

# ITRON TERMS OF SALE

## 1 General.

### 1.1 Application.

These Itron Terms of Sale ("**Terms of Sale**") govern the sale and licensing of products and services described in a Pricing Summary or Order Acknowledgement, as defined below (each a "**Proposal**") submitted by Itron, Inc. or its Affiliate identified in the Proposal ("**Itron**"). Each Proposal is an offer by Itron to sell or license products and/or services to the customer identified in the Proposal ("**Customer**") subject to and in accordance with these Terms of Sale. Collectively, Itron and Customer are referred to as the "**Parties**" and individually as "**Party**." The Proposal and these Terms of Sale (collectively, the "**Agreement**") comprise the entire agreement between the Parties and supersede all prior or contemporaneous understanding, agreements, negotiations, representations and warranties, and communications, both written and oral. The Agreement also supersedes any of Customer's general terms and conditions of purchase regardless of whether or when Customer has submitted its purchase order or such terms. Itron expressly rejects Customer's general terms and conditions of purchase, and fulfillment of Customer's order does not constitute acceptance of any of Customer's terms and conditions or serve to modify or amend these Terms of Sale.

### 1.2 Acceptance.

Acceptance of the Agreement by Customer is a prerequisite to the purchase or licensing of products and services. Customer shall be deemed to have made an unqualified acceptance of the Agreement on the earliest of the following dates ("**Acceptance Date**"): (i) Itron's receipt of a copy of any document incorporating the Proposal signed by Customer, (ii) Itron's receipt of Customer's purchase order for products or services after receiving a Pricing Summary, (iii) Customer's payment of any amounts due under the Proposal, (iv) Itron's delivery of products or services following receipt of Customer's purchase order, or (v) any other event constituting acceptance under applicable law.

### 1.3 Existing Agreement.

Notwithstanding anything herein to the contrary, if Itron and Customer enter into or have entered into another agreement (including a written, click-wrap, click-and-accept or electronic agreement) regarding the purchase of the specific products and/or services being purchased and such agreement is in effect at the time the applicable purchase order is received by Itron ("**Existing Agreement**"), the terms and conditions of such Existing Agreement shall govern the purchase of those products and/or services.

### 1.4 General Terms and Addenda.

The terms and conditions set forth in the main body of these Terms of Sale apply to all products and services. Addenda attached hereto (each an "**Addendum**" and collectively "**Addenda**") contain supplemental terms and conditions applicable to specific categories of products and services. The Addenda are hereby incorporated into these Term of Sale to the extent applicable to the products and services purchased by Customer.

### 1.5 Order Documents.

The Parties may execute an order document in the form attached hereto that incorporates a Pricing Summary, Statement of Work (if applicable), or other document that references these Terms of Sale, describes the products and services to be provided by Itron to the Customer, and in each case includes any supplemental and/or modified terms and conditions for the applicable products and/or services ("**Order Document**"). The Order Document will only be effective when signed by Itron and Customer.

If there is any inconsistency between the Order Document and these Terms of Sale, these Terms of Sale shall control, unless expressly stated otherwise in the Order Document.

### 1.6 Purchase Order Requirement.

Customer shall purchase or license products and services by issuing a purchase order or similar ordering document ("**Purchase Order**") indicating specific products and services, Itron part numbers, quantity, unit price, total purchase price, shipping instructions, requested shipping dates, bill-to and ship-to addresses, tax exempt certifications, if applicable, and expressly referencing these Terms of Sale. No Purchase Order is binding on Itron unless accepted by Itron. Once accepted by Itron, no Purchase Order may be cancelled, rescheduled, or otherwise modified without Itron's written consent. No contingency contained on any Purchase Order shall be binding upon Itron. The Parties agree that the terms of the Agreement shall apply to all Purchase Orders.

## 2 Definitions.

The following defined terms are used throughout these Terms of Sale.

**Affiliate** means any legal entity that directly or indirectly controls, is controlled by, or is under common control with, a Party, where "control" means ownership of at least fifty percent (50%) of the equity having the power to vote on or direct the affairs of the entity.

**Claim** means an unaffiliated third-party claim, action, cause of action, or demand for damages, costs, expenses (including reasonable attorney's fees), and/or other relief.

**Confidential Information** means all information disclosed by a Party ("**Disclosing Party**") to the other Party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. The Confidential Information of each Party includes the Order Document and other non-public terms agreed between the parties, as well as business and marketing plans, pricing, technology and technical information, trade secrets, product plans and designs, and business processes disclosed by such Party. However, Confidential Information does not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information.

**Customer Data** means all data about Customer's end users that Itron acquires, develops, or derives in connection with the performance of services under the Agreement. Customer Data may include Personally Identifiable Information relating to a Customer end user, which is not generally available to the public. However, Customer Data does not include Deidentified Data.

**Defended Party** means a Party entitled to defense from the other Party under Section 7 ("Third-Party Claims") of the main body of these Terms of Sale.

**Defending Party** means a Party obligated to provide defense to the other Party under Section 7 ("Third Party Claims") of the main body of these Terms of Sale.

**Deidentified Data** means information that cannot reasonably be used to infer information about a Customer end user.

**Documentation** means user manuals, training materials, product descriptions and specifications, technical manuals, supporting materials and other documentation relating to products and services offered by Itron, which Itron has made available to Customer.

**Fees** means all amounts to be paid to Itron by Customer under the Agreement.

**Intellectual Property** means all worldwide rights, title and interest in or relating to any intellectual property or industrial property, whether protected, created or arising under the laws of any jurisdiction, including: (i) all patents, utility models and industrial design registrations and all applications for any of the foregoing (including all continuations, divisionals, continuations-in-part, provisionals, renewals, reissues, re-examinations, substitutions, additions, extensions, inventor's certificates and any foreign equivalents of any of the foregoing), (ii) all trademarks, service marks, brand names, trade dress, logos, corporate names, trade names, and other source of business identifiers and general intangibles of a like nature, in each case, together with all goodwill, registrations and applications for registration, extensions and renewals related to any of the foregoing, (iii) all copyrights and works of authorship, in each case, whether or not registered or published, and all registrations, applications, reversions, extensions and renewals for any of the foregoing, and all moral rights, however denominated, (iv) all Internet domain names, and (v) all trade secrets, and other know-how, ideas, technology, software, discoveries, improvements, formulae, confidential and proprietary information, technical information, techniques, inventions, designs, drawings, procedures, processes, methods and models, in each case, whether or not patentable or copyrightable.

**Order Acknowledgement** means a written sales order acknowledgement submitted by Itron to Customer in response to a Purchase Order.

**Personally Identifiable Information** means information about an individual, including any information that can be used to reveal an individual's identity or that is linkable to an identifiable individual.

**Pricing Summary** means a valid written price quotation submitted by Itron to Customer for products and/or services.

**Statement of Work** or **SOW** means any document identified as a Statement of Work and describing professional services to be provided by Itron that is attached to an Order Document or references these Terms of Sale and is signed by the Parties.

**Territory** means the country in which Itron delivers products and services to Customer.

### **3 Term.**

The Agreement shall commence on the Acceptance Date and continue thereafter until all products and services covered by the Agreement have been provided by Itron, the Proposal expires, or the Agreement is terminated in accordance with Section 11 ("Termination") of the main body of these Terms of Sale, whichever occurs first.

### **4 Warranties and Disclaimer.**

All warranties relating to products and services provided by Itron under the Agreement are set forth in the applicable Addendum or Order Document.

EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED BY ITRON UNDER THE APPLICABLE ADDENDUM OR ORDER DOCUMENT, ITRON MAKES NO WARRANTY OF ANY KIND RELATING TO PRODUCTS AND SERVICES AND DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING: (I) IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, (II) WARRANTIES OF TITLE AND NON-INFRINGEMENT, AND (III) WARRANTIES ARISING FROM STATUTE, OPERATION OF LAW, COURSE OF DEALING, PERFORMANCE, USAGE OR TRADE PRACTICE. TO THE EXTENT ANY IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD. ITRON AND ITS SUPPLIERS DO NOT WARRANT OR REPRESENT THAT PRODUCTS OR SERVICES WILL BE FREE FROM BUGS OR ERRORS OR THAT THEIR USE WILL BE UNINTERRUPTED. ITRON ASSUMES NO LIABILITY OR RESPONSIBILITY FOR ANY INTERRUPTION OR CESSATION OF TRANSMISSION VIA CUSTOMER OR THIRD-PARTY WIDE-AREA NETWORK (WAN), CELLULAR OR OTHER PUBLIC COMMUNICATIONS OR BROADBAND SYSTEMS (INCLUDING OUTAGES, DISCONTINUANCE, DEVICE NON-REACHABILITY, LOSS OR INACCURATE READING) OR FOR ANY CONSEQUENCES, LOSSES, OR DAMAGES ARISING FROM CHANGES MADE BY CUSTOMER TO THE CONTENT OR PROGRAMMING OF EQUIPMENT (UNLESS CAUSED BY A DEFECTIVE PRODUCT). THESE DISCLAIMERS WILL APPLY NOTWITHSTANDING ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED UNDER THE AGREEMENT.

