and either identified as confidential and/or proprietary by Carrier or Member, except to the extent that any such information (a) is or becomes publicly available through no act or failure of the receiving party; (b) was or is rightfully acquired by the receiving party without restriction from a source other than

Carrier or Member, as the case may be, before being received from the disclosing party; or (c) becomes independently available to the receiving party without restriction as a matter of right from a third party.

1.4. "Interface Document" means the template provided by Member for Carrier to complete prior to verification testing.

1.5. "Interface Software" means the software to be developed by Member utilizing the software development kit ("SDK") for the sole purpose of creating an interface between Member's Product and the Communicating System.

1.6. "Malicious Code" means any virus, worm, trap door, back door, snoopware, spyware, malicious logic, Trojan horse, time bomb or other malicious functionality that would intentionally erase or render data and programs unusable or intentionally interfere with any software or Carrier's computer system.

1.7. "Member's Product" means: [Insert a complete description of the product for which an interface will be developed]. Member acknowledges that (a) Communicating System's API is to be used to create one (1) integration and that Carrier's verification is limited to one (1) integration of the Member's Product described herein; and (b) any representation by Member that another product is verified is a material breach of this Agreement and grounds for termination of the Agreement.

1.8. "Program Concepts" means the techniques and ideas embodied and expressed in the Communicating System, including the structure, sequence, and organization of the Communicating System.

1.9. "Software Development Kit" ("SDK") means the package of materials and tools that Carrier provides to assist the Member in the development of the Member's Interface Software.

1.10. "System", also referred to herein as "Communicating System," further means Carrier's Communicating System software, related firmware and/or accompanying hardware, whether in source code or object code format, in whole or component modules, as may be improved or otherwise modified by Carrier and included in future versions or releases. System shall also be deemed to include Program Concepts.

2. **Scope**

This Agreement defines the roles, rights and duties of Carrier and Member in creating, verifying, providing and marketing the Interface Software which enables an interface between Member's Product and the Communicating Systems.

3. **Term**

This Agreement commences on the Effective Date and shall terminate thirty-six (36) months from the Effective Date (the "Term"), unless terminated earlier as provided for herein. After the Term, this Agreement shall remain in effect on a month-to-month basis indefinitely until terminated by either party by sending written notice at least ninety (90) days prior to the effective date of termination.

4. **Member Obligations**

In addition to Member's other obligations specified in this Agreement, Member shall:

4.1. use the API Documentation, APIs, and the System software solely to develop and internally test the Interface Software in accordance with this Agreement;

4.2. set up the logical structures in and fully develop the Interface Software and implement such in a data format so that it meets the functional requirements described in the API Documentation;

4.3. make Member's Product commercially available to present and future Licensees, in accordance with Member's business model and subject to Member's terms governing such commercial availability.

4.4. provide Carrier with a non-exclusive, unrestricted, perpetual, royalty-free license to the Interface Software for the purpose of providing support to Member.

4.5. provide qualified sales, installation, training, and service support for Member's Product to present and future Licensees.

4.6. promptly provide Carrier with all reasonably requested information regarding the Interface Software and the use of Member's Product in conjunction with the System.

4.7. maintain the currency of the Interface Software by updating it to obtain verification with new releases of Member's Product and with new releases of the System, as APIs for new versions of Communicating Systems become available, regardless of backward compatibility of API(s).

4.8. provide Carrier with written notification of any technical issues that may impact the performance of the Interface Software or Member's Product when used with the System within forty-eight (48) hours of problem identification.

4.9. provide Carrier with at least sixty (60) days written notification of any new releases of Member's Product that may impact the performance of the Interface Software or the System.

4.10. subsequent to verification of Member's Product, permit Carrier to utilize Member's name, logo, trademarks, service marks and trade names relating to Member's Product, the verification letter and the Interface Document, along with the verified Member's Product and Interface Software in Carrier's marketing efforts, including the posting of such information on the "Members" page of Carrier's website relating to the OAAP. Members who verify future versions of Member's Product or verify Member's Product with future versions of the System may be offered additional marketing opportunities at Carrier's discretion.

