

# EQUIPMENT ADDENDUM

## 1 Relationship to Terms of Sale.

This Addendum contains the terms governing the supply of Equipment by the Itron entity determined in accordance with the Terms of Sale ("**Itron**"), to the Customer named in the Proposal that applies to this Addendum ("**Customer**").

This Addendum forms part of the Agreement, also containing the Terms of Sale (found at <http://na.itron.com/terms-of-sale>) and the applicable Proposal.

If there is any inconsistency between the Terms of Sale, and this Addendum, this Addendum shall control, but only to the extent of such inconsistency.

## 2 Additional Definitions.

The following defined terms are in addition to those defined in the Terms of Sale:

**Equipment** means Itron Equipment and Third-Party Equipment.

**Firmware** means the object code version of software embedded in Equipment.

**Itron Equipment** means equipment listed on a Proposal for sale to Customer under the Agreement that is manufactured and branded by or on behalf of Itron.

**Third-Party Equipment** means equipment listed on a Proposal for sale to Customer under the Agreement that is not manufactured and branded by or on behalf of Itron.

**Warranty Period** means the period of twelve (12) months from the shipment date, or such longer period specified in the Proposal or Order Document.

## 3 Ordering Equipment

Customer shall order Equipment by issuing a Purchase Order to Itron in accordance with and subject to Section 1.6 (Purchase Order Requirement) of the Terms of Sale.

## 4 Economic Surcharge

For Equipment only, Itron may, from time-to-time upon written notice to Customer, issue surcharges on new and/or unfulfilled Purchase Orders to offset material increases in Itron's associated costs arising from: (i) unusual foreign currency exchange variations; (ii) impacts of duties, tariffs, and other government actions; and (iii) any other macroeconomic circumstances outside of Itron's reasonable control ("**Economic Surcharges**"). Itron will provide Customer with advance notice of any Economic Surcharges.

## 5 Invoicing.

Itron will invoice Customer for Equipment, any related Economic Surcharges, and reimbursable shipping-related expenses, on or after the date of shipment.

## 6 Lead Time & Ship Date.

Scheduled shipping dates will be assigned by Itron as close as possible to Customer's requested date specified in an accepted Purchase Order based on Itron's then-current lead times for the Equipment. Upon Customer's request, Itron will communicate current lead times. Itron will also communicate scheduled shipping dates in the Order Acknowledgment or on Itron's customer portal.

## 7 Order Cancellation & Rescheduling.

Accepted Purchase Orders for Equipment may not be canceled or rescheduled by Customer, unless agreed to in writing by Itron.

## 8 Forecasts.

Each month Customer will provide Itron with a rolling, nonbinding, minimum twelve (12) month forecast of Customer's anticipated Equipment demand.

## 9 Shipment, Title & Risk of Loss.

Shipping terms are set forth in the applicable Proposal (the "**Shipping Terms**") and shall be included by Customer on each Purchase Order for Equipment. Unless otherwise provided in the Shipping Terms, Customer is responsible for making shipping arrangements, and will bear the cost of transporting Equipment, from the place of origin to the place of destination, title and risk of loss shall transfer from Itron to Customer, and delivery shall be deemed to have occurred,

upon release to the first carrier, except for cross-border shipments in which case title shall transfer from Itron to Customer upon completion of export clearance.

## **10 Documentation.**

Itron will make its standard Documentation for Itron Equipment available via download. Itron will provide Customer with download instructions.

## **11 Equipment Firmware.**

The purchase of Itron Equipment includes a nonexclusive license to use Firmware in Itron Equipment in accordance with its Documentation. Customer's license to Firmware in Third-Party Equipment purchased by Customer through Itron shall be subject to the terms of the manufacturer of the Third-Party Equipment.

## **12 Returns.**

Except as provided in [Section 13](#) below, Itron does not accept returns of Itron Equipment unless: (i) Itron shipped a product other than as specified in the Purchase Order, (ii) such product is unopened, and (ii) the product is returned in accordance with Itron's then current RMA policy and procedures within ten (10) business days of delivery. Customer's right to return Third-Party Equipment purchased by Customer through Itron shall be subject to the terms of the manufacturer of the Third-Party Equipment.

## **13 Itron Equipment Warranties.**

Itron warrants solely to Customer that, during the Warranty Period, Itron Equipment will be free from defects in materials and workmanship and will materially conform to Itron's published specifications in effect as of the date of manufacture. As Customer's sole and exclusive remedy for a breach of the foregoing warranties, Itron will, at its option and expense: (i) repair or replace faulty Itron Equipment under warranty after it has been returned to an Itron-designated repair facility during the Warranty Period in accordance with Itron's then current RMA policy and procedures, (ii) provide Customer with a Firmware or software fix to correct the nonconformity, or (iii) if Itron determines (in its reasonable judgment) that it is unable to provide a remedy specified in item (i) or (ii) of this section, Itron will provide Customer with a depreciated refund of the purchase price for the applicable Itron Equipment. Customer will pay the cost of returning Itron Equipment to the Itron designated repair facility and Itron will pay the cost of returning repaired or replacement Itron Equipment to Customer. Customer is responsible for any labor costs associated with removal or reinstallation of Itron Equipment. Repaired and replacement Itron Equipment will be warranted for the remainder of the Warranty Period, or sixty (60) days from the ship date of the repaired or replaced Itron Equipment, whichever is longer. Additional warranty terms for specific Itron Equipment may be specified in the Order Document.