### **5 Intellectual Property.**

#### **5.1 Reservation of Intellectual Property.**

Subject to the limited rights expressly granted by Itron to Customer under these Terms of Sale, Itron reserves all of its Intellectual Property and, as between the Parties, Itron owns all rights, title and interest in and to its Confidential Information and the products, services and related deliverables provided by Itron under the Agreement. Subject to the limited rights expressly granted by Customer to Itron under these Terms of Sale, Customer reserves all of its Intellectual Property and, as between the Parties, Customer owns all right, title and interest in and to its Confidential Information, including Customer Data. All rights, titles, and interests not specifically and expressly granted by either Party hereunder are hereby reserved. Nothing in the Agreement will be understood to preclude or limit Itron from developing or providing products, services, or related deliverables for itself or other customers, irrespective of the possible similarity of such products, services, or related deliverables to those delivered to Customer.

#### **5.2 Customer Feedback.**

Customer hereby grants Itron a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into any products and services any suggestions, enhancement requests, recommendations or other feedback provided by Customer ("**Customer Feedback**"). As between the Parties, Itron will own all rights, title, and interest in and to any products, services, or enhancements developed by or on behalf of Itron based on any Customer Feedback.

## **6 Fees, Invoicing, Payment, and Taxes.**

### **6.1 Fees.**

Fees for products and services are set forth in the applicable Proposal or Statement of Work. Unless otherwise provided in an applicable Addendum, Proposal, or Statement of Work, Fees for products and services are valid for one (1) year from the effective date of the Proposal or Statement of Work, as applicable.

### **6.2 Invoicing.**

Itron will invoice Customer for products and services in accordance with the applicable Addendum, Order Document or Statement of Work. Itron will issue invoices to Customer via email to an email address, which Customer shall designate. If the designated email address changes, Customer shall notify Itron of that change within three (3) business days after the change.

### **6.3 Payment.**

Unless otherwise specified in an applicable Proposal, Order Document or Statement of Work, Customer must pay each invoice in US dollars (USD) within thirty (30) days from the original invoice date by electronic transfer to a bank account designated by Itron.

### **6.4 Invoice Disputes.**

Customer shall notify Itron in writing of any dispute with any invoice (along with substantiating documentation and a reasonably detailed description of the dispute) within ten (10) days from the original invoice date. Invoices for which no such timely notification is received shall be deemed accepted by Customer as true and correct, and Customer shall pay all amounts due under such invoices within the period set forth in Section 6.3 above. The Parties shall seek to resolve all such disputes expeditiously and in good faith in accordance with the dispute resolution provisions set forth in Section 14 ("Disputes") of the main body of these Terms of Sale. Notwithstanding anything to the contrary, each Party shall continue performing its obligations under the Agreement during any such dispute, including timely payment by Customer of all undisputed amounts due and payable under the Agreement.

### **6.5 Late Payment.**

Except for invoiced payments that Customer has timely disputed, all late payments shall bear interest at the lesser of the rate of one percent (1%) per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall also reimburse Itron for all reasonable costs incurred in collecting any late payments, including attorney fees. In addition to all other remedies available under the Agreement or at law (which Itron does not waive by the exercise of any rights hereunder), Itron shall be entitled to suspend the provision of any services and/or delivery of any products if Customer fails to pay any undisputed amounts when due hereunder and such failure remains uncured for fifteen (15) days following written notice thereof.

### **6.6 Right to Sell Receivables.**

Customer agrees that Itron is entitled to sell and assign amounts due by Customer related to an undisputed invoice to any third party. Customer agrees to promptly sign all such documents, and take all such further actions, as Itron may reasonably request from time to time to facilitate and/or evidence such sale and assignment.

### **6.7 No Setoff.**

Customer shall not withhold payment of any amounts due and payable under the Agreement by reason of any setoff of any claim or dispute with Itron, whether relating to Itron's breach, bankruptcy, or otherwise.

### **6.8 Payment Assurance**

Notwithstanding Section 6.3 above or anything else to the contrary, as a condition to Itron's acceptance of any Purchase Order for products and/or services under the Agreement, or the delivery thereof, Itron may at its sole discretion require Customer to (a) prepay all or a portion of the Fees for any such products and/or services, and/or (b) open an irrevocable and confirmed revolving letter of credit ("**Letter of Credit**") or bank guarantee ("**Bank Guarantee**") through a prime European/Global bank, and in a form, acceptable to Itron in accordance with written instructions provided by Itron. The Letter of Credit or Bank Guarantee shall name Itron as the beneficiary and be maintained by Customer at its expense in an amount requested in writing by Itron, provided that such amount shall not exceed the total aggregate unpaid amount of Fees for undelivered products and services associated with all Purchase Orders submitted by Customer under the Agreement, minus the amount of any prepayment made by Customer to Itron for such products and services at Itron's request in accordance with this Section. The Letter of Credit or Bank Guarantee shall allow multiple payments

and be payable in accordance with the following payment terms: (i) equipment – 100% of amounts due for equipment shall be paid within thirty (30) days (or such other period agreed upon by Itron in writing) after presentation of the bills of lading made out to the order of Customer or Itron, a commercial invoice duly issued by Itron in accordance with the Agreement, and a packing list issued by Itron for the equipment against which Itron seeks payment, and (ii) software and services – 100% of amounts due for licensed software and/or services shall be paid within thirty (30) days (or such other period agreed upon by Itron in writing) after presentation of a commercial invoice duly issued by Itron in accordance with the Agreement.

## **6.9 Taxes.**

All prices are exclusive of any taxes, however designated, including without limitation sales or use, goods and services, value added, consumption or other similar fees or taxes imposed on it with respect to the payments due to Itron under the Agreement. Customer shall be responsible for and pay on a timely basis any taxes imposed on it related to products and services provided by Itron pursuant to the Agreement (except for taxes based on Itron's net income) or shall present Itron with an exemption certificate or direct pay permit authorized by the relevant taxing authorities. Applicable taxes shall, to the extent practical, be billed as a separate item on each invoice. If Customer determines that any income tax withholding from any payment is required, Customer shall immediately notify Itron in writing of the potential for such withholding tax and shall cooperate with Itron in good faith before undertaking any such withholding so as to reduce or eliminate any potential withholding tax obligation to the greatest extent possible. Where any withholding taxes are required by law, Customer shall gross up the payment to Itron such that, after the tax has been deducted or withheld, Itron receives the same amount as it would have been entitled to receive without any such requirement to make a deduction or withholding. The Parties agree to fully cooperate with one another regarding taxes and any related issues arising from the Agreement and to use reasonable efforts to make use of any lawful reliefs or exemptions that could apply. Customer shall indemnify and hold Itron and its affiliates harmless from any tax liability assessed against Itron or its affiliates but rightfully owed by Customer arising from or related to any transactions relating to the Agreement.

## **7 Third-Party Claims.**

### **7.1 Claims Against Customer.**

Itron will defend Customer against any Claim, and will pay for the resulting costs and damages finally awarded against Customer to the third-party claimant by a court of competent jurisdiction or agreed to in settlement by Itron, arising from or related to: (i) personal bodily injury, death, or damage to tangible personal property or real property, to the extent caused by the negligence of Itron, or (ii) infringement, misappropriation or violation of any third-party Intellectual Property within the Territory by any products or services developed by Itron and provided to Customer under the Agreement. If Itron receives notice of an alleged infringement by any products or services, or if Itron reasonably believes that an infringement Claim is likely, Itron may stop delivery of the affected products or services without liability for failure to deliver them. Itron will have the right, at its sole option, to obtain the right for Customer to continue use of the affected products or services, or to replace or modify the affected products or services so that they are no longer alleged or believed to infringe, if it can be done without significant loss of functionality. If neither of the foregoing options are available to Itron on commercially reasonable terms, Itron may terminate Customer's use of the affected products or services without further liability under this section, in which case Itron will refund to Customer the depreciated value of the affected product and any prepaid unused portion of the affected service.

Itron will have no obligation under Section 7.1(ii) for any Claim arising from or related to: (a) the combination, operation or use of any product or service provided by Itron with any product or service not provided by Itron, (b) any modification to products or services made either without Itron's prior written consent or by a person other than Itron or an authorized representative of Itron, (c) failure to use updated or modified products or services as provided by Itron, (d) any use of any release of Itron software or any firmware other than the most current release made available to Customer, (e) any use of products or services not in accordance with the Agreement and applicable Documentation, (f) Itron's compliance with any designs, specifications, or instructions provided by Customer, or (g) any use of any wireless or satellite data services.

### **7.2 Claims Against Itron**

Customer will defend Itron against any Claim, and will pay for the resulting costs and damages finally awarded against Itron to the third-party claimant by a court of competent jurisdiction or agreed to in settlement by Customer, arising from or related to: (i) personal bodily injury, death, or damage to tangible personal property or real property, to the extent caused by the negligence of Customer, (ii) infringement, misappropriation or violation of any third-party Intellectual Property within the Territory by any Customer Data or other content or information provided by Customer

to Itron, (iii) any privacy or data security law related to Customer's provision of Customer Data to Itron, or (iv) Customer's use of products or services not in accordance with the Agreement and applicable Documentation.