4.11. the Member's Product and Interface Software will not contain any libelous or unlawful material or any Malicious Code or other materials or instructions that (i) damages, destroys, or alters any software or hardware; (ii) reveals, damages, destroys, or alters any data; (iii) disables any computer program automatically; or (iv) permits unauthorized access to any software or hardware.

4.12. the Member's Product and Interface Software will use commercially reasonable efforts to keep Malicious Code out of the Interface Software.

5. **Carrier Obligations**

In addition to Carrier's other obligations specified in this Agreement, Carrier shall:

5.1. provide Member with a royalty-free license to use the API Documentation, APIs, and the System software as part of the SDK, with the understanding that Member shall use the System software internally and solely for the purposes of developing Interface Software and resolving customer support issues.

5.2. notify Member of enhancements to Carrier's System within a reasonable amount of time after the introduction of those enhancements.

5.3. provide the technical environment necessary for testing the Interface Software within Carrier's System.

5.4. if the Interface Software passes testing, provide Member with a letter verifying that the System operates with the relevant Member's Product without degradation when used with the Interface Software developed by Member, and specifying the versions of the System and Member's Product to which such Interface Software applies.

5.5. promote or include Member or Member's Product in Carrier's sales or marketing efforts to the extent that Carrier determines that such promotion benefits its business objectives.

6. **Verification Testing Process**

6.1. In the case of multiple applicants, Carrier will determine the order of verification.

6.2. Testing and evaluation of the Interface Software shall be performed by Member at Member's facility.

6.3. Carrier will provide the test environment and personnel necessary to perform the verification testing of a particular Interface Software. Carrier shall determine the appropriate amount of time needed for verification testing. If the verification testing exceeds such time, Carrier may impose a fee for additional hours as specified in Section 7 (Fees).

6.4. Should the Interface Software fail to pass verification testing, then subsequent to Member curing the issues that led to the failure, Member must schedule for re-testing within six (6) months. The cost for re-testing is specified in Section 7 (Fees). Should Carrier determine that further testing will not be useful due to severe problems with the Interface Software, Carrier may refuse to schedule re-testing.

6.5. When new versions of the System or Member's Product are released, Member shall update the Interface Software to interface with such new versions and send the updated Interface Software, and an updated Interface Document, to Carrier for verification. Carrier will use reasonable efforts to notify Member of new System releases and to make relevant documentation on such releases available to Member. The cost for verifying Member's Product with updated Interface Software is specified in Section 7 (Fees). Member shall permit Carrier to retain one copy of all future versions/releases of Member's Product and accompanying Interface Software.

7. **Fees**

All fees must be pre-paid by check or wire transfer. Carrier reserves the right to change the fees set forth in sections 7.1 through 7.2. All amounts herein are stated in U.S. dollars.

7.1. Testing In Excess of Two Days. Should Member require additional hours or days of testing as determined by Carrier in its sole discretion, as described in Section 6 (Verification Process), Carrier will quote Member a fee for such additional hours.

7.2. Re-Testing. Member shall pay a testing fee of $1,000.00 for each re-test, as such is described in Section 6 (Verification Process).

8. **Attainment of Verification**

8.1. Upon successful verification testing, Member will receive written verification of Member's Product. Verification of Member's Product means that the Interface

Software developed by Member has been tested with respect to the functionality defined by Member in Member's Integration Document, and that the System operates with Member's Product without degradation when used with the Interface Software. Such verification of Member's Product by Carrier does not guarantee fault-free operation. The Interface Software is verified for a particular release/version of the System and for a particular release/version of Member's Product.

8.2. Upon obtaining verification of a specific Interface Software, Member may: a) publicize such verification in product and market announcements; and b) offer such verified Interface Software for use with the System publicly. In no event shall Member make or publicize any statements regarding Carrier products without Carrier's prior written permission. Member's press release announcing OAAP verification is subject to Carrier's review and approval.

8.3. Should an interface error occur subsequent to verification, Member shall promptly correct the error and submit the revised Interface Software for testing, at the cost for re-testing stated in Section 7 (Fees).

9. **Marketing Services Post Verification**

9.1. After verification:

9.1.1. Member may be listed on Carrier's website with a link provided to Member's website content focused entirely on the interface with Communicating Systems, if applicable.