## **14 Itron Equipment Warranty Exclusions.**

The warranties under [Section 13](#) and additional warranty terms in the Order Document do not cover Itron Equipment defects or nonconformities caused by: (i) changes or repairs made to Itron Equipment without Itron's prior written consent, (ii) use with cables, mounting kits, antennas, battery backups and other devices, Third Party software or firmware that Itron has not provided to Customer or approved in writing for use with Itron Equipment, (iii) Customer's or a Third Party's misuse, abuse, neglect, negligence, or failure to store, install, test, handle or operate Itron Equipment in accordance with its Documentation, (iv) a Force Majeure event, or (v) incorrect data, or data entry or output by Customer or a Third Party not under Itron's control. Additional warranty exclusions for specific Itron Equipment may be specified in the Order Document. Customer may request that Itron repair Itron Equipment damaged by any of the foregoing; if Itron agrees to make such repairs, Customer may be charged additional Fees.

## **15 Integration of Itron Equipment.**

If Customer purchases Itron Equipment for integration into third-party devices or other third-party hardware, Customer will obtain warranty service for the Itron Equipment from the third-party integrated device provider.

## **16 Equipment End of Sale.**

### **16.1 Notice and Last-Time Buys.**

Itron will make commercial reasonable efforts to provide Customer with no less than one hundred and eighty (180) days' notice before discontinuing the sale of any Itron Equipment, provided that (a) the pricing for such Itron Equipment is valid under [Section 6.1](#) (Fees) of the Terms of Sale beyond the discontinuance of sale date, and (b) Customer has purchased such Itron Equipment within the three hundred and sixty-five (365) day period preceding the date upon which notice is to be given. During the foregoing notice period, Customer may place non-cancellable, non-returnable "last time buy" Purchase Orders for any Itron Equipment identified in the end of sale notice, unless such discontinued sale is due to a Force Majeure event in which case the last time buy will be governed by the Force Majeure event notification. Customer must take delivery of all such ordered Itron Equipment within one hundred and eighty (180) days of the Purchase Order acceptance date or within thirty (30) days from shipment availability, whichever is longer. Itron

does not guarantee the availability of Third-Party Equipment. Itron's sole obligation with respect to the discontinuance of Third-Party Equipment is to provide Customer with any end of sale notice that Itron receives from the Third-Party Equipment manufacturer.

#### **16.2 Replacement Itron Equipment.**

Itron will not end the sale of any Itron Equipment while the pricing for such Itron Equipment remains valid under Section 6.1 (Fees) of the Terms of Sale, other than as a result of a Force Majeure event, without making replacement equipment available for purchase by Customer. Such replacement equipment will be functionally equivalent to the discontinued Itron Equipment it replaces, to the extent such functionality is listed in Itron's published specifications in effect as of the date of manufacturing for such discontinued Itron Equipment in use by Customer. Any such replacement equipment will be backwards compatible and interoperable with other Itron Equipment to the same extent as the Itron Equipment it was designed to replace. Itron may either (i) disable any new functionality or features provided by the replacement equipment, or (ii) if Itron is unable to disable any new functionality or features in the replacement equipment, or Customer elects to purchase such new functionality or features, charge Customer the applicable fees for such new functionality or features.

#### **17 Third-Party Equipment Warranty.**

Itron is not the manufacturer of Third-Party Equipment and makes no representations or warranties whatsoever, directly or indirectly, express or implied, as to the suitability, durability, fitness for use, merchantability, condition, quality, performance or non-infringement of Third-Party Equipment. Third Party Equipment shall be subject to any warranties provided by the Third-Party Equipment manufacturer. Itron will pass through to Customer, or make commercially reasonable efforts to enforce on Customer's behalf, any warranties and remedies received from the Third-Party Equipment manufacturer.

#### **18 Modifications.**

Itron may modify this Addendum from time to time by posting updated versions at <https://na.itron.com/terms-of-sale>; provided, however, that the version of this Addendum that is posted on the Acceptance Date will continue to apply to the Agreement notwithstanding any such update. Prior versions of this Addendum are available at <http://na.itron.com/terms-of-sale>.

#### **19 Survival.**

The following Sections of this Addendum shall survive termination or expiration of the Agreement: 1 (Relationship to Main Body of Terms of Sale), 2 (Additional Definitions), 3 (Ordering Equipment), 5 (Invoicing), 7 (Order Cancellation & Rescheduling), 9 (Shipment, Title & Risk of Loss), 11 (Equipment Firmware), 12 (Returns), 13 (Itron Equipment Warranties), 14 (Itron Equipment Warranty Exclusions), 15 (Integration of Itron Equipment), 17 (Third-Party Equipment Warranty), and 19 (Survival).