### **7.3 Conditions to Defense.**

As a condition to the Defending Party's obligations under Section 7.1 or Section 7.2 above, the Defended Party must: (i) promptly notify the Defending Party in writing of the Claim, (ii) give the Defending Party all reasonably requested information and assistance in connection with the Claim in a timely manner, and (iii) give the Defending Party the sole right to control the defense and settlement of the Claim. The Defending Party shall not enter into any settlement of a Claim against a Defended Party without the Defended Party's prior written consent unless: (a) there is no admission of fault of the Defended Party, (b) there is no injunctive or other non-monetary relief against the Defended Party, and, (c) the settlement includes the claimant's or plaintiff's release of the Defended Party from all liability relating in any way to the Claim.

### **7.4 EXCLUSIVE REMEDY.**

TO THE EXTENT PERMITTED BY LAW, THIS SECTION 7 CONSTITUTES EACH PARTY'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO THIRD PARTY CLAIMS BROUGHT AGAINST THAT PARTY.

### **8 Insurance.**

Itron will maintain the following minimum levels of insurance: (i) workers' compensation insurance for Itron employees equal to applicable statutory limits and an employer's liability policy in an amount not less than \$1,000,000.00, (ii) an occurrence form commercial general liability policy or policies in an amount not less than \$1,000,000 per occurrence and \$2,000,000.00 aggregate, (iii) where applicable, an automobile liability policy or policies in an amount not less than \$1,000,000.00 combined single limit, and (iv) a professional liability policy or policies insuring against liability for errors and omissions covering professional activities contemplated under the Agreement in an amount not less than \$1,000,000.00. Upon written request, Itron will provide Certificates of Insurance evidencing the coverage described, so long as Itron is providing products or services under the Agreement.

### **9 Customer Data and Deidentified Data.**

Each Party shall comply with applicable data protection laws relating to Customer Data and implement and establish reasonable security measures for the protection and retention of Customer Data. To the extent Customer Data includes Personally Identifiable Information, and Itron processes such Customer Data on behalf of Customer as part of the services provided by Itron under the Agreement, the Parties will comply with the *Itron Data Processing Agreement* (the "**Data Processing Agreement**"). The Data Processing Agreement is available at <https://www.itron.com/legal/privacy/contracts>, is incorporated herein by reference, and will remain in force during the term of the Agreement.

Customer hereby grants Itron a non-exclusive, royalty-free, perpetual, worldwide license to copy, modify, use, sublicense, distribute, display, create derivative works of all Customer Data for the purposes of: (i) providing products and services to Customer, (ii) testing, troubleshooting, and optimizing performance and quality of Itron's products and services, and (iii) generating, storing, distributing, and using Deidentified Data for any lawful purpose. Itron will use reasonable methods, such as anonymization and aggregation, that are designed to ensure that Deidentified Data cannot be associated with any consumer or household, and shall use Deidentified Data only for analysis, reporting, program management, to maintain, improve, and develop its products and services, and other lawful purposes. Itron shall not attempt to reidentify any such Deidentified Data except as necessary to determine that its deidentification processes satisfy the requirements of this Section. Itron's use of Deidentified Data shall not conflict with Itron's obligations under the Agreement.

Customer warrants that: (a) it has the legal right and authority to grant Itron the license rights described above, and (b) Itron's exercise of such rights in accordance with the Agreement will not violate any applicable laws or regulations or cause a breach of any agreement or obligation between Customer and any third-party.

### **10 Confidentiality.**

Each Receiving Party acknowledges that the Disclosing Party's Confidential Information is the property of and confidential to, or a trade secret of, the Disclosing Party. The Receiving Party: (i) must keep the Disclosing Party's Confidential Information confidential and may not directly or indirectly disclose, divulge or communicate that Confidential Information to, or otherwise place that Confidential Information at the disposal of, any other person without the Disclosing Party's prior written approval, (ii) must take reasonable steps to secure and keep secure all Disclosing

Party's Confidential Information coming into its possession or control, (iii) may not disclose any Confidential Information to anyone other than the Receiving Party's employees, agents, contractors or subcontractors and professional advisors, or those of its Affiliates, who have a legitimate need to know such Confidential Information, (iv) must use the Confidential Information solely for purposes related to the subject matter of the Agreement or for potential future commercial transactions between the Parties not otherwise covered by a separate agreement, and (v) must ensure that any person to whom it discloses Confidential Information in accordance with this Section is subject to binding confidentiality obligations that are at least as restrictive as those set forth in this Section. Notwithstanding any language to the contrary, the Receiving Party may disclose the Disclosing Party's Confidential Information to the extent it is compelled by law to do so, if the Receiving Party gives the Disclosing Party prior written notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest such disclosure.

### **11 Termination.**

Either Party may terminate the Agreement by providing the other Party with written notice if the other Party (i) becomes insolvent, executes a general assignment for the benefit of creditors or becomes subject to bankruptcy or receivership proceedings, or (ii) commits a material breach of the Agreement that remains uncured for thirty (30) days following delivery of written notice of such breach. Any notice of breach must specify the nature of the breach and the specific act that the non-breaching Party contends would correct such breach. For the avoidance of doubt, Customer's failure to pay invoices timely will be deemed a material breach of the Agreement.

### **12 Survival.**

The following Sections of these Terms of Sale shall survive termination or expiration of the Agreement: 1 ("Introduction"), 2 ("Definitions"), 3 ("Term"), 4 ("Warranties and Disclaimer"), 5 ("Intellectual Property"), 6 ("Fees, Invoicing, Payment and Taxes"), 9 ("Customer Data and Deidentified Data"), 10 ("Confidentiality"), 11 ("Termination"), 12 ("Survival"), 13 ("Limitation of Liability"), 14 ("Disputes"), 15 ("Governing Law and Venue"), 17 ("Publicity"), 19 ("Independent Contractor"), 20 ("Force Majeure"), 21 ("Notice"), and 22 ("Miscellaneous"). An Addendum or Order Document may also contain provisions that expressly survive termination or expiration of the Agreement.

### **13 Limitation of Liability.**

TO THE GREATEST EXTENT PERMITTED BY LAW, EVEN IF SUCH DAMAGES COULD HAVE BEEN FORESEEN OR IF ITRON HAS BEEN APPRISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER SUCH DAMAGES ARE ARISING IN CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, BREACH OF ANY STATUTORY DUTY OR OTHERWISE: (A) IN NO EVENT WILL ITRON BE LIABLE FOR DAMAGES FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR PERTAINING TO THE AGREEMENT SUFFERED BY CUSTOMER OR OTHERS (INCLUDING ANY LOST PROFITS, LOST REVENUE OR LOSS OF GOODWILL); AND (B) ITRON'S TOTAL AND CUMULATIVE LIABILITY, FOR ALL CLAIMS OF ANY NATURE ARISING OUT OF OR PERTAINING TO THE AGREEMENT WILL NOT EXCEED THE TOTAL FEES PAID OR PAYABLE BY CUSTOMER TO ITRON IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE OCCURRENCE OF THE FIRST EVENT GIVING RISE TO A CLAIM UNDER THE AGREEMENT.

### **14 Disputes.**

The Parties shall attempt in good faith to resolve any dispute, controversy, or claim arising out of or relating to the Agreement, or the breach, termination, or invalidity hereof (each, a "**Dispute**") in accordance with this Section 14. A Party shall send written notice to the other Party of any Dispute ("**Dispute Notice**"). The Parties shall first attempt in good faith to resolve any Dispute set forth in the Dispute Notice by negotiation and consultation between themselves. In the event that such Dispute is not resolved on an informal basis within thirty (30) business days after one Party delivers the Dispute Notice to the other Party, either Party may, by written notice to the other Party ("**Executive Dispute Notice**"), refer such Dispute to the executives of each Party designated by such Party in a written notice to the other Party ("**Executives**"). If the Executives cannot resolve any Dispute during the time period ending thirty (30) business days after the date of the Executive Dispute Notice (the last day of such time period hereinafter referred to as the "**Escalation Date**"), the Parties may submit the Dispute to any mutually-agreed-to mediation service for mediation by providing to the mediation service a joint written request for mediation and—jointly or individually—a written summary the Dispute and the relief requested in the Dispute. If the Parties decide to mediate the Dispute, they shall cooperate with one another in selecting a mediation service and shall cooperate with the mediation service and with one another in selecting a neutral mediator and in scheduling the mediation proceedings. The Parties agree that, if they mediate the Dispute, the mediator's fees and expenses and the costs incidental to the mediation will be shared equally between the Parties. Either Party may proceed in accordance with the provisions of Section 15 ("**Governing Law and Venue**") if (i) the Parties mediate the Dispute and cannot resolve the Dispute for any reason within sixty (60) business

days after the Escalation Date, or (ii) no mediation occurs, and the Parties cannot resolve the Dispute for any reason within ten (10) business days after the Escalation Date. Notwithstanding the foregoing, nothing in this [Section 14](#) shall be construed as preventing a Party from seeking available equitable relief, including specific performance, and injunctive relief in a court of competent jurisdiction.