9.1.2. Member may be included in Carrier publicity relating to the OAAP.

9.1.3. Member may be included in Carrier's sales presentations, newsletter or in a press release.

9.1.4. Carrier may promote Member's Product at trade shows.

9.2. To any customer requesting information regarding specific Interface Software or a Member's Product that has been verified by Carrier, Carrier will provide the requested information, provided that Member is current in the fulfillment of its obligations under this Agreement and that Member has given Carrier the requested information and marketing materials. Carrier will provide any customer requesting general information regarding verified Interface Software with information relating to all Members which have been verified.

10. **Customer Technical Support Post Verification**

10.1. Member will provide competent and professional technical support for the Interface Software to Licensees and to Carrier. Member will ensure that it has an adequate number of qualified technical personnel with the proper skill, training, and background to enable it to provide appropriate advice and consulting support to Licensees and Carrier, as may be required to facilitate the use of the Interface Software with Member's Product, including release management and migration support, as necessary.

10.2. Member shall identify one or more qualified employees responsible for all support and service issues that Licensees forward to Carrier regarding Member's Product or the Interface Software.

10.3. Member shall provide technical support for Member's Product integration throughout the period that Carrier supports the version of the System for which Member's Product is verified.

11. **Termination**

11.1. Either party may terminate the Agreement without cause upon ninety (90) days written notice to the other party.

11.2. In event of a material breach of this Agreement which remains uncured thirty (30) days after written notice to the breaching party specifying such breach, the non-breaching party may terminate this Agreement upon written notice to the breaching party.

11.3. Upon and subsequent to termination of this Agreement:

11.3.1. each party shall promptly return to the other party, or dispose of as mutually agreed, all advertising materials and other property, including all Confidential Information, furnished to it by the other party, and certify such disposition in writing.

11.3.2. both parties shall cease acting in a manner that would suggest any continuing relationship between the parties regarding the System and Member's Product, and shall cease all display and advertising contemplated under this Agreement.

11.3.3. should any technical support issues arise from a Carrier customer utilizing a verified Member's Product, Carrier and Member will cooperate in good faith to respond to such issues. This provision shall survive any expiration or termination of this Agreement.

11.4. The provisions of Section 16 (Proprietary Rights; Confidential Information, Section 12 (Indemnification), and Section 13 (Limitation of Liability) shall survive any expiration or termination of this Agreement.

12. **Indemnification by Member**

Member will indemnify, defend, and hold Carrier, its parent company and affiliates, and their employees, directors, shareholders, agents, subcontractors, channel members, customers and assigns, harmless from and against any and all losses, claims, liabilities, damages and costs of any kind or nature, including reasonable attorney's fees, resulting from (a) the use or operation of Member's Product or Interface Software, and (b) an alleged infringement by the Interface Software or Member's Product of any patent, copyright, trademark, trade secret or intellectual property rights of any third party.

13. **Limitation of Liability**

13.1. Notwithstanding anything else in this Agreement, in no event shall Carrier's aggregate liability hereunder for any loss or damages of any kind or nature exceed $3,500.00 USD.

13.2. In no event shall Carrier be liable for the function or compatibility of the System with any Member's Product or Interface Software.

13.3. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, UNDER NO CIRCUMSTANCES SHALL CARRIER BE LIABLE FOR SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, LOSS OF GOOD WILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, THIRD PARTY CLAIMS, COMPUTER FAILURE OR MALFUNCTION, ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS, AND EXEMPLARY OR PUNITIVE DAMAGES OR EXPENSES HOWSOEVER ARISING.

14. **Warranty**

ALL CARRIER CONFIDENTIAL INFORMATION, SOFTWARE, SYSTEMS AND SERVICES ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. CARRIER MAKES, AND THERE ARE, NO WARRANTIES, EXPRESS, IMPLIED OR OTHERWISE, REGARDING THE ACCURACY, COMPLETENESS OR PERFORMANCE OF SAME AND MAKES NO WARRANTY THAT ANY OF THE FOREGOING WILL BE ERROR FREE OR UNINTERRUPTED. TO THE FULLEST EXTENT PERMITTED BY LAW, CARRIER HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO ITS CONFIDENTIAL INFORMATION, SOFTWARE, SYSTEMS AND SERVICES INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, QUIET ENJOYMENT, ACCURACY, INTEGRATION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES ARISING FROM ANY COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

15. **Relationship of Parties**

15.1. Member and Carrier are independent contractors acting each for its own account, and neither party nor its employees are authorized to make any representation or commitment on the other party's behalf. Neither party is responsible to any end user for the quality of services or products provided by the other party.

15.2. Neither party is a distributor or agent for the products and services of the other. Each party's products and services shall be available to a prospective client only through a separate agreement between that party and the client. Each party shall independently develop and price its respective products and services.

15.3. The parties understand and agree that the terms "Member," "marketing alliance," "partnership," or similar terms herein which are used to describe the relationship between the parties under this Agreement refer to the spirit of cooperation between Member and Carrier, and do not describe, or expressly or by implication create, a legal partnership or joint venture, any responsibility by one party for the actions of the other, or any other obligation between Member and Carrier not specifically set forth in this Agreement.

15.4. Carrier reserves all rights regarding the development and selection of products for use with the System, including but not limited to products competitive with Member's Product. Nothing herein shall restrict or prevent Carrier from entering into relationships or agreements with third parties, including third parties which are competitors of Member.

15.5. Nothing herein shall restrict or prevent Member from entering into relationships or agreements with third parties regarding products for use in Member's environment, including, but not limited to products competitive with the System.

16. **Proprietary Rights; Confidential Information**

16.1. Member acknowledges and agrees that title to all intellectual property rights, including patent, trademark, copyright, and trade secret rights, in (and title to all copies of and all media bearing) the System and documentation are and shall remain with Carrier. Member agrees that it does not obtain any rights in the System or documentation by virtue of this Agreement.

16.2.   As between Member and Carrier, Member shall retain title to all intellectual property rights, including patent trademark copyright, and trade secret rights (and title to all copies of and media bearing), and all ownership rights in and to Member's Product and Interface Software, except to the extent that the Interface Software incorporates or contains any components of the System or the intellectual property of Carrier, which shall be deemed the Confidential Information of Carrier.

16.3.   With respect to the System, documentation, literature and other Carrier-related materials, Member shall not copy, translate, disassemble or de-compile, nor create or attempt to create by reverse engineering or otherwise the source code from the object code, or to use such items to create derivative works, or for any other purpose other than those specifically contemplated by this Agreement, unless so authorized in writing by Carrier. All updates, replacements, revisions, enhancements, additions, or conversions to the Carrier items specified above shall be subject to the provisions stated herein.

16.4.   With respect to Member's Product and Interface Software, and Member's documentation, literature and other Member-related materials, Carrier shall not copy, translate, disassemble or de-compile, nor create or attempt to create by reverse engineering the source code from the object code, or to use such items to create derivative works, or for any other purpose other than specifically contemplated by this Agreement, unless so authorized in writing by Member. All updates, replacements, revisions, enhancements, additions, or conversions to the Member items specified above shall be subject to the provisions stated herein.

16.5.   The parties hereto acknowledge the high value of each other's trademarks and service marks, wherever used or registered. Neither party shall acquire any rights in or to the marks of the other party except as provided in Section 4.10 above.

16.6.   Member and Carrier shall maintain the confidentiality of the Confidential Information each receives. The receiving party shall not, without the disclosing party's prior written consent, disclose, provide, or make available any of the Confidential Information in any form to any person, except to employees and consultants of the receiving party whose access is necessary to enable the receiving party to exercise its rights under this Agreement, provided such consultants and employees are under non-disclosure obligations substantially the same as those specified herein with respect to the Confidential Information. The receiving party agrees to keep confidential and protect from unauthorized disclosure by its employees, agents, or any person with access to the Confidential Information of the disclosing party, the contents of such Confidential Information. Each party shall be responsible for any breach of confidentiality by its employees or consultants.