## 15 Governing Law and Venue

The Agreement, and any disputes arising from it, will be governed exclusively by the applicable governing law below, based on the Customer's primary place of business and without regard to conflicts of laws rules. The courts located in the applicable venue below will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to the Agreement or its formation, interpretation, or enforcement. Each Party hereby consents and submits to the exclusive jurisdiction of such courts.

<b>Customer's Primary Place of Business</b>	<b>Governing Law</b>	<b>Jurisdiction and Venue</b>
Any location not specified below	State of Texas, United States of America	Superior Court of Texas, County of Travis and Federal Courts of the Western District of Texas
Australia	Laws of the State of South Australia, Australia	State and Federal Courts of South Australia
Canada	Province of Ontario, Canada	Courts of the Province of Ontario
China or Hong Kong	Laws of Hong Kong	Hong Kong International Arbitration Center
European Union	Laws of the EU Member State of the Customer's primary place of business	Courts of the EU Member State of the Customer's primary place of business
Europe (excluding the European Union), Middle East, Africa, Asia (excluding India, Malaysia, Singapore), Oceania (excluding Australia)	Laws of England	Courts of London
India	Laws of New Delhi, India	Courts of New Delhi, India
Malaysia	Laws of Selangor, Malaysia	Courts of Selangor, Malaysia
Singapore	Laws of Singapore	Courts of Singapore
United States, Latin America, or the Caribbean	State of Texas, United States of America	Superior Court of Texas, County of Travis and Federal Courts of the Western District of Texas

## 16 Compliance.

Each Party must comply with all applicable laws, regulations, and other legal requirements applicable to the conduct of its business and the Agreement. Itron's products and services delivered under the Agreement are subject to the U.S. Export Administration Regulations ("EAR"; 15 CFR part 730 et seq.), the U.S. sanctions imposed by the United States including its Office of Foreign Assets Control, and any applicable laws and regulations of the particular country to which such items are shipped or received. Customer shall comply with all applicable export control laws and shall not cause, directly or indirectly, the export, re-export, or transfer of any such items or services to destinations or persons without obtaining any required prior authorization from the U.S. Government and any other applicable local authorities. Customer shall not do anything to cause Itron to violate such export control laws, including requesting support for a product that has been unlawfully re-exported or requesting delivery of a product or service intended for a U.S. sanctioned region or person. Each Party represents that it is not listed on a U.S. Government restricted party list for export control or trade sanctions purposes, and is not 50% or more owned, in the aggregate, by one or more restricted parties. Each

Party shall comply with the European Union's Russia and Belarus sanctions related Regulations 833/2014 and 765/2006 respectively, specifically Article 12g and Article 8g respectively ("EU Russian and Belarus Sanctions Regulations"). Customer shall not cause, directly or indirectly, the export, re-export, or transfer of goods or services obtained under the Agreement to Russia or Belarus, or their re-export for use in either of those countries, in violation of these Regulations. Customer's noncompliance with the EU Russian and Belarus Sanctions Regulations entitles Itron to terminate the Agreement without prejudice to Itron's other rights and remedies. Customer shall maintain any required export records related to Itron's products or services and make such records available to Itron immediately upon request. The Parties must comply with all anti-bribery laws and may not offer or make any payments, gift, or transfer any item of any value either directly or indirectly for the purpose of bribing any individual, group, or government official, or accepting or participating in any extortion, kickbacks, or other unlawful or improper means to obtain or retain an improper business advantage related to the Agreement or products and services orderable under the Agreement.

#### **17 Publicity.**

Neither Party may issue a press release related to the Agreement or their relationship without the other Party's prior written consent. At Itron's request, the Parties will create and provide their prior written approval for publication a press release announcing their relationship under the Agreement. Itron may use Customer's name and logo as a part of Itron's normal marketing materials.

#### **18 Sub-contractor and Outsourcer.**

Itron may hire, engage, or retain the services of one or more subcontractors and/or outsourcing providers to perform any or all of its obligations related to its product development, network operations, and/or any portion of services provided under the Agreement.

#### **19 Independent Contractor.**

The Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties. The Parties are independent contractors. Neither Party has any authority to act on behalf of, or to bind the other to any obligation.

#### **20 Force Majeure.**

Neither Party (the "**Impacted Party**") shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement (except for Customer's obligations to make payments to Itron under the Agreement), when and to the extent such failure or delay is caused by or results from acts or omissions (whether in effect on or after the Acceptance Date) beyond the Impacted Party's reasonable control and without the Impacted Party's negligence, including: (i) acts of God, (ii) severe weather, flood, fire, earthquake or explosion, (iii) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, (iv) changes in applicable laws or regulations, (v) embargoes or blockades, (vi) action or inaction by any governmental authority, (vii) national or regional emergency, (viii) strikes, labor stoppages, or slowdowns or other industrial disturbances, (ix) shortage of adequate materials, qualified labor, power or transportation, (x) epidemics, pandemics or quarantines, and (xi) other similar or dissimilar circumstances outside the Impacted Party's reasonable control and without the Impacted Party's negligence (each a "**Force Majeure**").

#### **21 Notice.**

Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under the Agreement (each, a "**Notice**") in writing and addressed to the other Party at its address(es) set out below (or to any other address that the receiving Party may designate from time to time in accordance with this Section). Each Party shall deliver all Notices by personal delivery, nationally recognized overnight courier (with all fees prepaid), email (as applicable, with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in these Terms of Sale, a Notice is effective only (i) upon receipt by the receiving Party and (ii) if the Party giving the Notice has complied with the requirements of this Section.

If to Itron:	Itron, Inc. 2111 North Molter Road Liberty Lake, WA 99019 Attention: General Counsel
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with a copy to: Itron, Inc.  
1250 S. Capital of Texas Highway  
Building 3, Suite 500  
Austin, TX 78746  
Attention: General Counsel

with a copy to: Itron, Inc.  
Email: [legal@itron.com](mailto:legal@itron.com)  
Attention: General Counsel

If to Customer: To the Customer's address as set out in an Order Document or Statement of Work, or otherwise to the address for notices last advised to Itron.

## 22 Modifications.

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

## 23 Miscellaneous.

If any provision of the Agreement is found to be unenforceable by a court of competent jurisdiction or arbitration panel, such provision will be deleted and the remaining terms will be construed so as to give maximum lawful effect to any such deleted terms. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. The division of these Terms of Sale into sections and subsections, and the use of headings and captions in connection therewith, are solely for convenience of reference and shall have no legal effect in construing provisions of the Agreement. Any references to a particular section of these Terms of Sale will be deemed to include reference to any and all subsections thereof. The Parties agree that neither of them will be deemed the drafter of the Agreement and that no provision will be construed in favor of one Party on the ground that such provision was drafted by the other. No waiver by either Party of any breach under the Agreement will constitute a waiver of any other breach. The Agreement is not made for the benefit of any third parties. All communications and notices to be made or given pursuant to the Agreement must be in English. Customer may not assign the Agreement or any of its rights hereunder without Itron's prior written consent. Subject to the foregoing, the Agreement will bind and inure to the benefit of the Parties and their respective successors and permitted assigns, but any assignment in violation of this provision will be void. Order Documents and Statements of Work may be executed and delivered in counterparts, including by scan and electronic transmission, each of which will be deemed an original. Any document generated by the Parties related to the Agreement may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Electronic communications do not constitute a "written agreement" under this provision. In these Terms of Sale, the word "including" shall mean "including, without limitation."

## 24 Local Law Requirements: Australia.

With respect to Customers domiciled in Australia, the following provisions shall be applicable and are hereby added to Section 4 (Warranties and Disclaimers):

Notwithstanding anything else in the Agreement, to the extent required by applicable law, the statutory consumer guarantees provided under the *Competition and Consumer Act 2001* (Cth) or similar State and Territory consumer protection laws ("**Non-Excludable Guarantees**") shall apply to the products and services provided by Itron under the Agreement. All warranties provided by Itron under the Agreement are in addition to Customer's rights available under the Non-Excludable Guarantees. To the extent Itron's liability under a Non-Excludable Guarantee cannot be excluded, Itron's liability is limited to, at Itron's election: (i) in case of products, to repair or replace the product, or pay the cost of repair or replacement; or (ii) in the case of services, to reperform the service or pay the cost of having the service reperformed.

Our goods and services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the service, you are entitled: (1) to cancel your service contract with us; and (2) to a refund for the unused portion, or to compensation for its reduced value. You are also entitled to choose a refund or replacement for major

failures with goods. If a failure with the goods or a service does not amount to a major failure, you are entitled to have the failure rectified in a reasonable time. If this is not done you are entitled to a refund for the goods and to cancel the contract for the service and obtain a refund of any unused portion. You are also entitled to be compensated for any other reasonably foreseeable loss or damage from a failure in the goods or service.