16.7.   The obligations hereunder with respect to the protection of Confidential Information shall expire five (5) years after the date of initial disclosure thereof and shall survive any earlier termination or expiration of this Agreement. Should the disclosing party request, then within ten (10) days following the cancellation or expiration of this Agreement, or upon written request at any other time, the receiving party shall return or certify to the destruction of the disclosing party's Confidential Information and any copies thereof and all information, records and materials developed from such Confidential Information, except to the extent the receiving party needs to retain any such Confidential Information to service its existing customers in the future, provided that as to such retained Confidential Information the receiving party shall continue to owe a duty under this Agreement.

16.8.   Both parties acknowledge that monetary damages will not be a sufficient remedy for unauthorized disclosure of the other party's Confidential Information or any other breach of this Section 16 (Proprietary Rights; Confidential Information) and that either party shall be entitled, without waiving any other rights or remedies, at law or in equity, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction without the necessity of posting any bond.

17. **Privacy and Personal Information**

17.1.   Member acknowledges and agrees to the Privacy Policy and use of personal information as identified at https://www.myinfinitytouch.carrier.com/legal#privacy-policy.

17.2.   Member must post and abide by an appropriate privacy policy in, and will comply with all applicable laws in your jurisdiction relating to the use of personal information by your Implementation. Member's Privacy Policy must disclose any and all potential sharing of personal information between the Member's Product and Interface Software and Carrier's System. In addition, Member must secure any and all necessary customer permissions necessary to facilitate such sharing of personal information between the Member's Product, Interface Software and Carrier's System.

18. **Service Level and Usage Limits**

18.1.   If Member's Interface Software generates a high volume of queries, Carrier reserves the right to set usage limits, as are described below. Carrier also reserves the right to set other usage policies from time to time. If you want to engage in use outside these usage limits or usage policies, please contact Carrier for information on licensing options to address your needs at InfinityOpenAPI@carrier.com, or EvolutionOpenAPI@Bryant.com.

18.2.   Member's Interface Software may, at no cost, generate up to 85,000 queries ("usage limit"), per month starting on the date you register for developer access ("Registration Date"). Every month, Member's Interface Software receives a new allotment of 85,000 queries. Unused free queries are not carried over from month to month.

18.3.   If Member's Interface Software exceeds the usage limits, Carrier reserves the right to restrict access to Member's Interface Software, including but not limited to, throttling access to the server or denying access to Member's Interface Software. In no way will Carrier be liable for any losses or damages caused by the restriction of access to Member's Interface Software caused by excess queries.

18.4.   To avoid restriction of access to Member's Interface Software, you can respond in one of the following ways:

18.4.1.  modify Member's Interface Software to reduce the number of queries per month to be below the usage limit.

18.4.2.  purchase an annual subscription for enhanced Usage Limits, which provides additional queries per month from Carrier. These additional queries may be governed by different terms than the free queries provided in this Agreement.

18.5.   Every query made by Member's Interface Software is associated with a user account. Queries that are made by a user account that is identified as a Member developmental account(s) is/are considered to be test queries, and are not counted against Member's Interface Software usage limits. Carrier reserves the right to limit the number of developmental accounts provided to Member.

18.6.   Member's Interface Software may not request queries at a rate greater than 1 request per second per thermostat. If your Member's Interface Software requests queries at a greater rate, Carrier may throttle or otherwise limit access to Member's Interface Software.

18.7.   Carrier may also, at its sole discretion, limit the volume of data transferred to or from Member's Interface Software.

19. **Enhanced Usage Limits**

19.1.   If the usage limits provided in Section 18 are insufficient for the Member's Interface Software, you may purchase an annual subscription from Carrier to increase your monthly usage limits. Subscriptions will be managed by contacting Carrier at InfinityOpenAPI@carrier.com or EvolutionOpenAPI@Bryant.com. Annual pricing for enhanced service levels are as follows:

19.1.1.   $500/year: Your usage limit is increased by 170,000 additional queries per month. These additional queries are added to the basic usage limit provided.

19.1.2.   multiples of $500/year: Your usage limit is increased by a multiple of 170,000 additional queries per month for each multiple of $500/year. All pricing is in US dollars, and is exclusive of any federal, state or provincial taxes required by law to be collected.

19.2.   Your subscription will expire on your anniversary date and must be renewed in advance to maintain the increased usage limits

19.3.   The purchase of an Enhanced Usage Limits subscription does not confer any additional rights or benefits other than the right to continue using the Service under the existing Agreement.