## EQUIPMENT ADDENDUM

### 1 Relationship to Main Body of Terms of Sale.

This Addendum is an attachment to the main body of these Terms of Sale and is hereby incorporated into these Terms of Sale by this reference to the extent applicable to the products and services purchased or licensed by Customer under the Agreement. If there is any inconsistency between the terms and conditions set forth in the main body of these Terms of Sale, and the terms and conditions set forth in this Addendum, the terms and conditions set forth in 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 main body of these Terms of these Term 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 main body of these Terms of Sale.

### 4 Invoicing.

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

### 5 Ordering, 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.

### 6 Order Cancellation & Rescheduling.

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

### 7 Forecasts.

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

### 8 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.

**9 Documentation.**

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

**10 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.

**11 Returns.**

Except as provided in [Section 12](#) 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 (iii) 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.

**12 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.

**13 Itron Equipment Warranty Exclusions.**

The warranties under [Section 12](#) 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.

**14 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.

**15 Equipment End of Sale.****15.1 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 main body of these 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.

### **15.2 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 main body of these 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.

### **16 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.

### **17 Modifications.**

Itron may modify the terms and conditions set forth in this Addendum in accordance with Section 22 (Modifications) of the main body of these Terms of Sale.

### **18 Survival.**

The following Sections of this Addendum shall survive termination or expiration of these Terms of Sale: 1 (Relationship to Main Body of Terms of Sale), 2 (Additional Definitions), 3 (Ordering Equipment), 4 (Invoicing), 6 (Order Cancellation & Rescheduling), 8 (Shipment, Title & Risk of Loss), 10 (Equipment Firmware), 11 (Returns), 12 (Itron Equipment Warranties), 13 (Itron Equipment Warranty Exclusions), 14 (Integration of Itron Equipment), 16 (Third-Party Equipment Warranty), and 18 (Survival).

## PROFESSIONAL SERVICES ADDENDUM

### 1 Relationship to Main Body of Terms of Sale.

This Addendum is an attachment to the main body of these Terms of Sale and is hereby incorporated into these Terms of Sale by this reference to the extent applicable to the products and services purchased or licensed by Customer under the Agreement. If there is any inconsistency between the terms and conditions set forth in the main body of these Terms of Sale, and the terms and conditions set forth in this Addendum, the terms and conditions set forth in 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 main body of these Terms of Sale:

**Change** means a change to the scope of Professional Services or related deliverables to be provided by Itron under a Statement of Work.

**Change Request** means a request made by Itron or by Customer for a Change.

**Change Order** means a written document describing a Change agreed to by Itron and Customer that is signed by both Parties.

**Professional Services** means professional services such as installation services, implementation services, consulting services, project management services, and other similar services, as described in a Statement of Work.

### 3 Statement of Work Requirement.

Itron has no obligation to provide Professional Services in the absence of a Statement of Work agreed to by Itron and the Customer and a Purchase Order issued by Customer to purchase Professional Services under that Statement of Work. Customer shall order Professional Services by issuing a Purchase Order to Itron in accordance with these Terms of Sale.

### 4 Expenses.

Customer will reimburse Itron for reasonable out-of-pocket travel-related expenses incurred by Itron relating to the provision of Professional Services unless specified otherwise in the Statement of Work.

### 5 Invoicing.

Itron will invoice Customer for Professional Services as set forth in the applicable Order Document or Statement of Work. Unless otherwise provided in the applicable Order Document or Statement of Work, Itron will invoice Customer for Professional Services at the end of the month in which they are performed and for expenses as incurred.

### 6 Customer Responsibilities.

Customer shall timely perform all its assigned roles, responsibilities and tasks under each Statement of Work using qualified personnel. Customer shall also provide Itron with reasonable cooperation with respect to the Professional Services, including for example, by providing Itron with reasonable access to Customer's facilities, service territory, personnel, systems, and information.

### 7 Reference Information.

If Customer provides Itron any designs, technical information, or other information required by Itron to provide Professional Services and/or related deliverables (collectively, "**Reference Information**"), Itron shall be entitled to rely on the accuracy of such information and documents. To the extent Customer's failure to provide accurate and complete Reference Information results in any delay or increases Itron's cost of performing Professional Services, the delay shall be excused, and Itron shall have the right to increase its Fees as necessary to offset its increased costs of performing Professional Services. Itron will provide Customer with reasonable evidence of its increased costs of performing the Professional Services and will make commercially reasonable efforts to minimize such costs to the extent practicable under the circumstances.

**8 Delays.**

To the extent Customer's failure to adhere to Customer's responsibilities and requirements under an Order Document or Statements of Work results in any delay or increases Itron's cost of performing Professional Services, the delay shall be excused, and Itron shall have the right to increase its Fees as necessary to offset its increased costs of performing Professional Services. Itron will provide Customer with reasonable evidence of its increased costs of performing the Professional Services and will make commercially reasonable efforts to minimize such costs to the extent practicable under the circumstances.

**9 Express Warranties for Professional Services.**

Itron warrants to Customer that Professional Services will be provided by personnel with the requisite experience, skills, knowledge, training and education and in a timely, professional, and workmanlike manner in accordance with the applicable Statement of Work. To the extent permitted by law, Itron expressly disclaims all other warranties.

**10 Remedies.**

As Customer's sole and exclusive remedy for any material noncompliance by Itron with the express warranties provided above for Professional Services, Itron shall correct the noncompliance within a reasonable period of time under the circumstances, if Customer gives Itron written notice (which notice must describe the noncompliance in sufficient detail to enable Itron to provide the required corrective action) within ninety (90) days of performance of the applicable noncompliant Professional Services. If Itron, in its sole discretion, is unable to correct the noncompliance, Customer's sole and exclusive remedy will be receiving a refund of the pro-rata amount paid by Customer for the nonconforming Professional Services.

**11 Change Requests & Change Orders.**

Either Party may propose a Change Request. All Changes must be approved pursuant to the Change Order. The Parties will adhere to any Change Request procedures set forth in the applicable Order Document or Statement of Work. If Itron receives a Change Request from Customer, Itron will prepare and submit a proposed Change Order to Customer describing the Change and associated fees. No Change Order will be binding upon Customer or Itron unless signed by authorized representatives of both Parties. All Change Orders will be governed by these Terms of Sale.

**12 Project Deliverables.**

Itron shall provide Customer with project-related documentation and other deliverables identified in the applicable Statement of Work. Itron hereby grants Customer a non-exclusive, non-transferable license to use such documentation and other deliverables for Customer's internal business in furtherance of the purpose for which they were provided by Itron. For clarity, the foregoing license does not apply to software or firmware licensed by Customer under these Terms of Sale.

**13 Modifications.**

Itron may modify the terms and conditions set forth in this Addendum in accordance with Section 22 (Modifications) of the main body of these Terms of Sale.

**14 Survival.**

The following Sections of this Addendum shall survive termination or expiration of these Terms of Sale: 1 (Relationship to Main Body of Terms of Sale), 2 (Additional Definitions), 3 (Statement of Work Requirement), 4 (Expenses), 5 (Invoicing), 7 (Reference Information), 8 (Delays), 9 (Express Warranties for Professional Services), 10 (Remedies), 11 (Change Requests & Change Orders), 12 (Project Deliverables) only with respect to licensing, and 14 (Survival).

## MAINTENANCE AND SUPPORT SERVICES ADDENDUM

### 1 Relationship to Main Body of Terms of Sale.

This Addendum is an attachment to the main body of these Terms of Sale and is hereby incorporated into these Terms of Sale by this reference to the extent applicable to the products and services purchased or licensed by Customer under the Agreement. If there is any inconsistency between the terms and conditions set forth in the main body of these Terms of Sale, and the terms and conditions set forth in this Addendum, the terms and conditions set forth in 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 main body of these Terms of Sale:

**Annual Adjustment** means Itron's annual price increase.

**Annual Fees** means the annual Fees identified in a Proposal for each category of Covered Product, plus the Annual Adjustment, if any.

**Client Services Guidelines Documents** means the following documents as they may be updated by Itron from time to time: "Itron Equipment Repair Center Locations", and "Working Effectively with Itron Global Customer Support Services". Copies of the Client Services Guidelines Documents may be obtained by calling Itron Global Customer Support Service at (877) 487-6602 or such other number or process provided by Itron to Customer.

**Covered Equipment** means Itron equipment identified in a Proposal for which Customer has purchased Maintenance Services.

**Covered Firmware** means Itron's network and application firmware embedded within a communicating device identified in a Proposal (e.g., network interface cards, meters, endpoints, network equipment, etc.) for which Customer has purchased firmware Maintenance Services.

**Covered Products** mean Covered Firmware, Covered Software, Covered Equipment and Third Party Covered Products.

**Covered Software** means Itron software identified in a Proposal for which Customer has purchased Maintenance Services.

**Error** means a material failure of Covered Firmware or Covered Software to comply with applicable published Itron specifications.

**Fix** means a correction or workaround for an Error.

**Global Support Services** means those support services provided by Itron technical representatives via telephone, email, website or other means to assist Customer's Primary Service Contacts with questions or issues related to the operation of Covered Products.