20. **Force Majeure**

Neither Carrier nor Member shall be liable for failure to perform or delay in performance of an obligation hereunder as a result of an event beyond its reasonable control, including but not limited to strikes, industrial disputes, fire, flood, act of God, war, insurrection, vandalism, sabotage, invasion, riot, national emergency, piracy, hijack, acts of terrorism, embargoes or restraints, extreme weather or traffic conditions, temporary closure of roads, legislation, regulations, order or other act of any government or governmental agency.

21. **General**

21.1.   This Agreement constitutes the complete and exclusive statement of the agreement between Carrier and Member and all previous representations are merged in this Agreement. This Agreement may be modified only in a writing signed by both parties.

21.2.  If either party should waive any breach of any provision of this Agreement, it shall not thereby be deemed to have waived any preceding or succeeding breach of the same or any provision hereof.

21.3.  Should any one or more provisions in this Agreement be held to be invalid or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the other provisions of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provisions had never been contained herein. In case any one or more of the provisions contained in this Agreement shall be held to be excessively broad as to duration, geographical scope, activity or subject, such provision shall be construed by limiting and reducing it in accordance with a judgment of a court of competent jurisdiction, so as to be enforceable to the extent compatible with applicable law.

21.4.  Nothing in this Agreement shall limit or restrict either party from entering into or continuing any agreement or other arrangement with any other party, whether similar to this Agreement in nature or scope. Moreover, each party shall remain free to provide products and services to any client or prospective client so long as the terms of this Agreement are not violated.

21.5.  All notices required to be given under this Agreement shall be sent by certified, registered or overnight mail, or delivered personally to:

| **For Carrier:** | **For Member:** |
| --- | --- |
| Carrier Corporation. | [Company Name] |
| 15270 Endeavor Drive M/S 715-01 | [Address] |
| Jupiter, FL 33478 USA | [Address] |
| Attn: Legal | [Attn:] |

21.6.  This Agreement shall be deemed to have been executed in the State of Florida, and all disputes arising hereunder shall be governed by and construed under the laws of the State of Florida. Each party consents to the exclusive jurisdiction over any disputes or claims arising from this Agreement in the federal and/or state courts situated in the Palm Beach County, State of Florida, meaning that the parties intend to preclude litigation in any other venue and each submit to the personal jurisdiction of such courts.

21.7.  This Agreement may not be assigned by Member, including where such assignment results from an acquisition of or merger with Member, without the prior written consent of Carrier, and any attempted assignment will be void.

21.8.  This Agreement shall inure to the benefit of and be binding upon the parties, their successors and permitted assigns. This Agreement is intended to benefit only the parties hereto and shall not be construed to create any third party beneficiaries.

21.9.  This Agreement may be executed in any number of counterpart originals, each of which shall be deemed an original instrument for all purposes, but all of which shall comprise one and the same instrument. This Agreement may be delivered by facsimile or electronically and each shall be binding as an original.

21.10.  As between the parties, each party shall be solely responsible for all of its cost and expenses of cooperating with the other and performing its obligations hereunder.

21.11.  Member agrees it shall not either directly or indirectly engage in any advertising, marketing, promotion, press release or any other publicity using the trade names,

trademarks, service marks, design marks, insignias, symbols, logos or other designations of the United Technologies Corporation, Carrier and UTC subsidiaries and affiliates without the prior written consent of Carrier. Member further agrees not to state or imply in any manner either directly or indirectly that: Member is a "Supplier", "Associate" or "Client" of UTC or Carrier or any similar expressions of which indicate a relationship between the parties; or that Member is "associated with" or "sponsored by" UTC or Carrier without express written permission to do so by Carrier.

*[signature page follows]*

**IN WITNESS WHEREOF**, the parties hereto have by their duly authorized representatives executed and delivered this Agreement on the dates written below.

Carrier Corporation.                                    [Insert Member's Legal Name]

By: _____                    By: _____

Name:                                                       Name:    [Insert Officer's Name]

Title:                                                        Title:    [Insert Officer's Title]

Date:                                                       Date:    [Insert Signature Date]