**Improvement** means an update, modification, enhancement and/or extension to Covered Software functionality that is included in a Release.

**M&S Commencement Date** means the date upon and after which a Covered Product will be entitled to receive Maintenance Services, which unless otherwise provided in the applicable Proposal or Order Document, will be as follows:

Covered Product	M&S Commencement Date
On premise Covered Software	Itron DI Applications: Date Itron DI Application is initially allocated in the DI Platform for Customer endpoint download following receipt of an accepted Purchase Order. Other Itron Software: First day of month following date Covered Software is made available to Customer
Covered Firmware	Date of shipment of the applicable communicating device
Covered Software provided as Software-as-a-Service or Hybrid SaaS subscription	The earlier of (a) validation of such Service Offering implementation by Itron pursuant to the applicable Statement of Work, or (b) seven (7) days after completing application system setup and the Customer has been provided valid access credentials for such Service Offering
Covered Equipment	End of warranty period
Third Party Covered Products	Per applicable third-party service provider terms and conditions

**Maintenance Billing Cycle** means a period of one (1) year beginning on January 1<sup>st</sup> of each calendar year.

**Maintenance Services** means services provided under this Addendum.

**Operating Condition** means performance in accordance with applicable published Itron specifications.

**Primary Services Contacts** means Customer's primary support staff who provides internal support to Customer's operations personnel and who are key interface to Itron for all Maintenance Services.

**Release** means a collection of Fixes and / or Improvements made available by Itron to Customer.

**Service Levels** means the defined level of impact and associated response time, effort level, and escalation path procedures and guidelines described in [Attachment 1](#) to this Addendum.

**Service Offering** has the meaning set forth in the Software-as-a-Service Addendum.

**Service Request** means an Itron tracked Customer request for Global Support Services.

**Third Party Covered Products** means third-party equipment and third-party software identified in a Proposal for which Customer has purchased Maintenance Services.

### 3 Principal Services Contacts.

#### 3.1 Designation by Customer.

Customer shall designate a minimum of one (1) and not more than two (2) Primary Services Contacts for each Covered Product line, to serve as administrative liaisons for all matters pertaining to Maintenance Services for such Covered Product line and shall provide their contact information to Itron's customer account representative. Primary Services Contacts shall promptly report problems with Covered Products by submitting a Service Request for entry into Itron's support tracking system. Although it is Customer's sole right to choose its Primary Services Contacts, Customer and Itron acknowledge that each Primary Services Contact must have the appropriate technical skills and training for the position. If Customer replaces a Primary Services Contact, Customer will provide updated contact information to Itron's customer account representative, and the new Primary Services Contact will be properly trained prior to interfacing with Itron support personnel.

### **3.2 Training of Principal Services Contacts.**

Before a Primary Services Contact interfaces with Itron support personnel, he/she will attend training sessions offered by Itron, an Itron-approved trainer, or Customer's training program approved by Itron to ensure that the Primary Services Contact is (i) knowledgeable about operation of the applicable Covered Products, and (ii) qualified to perform problem determination and remedial functions with respect to such Covered Products. Customer may perform Itron-approved training or may engage Itron to perform training of Primary Services Contacts at Itron's then current rates. Itron will make training sessions available by remote video conference or training will be made available at a location or in a manner mutually agreed by the Parties. Customer shall be responsible for all Customer's associated travel-related expenses and, if the Parties agree that training will be provided at a location other than an Itron-designated facility (e.g., at a Customer-proposed facility), Customer will also reimburse Itron's travel-related expenses. The Primary Services Contacts must have the skills and capabilities to train other Customer personnel on Covered Products. Itron may update Covered Product training from time to time and, upon receiving notice of such updates from Itron, Customer shall promptly provide such training to its Primary Services Contacts in accordance with this Section.

## **4 Global Support Services & Service Requests.**

### **4.1 Global Support Services.**

Itron will make support representatives available to provide technical support during its then current normal business hours as set forth in the Client Services Guidelines Document. Global Support Services include troubleshooting & problem diagnosis relating to Covered Products; release or system management consulting; and recommendations for fully utilizing Covered Products. Customer acknowledges and agrees that Global Support Services are not intended as a substitute for training of Customer personnel, field support, or Itron professional services. Nor will Customer use Global Support Services in lieu of having qualified and trained support personnel of its own.

### **4.2 Service Request Process.**

Customer shall submit Service Requests in the manner required by the Client Services Guidelines Documents and Service Levels. When Customer submits a Service Request, Customer will reasonably assess its business urgency according to the appropriate Severity Level in [Attachment 1](#) to this Addendum. Itron will designate the initial Severity Level and the Parties will resolve any perceived gap regarding the Severity Level designation as soon as is reasonably practical. Customer may submit Service Requests on a 24/7/365 basis and Itron will respond to such Service Requests in accordance with the Service Levels.

### **4.3 Field Support.**

At Customer's request, and Itron's approval, Itron will dispatch support personnel to Customer's location to provide onsite Global Support Services ("**Requested Field Support**") related to a reported problem which cannot be addressed remotely. Requested Field Support will be billed at Itron's then-current rates, and Customer will reimburse Itron's travel-related expenses, unless the cause of the reported problem is found to be due to an error in the Itron product or service.

## **5 Itron Firmware and Software Maintenance.**

### **5.1 Scope.**

Firmware Maintenance Services covers its associated Covered Firmware embedded within the applicable communicating device. Software Maintenance Services covers its associated Covered Software sold as: (i) on premise software license, and (ii) Software-as-a-Service or SaaS Hybrid subscription.

### **5.2 Modifications.**

Itron may modify or replace Covered Firmware and Covered Software so long as such modifications or replacements do not eliminate key, documented functionality provided by the most current System Release.

### **5.3 Fixes.**

Itron shall provide Fixes in accordance with the Service Levels. Itron's obligations with respect to Service Levels are contingent upon Customer (i) devoting the necessary resource effort required to support of Itron restoring the system and remediating the Error, (ii) responding to requests made by Itron within the applicable Response Time, (iii) assigning only qualified personnel to help Itron address the Error, and (iv) providing all information, access, and assistance reasonably requested by Itron to address the Error.

**5.4 Improvements.**

Itron shall provide Improvements, if any, at no charge to Customer if such Improvements are made within the current product specifications and are made available to Itron customers generally at no charge. Improvements released as new add-on modules/features and not part of the product's original specifications, may require additional licensing and support fees and will be made available at Itron's then current rates.

**5.5 Software Releases.**

**5.5.1** Release Numbering Convention. Upgrades, Fixes and/or Improvements are made available to customers through periodic Software Releases. For informational purposes, Itron's current practice (which may vary and be changed by product, at any time in Itron's discretion) is to provide Software Releases using the numbering guideline, "X.X.X.X"

**5.5.2** The first place, "X.X.X.X", in Itron's numbering convention refers to a "Major Release", or "System Release", which consists of a new version of Covered Software. A Major Release may include architectural changes, Improvements, Fixes and / or interfaces to new functional modules or platforms. A Major release may require infrastructure or component updates which affect compatibility with previous release versions.

**5.5.3** The second place, "X.X.X.X", in Itron's numbering convention refers to a "Minor Release, which is an update to a current Major Release. A Minor Release may include consolidation of previous Service Packs, Improvements, Fixes, platform / 3<sup>rd</sup> party updates. Minor Release are provided to Itron customers on a regularly scheduled basis.

**5.5.4** The third place, "X.X.X.X", in Itron's numbering convention refers to a "Service Pack, which is an update to specific modules found in a current Major Release. A Service Pack may include Fixes to Severity 1 - Severity 4 issues for a specified Minor or Major Release.

**5.5.5** The fourth place, "X.X.X.X", in Itron's numbering convention refers to a "Hot Fix," which is an un-scheduled release provided to one or more customers as a short-term, temporary fix to a critical Severity Level 1 Error. While not utilized by all Itron software product lines, Hot Fix releases are not made available to Itron customers generally but may be included in the next scheduled Minor Release or Service Pack for general release.

**5.6 Support for Covered Firmware.**

Itron will only provide Maintenance Services for Covered Firmware if Customer: (i) is current on all applicable Fees for such Maintenance Services, (ii) tests and installs the latest Covered Firmware Fix within twelve (12) months of it being made available to Customer, and (ii) tests and installs the latest Covered Firmware Improvement within twenty-four (24) months of being made available by Itron.

**5.7 Support for On Premise Itron Enterprise Edition, OpenWay and GenX Software.**

Itron will only provide Maintenance Services for on premise Itron Enterprise Edition and OpenWay software if Customer: (i) pays the applicable fees for such Maintenance Services, (ii) tests and installs Service Pack Releases associated with the Major or Minor Release in use by Customer within twelve (12) months of such Service Pack Releases being made available to Customer, and (iii) tests and installs the latest Major or Minor Releases within twenty-four (24) months to thirty-six (36) months of such Software Release being made available by Itron.

**5.8 Support for Other On Premise Covered Software.**

Itron will only provide Maintenance Services for other on premise Covered Software if Customer: (i) pays the applicable fees for such Maintenance Services, and (ii) tests and installs Major, Minor and Service Pack Releases within twelve (12) months of such Software Releases being made available by Itron.

**5.9 Support for SaaS or IaaS.**

Itron will only provide Maintenance Services for Covered Software sold as a Software-as-a-Service or Hybrid SaaS subscription if Customer: (i) is current on all applicable fees for such Software-as-a-Service or SaaS Hybrid subscription and related Maintenance Services, and (ii) tests a Release as installed by Itron either in Customer's production Software-as-a-Service or Hybrid SaaS environment, or in Customer's funded non-production Software-as-a-Service or Hybrid SaaS environment, prior to Customer's full production use of the Release.

**5.10 Support for Unsupported Itron Software and Firmware.**

At Customer's request, Itron may elect to provide Maintenance Services for an unsupported Release at Itron's then-current rates.

**5.11 Mandatory Revisions.**

Customer must install all software and firmware updates, patches, and service packages provided by, or as directed by, Itron from time to time and which may be required to correct errors, vulnerabilities, third-party concerns, or as otherwise necessary to ensure proper functioning of the Covered Software or to protect the interests of the Parties ("**Mandatory Revisions**"). ITRON IS NOT LIABLE FOR ANY CUSTOMER OR THIRD-PARTY DAMAGES RESULTING FROM CUSTOMER'S FAILURE TO INSTALL ANY MANDATORY REVISION IN A TIMELY MANNER.

**5.12 Installation Services for On Premise Releases.**

Maintenance Services for on premise Covered Software and Covered Firmware includes the following Release installation services: limited, remote consulting support, during standard business hours, for Covered Software and Covered Firmware on Itron-approved server configurations for one production server and one non-production server (test, training, or back-up – for example) owned / operated by Customer. At Customer's request, Itron may provide on premise Software Release installation services for System Releases or Service Packs on current certified production servers, additional production servers or nonproduction servers, at its then-current rates. Itron will install Releases to Covered Software sold as a Software-as-a-Service or Infrastructure-as-a-Service subscription in accordance with the applicable terms and conditions for such services.

**5.13 Restoring Firmware or Software to Maintenance Services.**

If Customer declines or discontinues Maintenance Services for Covered Firmware or Covered Software and thereafter wishes to resume such Maintenance Services for the most recent Release of that Covered Firmware or Covered Software, Customer shall, prior to receiving Maintenance Services, notify Itron in writing of its request for Maintenance Services and pay Itron's then-current re-initiation fee, which shall not exceed an amount equal to all Annual Fees that would have been invoiced for the applicable Covered Firmware or Covered Software if Customer had not elected to decline or discontinue Maintenance Services for that Covered Firmware or Covered Software, plus a five percent (5%) markup, in addition to prorated Annual Fees for the then-current Maintenance Billing Cycle.

**5.14 Exclusions.**

Itron shall have no obligation to provide Maintenance Services for, or liability to Customer for Covered Software adversely affected by (i) use of Covered Firmware or Covered Software by anyone other than Itron in combination with software, equipment, or communications networks not referenced in the Documentation as being compatible with the Covered Firmware or Covered Software; (ii) modification or recompiling of Covered Firmware or Covered Software or Covered Software installation instructions / installation scripts or database schema scripts, or improper installation of a Release, by anyone other than Itron, (iii) failure to perform customer responsibilities describe in this Addendum, (iv) use of an unsupported version of Covered Firmware or Covered Software by anyone other than Itron; (v) Customer's failure to implement a Mandatory Revision; (vi) maintenance and/or support of Covered Firmware or Covered Products other than by Itron; (vii) viruses introduced through no fault of Itron; or (viii) network or communication link failures.

**5.15 Documentation and Backup.**

Itron will make an electronic copy of the Documentation available to Customer at no additional charge via physical media or download access. Itron will also maintain a copy of its most recent supported version of executable Covered Firmware and on premise Covered Software to be made available to Customer or installed by Itron as necessary in the event of corrupted or inoperative Covered Firmware or on premise Covered Software. Said copy of executable Covered Firmware or on premise Covered Software or Third-Party software does not relieve Customer of its responsibility to backup and manage its Covered Firmware or on-premise software installation as part of ongoing system operation.

**5.16 Customer Responsibilities.**

The provision of Maintenance Services for Covered Firmware or Covered Software by Itron assumes that Customer will facilitate such services as follows:

**5.16.1 Service Requests.**

Customer will support Itron investigation and restoration efforts as defined in the Service Level table and will act upon / implement support solutions and workarounds recommended by Itron in a timely fashion. When escalating a Service

Request with Itron, Customer's Primary Service Contact shall collect and provide all data logs, findings, analysis, and any relevant forensic information pertaining to the issue as outlined in Client Services Guideline Documents.

#### **5.16.2 Data Review.**

If Itron determines that it is necessary to evaluate Customer data to reproduce error conditions not reproducible with Itron's standard test data sets, Customer will provide Itron with reasonable access to such data. Itron shall not be liable for any delay or failure to resolve the problem if access to such Customer data is denied to Itron.

#### **5.16.3 Installation and Upgrades.**

Customer will engage Itron Global Support Services or their Itron account team for any Covered Firmware or on premise Covered Software installations and upgrades which require support beyond that provided herein.

#### **5.16.4 Remote Access.**

Customer is responsible for supporting necessary remote access to Covered Firmware or on premise Covered Software by Itron support personnel assigned to provide Maintenance Services for purposes of remote diagnosis and troubleshooting of Covered Firmware or on premise Covered Software. Itron shall not be liable for any delay or failure to resolve a problem if remote access to Covered Firmware or on premise Covered Software is denied to Itron.

#### **5.16.5 System Configuration, Operation and Maintenance.**

Customer is responsible for the configuration, operation, and maintenance of equipment, system peripherals, operating system, and data communications environment associated with on premise Covered Software. These activities include but are not limited to checking audit logs, clearing discovered exceptions, and performing daily, weekly, and monthly operational tasks and systems responsibilities. Customer is responsible for any change made to Customer's software system, operating system, database or network configuration or any change to installation procedures, scripts, or any other provisions that materially affect the usability or operation of on premise Covered Software. Customer will obtain Itron's written consent prior to making any material changes that may affect the installation or operation of on premise Covered Software.

#### **5.16.6 Network Administration.**

Customer is responsible to monitor and maintain, repair, replace and upgrade its local, and wide area network components (if any)—including network servers, network clients, network hubs, routers, modems, and other software components necessary for efficient and reliable network operations associated with Covered Firmware or on premise Covered Software—to ensure continued conformance with the applicable published Itron specifications. In addition, Customer is responsible to administer related host names, Internet Protocol addresses, network interfaces, access, security, communications, and equipment and software version control.

#### **5.16.7 Database Administration.**

Customer is responsible to administer the agreed upon database(s) associated with on premise Covered Software, including hardware and software components, in accordance with the Documentation, which administration shall include, monitoring the database server, backing up electrical power sources, and configuring and administering of database schema, application interfaces, networking operating system, communications, and file transfer software. Customer is responsible to maintain database files (e.g., truncate, cleanup, and delete files consistent with industry standard practices) and perform regular data backup and data archiving.

### **6 Itron Equipment Maintenance.**

#### **6.1 Maintenance Procedures.**

Customer shall initiate a request for Maintenance Services for Covered Equipment by delivering the Covered Equipment to the applicable Itron Certified Repair Center identified in the Itron Equipment Repair Locations document or as notified by Itron. Customer will return Covered Equipment at Customer's expense and in accordance with Itron's then-current Return Material Authorization ("RMA") procedures. Upon receipt of Covered Equipment (with the required information) under Itron's RMA procedures, Itron shall assess the item to determine (a) whether it is in fact Covered Equipment and (b) whether the maintenance requested is included within the Maintenance Services ordered by Customer and not otherwise excluded from coverage. If the returned equipment is determined to be Covered Equipment and the maintenance requested is included in the Maintenance Services ordered by Customer, Itron shall (i) perform preventative Maintenance Services necessary to maintain the Covered Equipment in Operating Condition, and (ii) diagnose and correct any failure in the Covered Equipment as necessary to meet Operating Condition, excluding minor

cosmetic deficiencies such as blemishes, dents or scratches, and (iii) return the item of Covered Itron Equipment to Customer at Itron's expense within the applicable turnaround time identified on the Itron Equipment Repair Table. If Itron determines that returned equipment is not Covered Equipment or is excluded from the Maintenance Services ordered by Customer, then Itron will proceed in accordance with the estimation fees section below.

## **6.2 Exclusions.**

Itron is under no obligation to perform Covered Equipment Maintenance Services in circumstances where the failure or damage is due to: (i) accident, abuse, misuse, inadequate maintenance, problems caused by electrical power surges or acts of God outside of the tolerances set forth in the applicable published Itron specifications; (ii) service or repair processes (including installation or de-installation of equipment, parts, or firmware/software) not performed or authorized by Itron; (iii) use of parts, configurations or repair depots not certified or authorized by Itron; or (iv) Customer's failure to perform material Customer responsibilities in accordance with this Addendum, including caring for Covered Equipment in accordance with applicable Documentation.

## **6.3 Estimated Fees.**

Itron will provide Customer with a price quote for the estimated cost (including current inspection fees), including labor, materials and shipping, for any repairs to equipment that are requested, which Itron determines are excluded from or not included within the Maintenance Services ordered by Customer. If Customer elects not to proceed with the requested repair, Itron will return the item of equipment at Customer's expense and Itron may charge Customer its then-current inspection fee.

## **6.4 Adding/Restoring Equipment to Maintenance Services.**

Following the Acceptance Date, additional Covered Equipment purchased by Customer, of a similar type and model already covered under this Addendum, shall automatically be deemed to be Covered Equipment following the M&S Commencement Date. If Customer declines or discontinues Maintenance Services for any Covered Equipment and thereafter wishes to add or restore such equipment as Covered Equipment, Itron may, prior to such equipment being included as Covered Equipment, inspect such equipment at Itron's then current rates to determine whether it is in Operating Condition and/or charge Itron's then current re-certification fee, in addition to prorated Annual Fees for the then-current Maintenance Billing Cycle (the "**Re-initiation Costs**"). At Customer's request, Itron will provide Customer with a quote for estimated Re-initiation Costs for equipment that Customer wishes to add or restore as Covered Equipment under this Section.

## **6.5 Equipment Responsibilities.**

Itron shall make available, and Customer shall obtain, a copy of the Documentation for Covered Equipment and Customer will be responsible to perform preventive maintenance for each such item in accordance with such Documentation. Customer shall also keep accurate records of Covered Equipment serial numbers and locations to assist Itron with performing Maintenance Services.

## **7 Fees and Invoicing.**

### **7.1 Annual Fees.**

Customer shall pay Annual Fees in advance of each Maintenance Billing Cycle in which it will receive Maintenance Services. Itron may also pass through price increases for Maintenance Services on Third Party Covered Products that Itron receives from the third-party service provider on behalf of the Customer.

### **7.2 Invoicing.**

Itron will invoice Customer for the first Maintenance Billing Cycle on or after the Acceptance Date. Itron may invoice Customer for Maintenance Services for a Covered Product that is added during any Maintenance Billing Cycle at a prorated amount. Otherwise, Itron will invoice Customer for each subsequent Maintenance Billing Cycle approximately twenty (20) days prior to the commencement of the following Maintenance Billing Cycle.

### **7.3 Renewal Notice.**

Itron will provide Customer a renewal notice for Itron Covered Products at least one hundred twenty (120) days prior to the commencement of each Maintenance Billing Cycle. Customer may discontinue Maintenance Services for any Covered Product(s) by providing Itron with written notice of non-renewal no less than ninety (90) days prior to the commencement of a Maintenance Billing Cycle. Itron will provide Customer a renewal notice for Third Party Covered Products as soon as reasonably practical following Itron's receipt of such notice from the third party service provider.

**7.4 Purchase Order.**

Customer shall submit a Purchase Order to Itron for the quoted amount of Itron Covered Products prior to the commencement of each Maintenance Billing Cycle. Customer shall submit a Purchase Order to Itron for the quoted amount of Third Party Covered Products thirty (30) days prior to the commencement of each Maintenance Billing Cycle. Itron will not renew Third Party Covered Product maintenance for which a Purchase Order has not been provided by Customer.

**8 Support for Third Party Products.**

Itron shall provide first tier Global Support Services for Third Party Covered Products by handling all Customer inquiries, attempting to identify the component involved in the problem and obtaining appropriate documentation of such inquiry or problem. In addition, Itron shall make commercially reasonable efforts to facilitate Customer's receipt of maintenance and support for such Third-Party Covered Products consistent with the third-party maintenance terms identified on the applicable Order Document. Notwithstanding anything else to the contrary, Itron's sole obligation under this Addendum with respect to Third Party Covered Products shall be as set forth in this section.

**9 End of Support.**

Itron may discontinue Maintenance Services for any Covered Equipment, Covered Firmware or Covered Software, effective as of the end of the applicable Maintenance Billing Cycle, by giving Customer written notice of such discontinuance no less than one hundred eighty (180) days prior to the end of such Maintenance Billing Cycle. The end of support date for a Third Party Covered Product shall be the date specified by the applicable third-party service provider, which date will be promptly communicated by Itron to Customer following the date of receipt.

If the end of support date is scheduled within a subsequent Maintenance Billing Cycle, Annual Fees for that subsequent Maintenance Billing Cycle will be pro-rated through the end of support date. At Customer's request, or as defined in a related SaaS addendum / Order Document, Itron may elect to provide custom support for products for which Maintenance Services have been discontinued at Itron's then-current rates.

Periodically, Itron will make available product plan publications, including product information letters (PIL), product newsletters or written technology roadmaps which outline Itron's general plans for continued support and end of support of applicable Covered Products. Product publications are used as general guidelines for Customer communications and planning, which may be updated from time to time.

**10 Modifications.**

Itron may modify the terms and conditions set forth in this Addendum in accordance with Section 22 (Modifications) of the main body of these Terms of Sale.

**11 Survival.**

The following Sections of this Addendum shall survive termination or expiration of these Terms of Sale: 1 (Relationship to Main Body of Terms of Sale), 2 (Additional Definitions), 5.14 (Exclusions), 6.2 (Exclusions), 7 (Fees and Invoicing), 9 (End of Support), and 11 (Survival).

## Attachment 1 to Maintenance & Support Services Addendum

– Software Maintenance & Support Service Levels –

Severity Level	Response Times	Effort Level and Restoration	Escalation
<p>Severity Level 1*</p> <p><b>Business Impact: Critical Impact / System Down.</b> A Production System Error for which there is no work-around, which causes Covered Firmware or Covered Software Product or a critical business function / process of said product to be unavailable such that system operation cannot continue.</p> <p><b>Example:</b> a) Billing cannot be completed, b) Major documented function not working, c) System hung or completely down</p>	<p>During regular business-hours Itron will begin the Service Request process during Customer's initial call.</p> <p>During after-hour periods, Itron will respond to a critical support voice messages within 15 minutes by a return call to Customer, to validate receipt of the critical support call and begin the Service Request process.</p> <p>Following the start of the Service Request process Itron will respond to Customer's Service Request within two (2) business hours with an investigation response.</p> <p>Itron will update Customer at three (3) hour intervals during each day the Service Request remains unresolved, or as otherwise agreed by the Parties.</p> <p>Customer will respond to an Itron inquiry or request within three (3) hours.</p>	<p>Itron will make diligent efforts on a 24x7 basis, or as otherwise agreed by the Parties, to:</p> <p>i) restore Covered Firmware or Covered Software with a change to eliminate root cause, ii) provide a workaround which restores Covered Firmware or Covered Software and downgrades the Severity Level to S2, S3, S4.</p> <p>Customer Support Staff must be available 24x7 to work cooperatively with Itron continuously until such time restoration is achieved.</p>	<p>An unresolved Service Request shall be escalated to Itron management as follows:</p> <p><b>After 30 minutes:</b> Technical Customer Support Team Lead</p> <p><b>After 8 hours:</b> Manager, Technical Client Services</p> <p><b>After 16 hours:</b> Director, Global Support Services</p> <p><b>After 48 hours:</b> Service Request. Vice President, Services and Delivery</p> <p><b>After 72 hours:</b> President, Itron</p>

Severity Level	Response Times	Effort Level and Restoration	Escalation
<p>Severity Level 2*</p> <p><b>Business Impact: Major impact, degraded Operation.</b> An Error other than a Severity Level 1 Error, for which there is no work-around, which degrades or limits operation of major system functions causing Covered Firmware or Covered Software to miss required business interface or deadlines. Covered Firmware or Covered Software remains available for operation but in a highly restricted fashion.</p> <p><b>Example:</b> a) Billing cannot be completed on time, b) Major function is operating outside documented timing / term, c) Covered Firmware or Covered Software operating slow, missing data, data delivery, daily mission.</p>	<p>During regular business-hours Itron will respond to Customer regarding Service Request within one (1) business day.</p> <p>While Service Request remains unresolved, Itron will update the Customer and the Service Request at least every other business day, or as otherwise agreed by the parties.</p> <p>Customer will respond to an Itron inquiry or request within one (1) business day.</p>	<p>Itron will make diligent efforts during normal business hours to:</p> <p>i) restore Covered Firmware or Covered Software with a change to eliminate root cause, ii) a workaround which restores Covered Firmware or Covered Software and downgrade the Severity Level to S3, S4.</p>	<p>An unresolved Service Request shall be escalated to Itron management as follows:</p> <p><b>After 1 hours:</b> Technical Customer Support Team Lead</p> <p><b>After 8 hours:</b> Manager, Technical Client Services</p> <p><b>After 24 hours:</b> Director, Global Support Services</p> <p><b>After 30 Days:</b> Vice President, Services and Delivery</p>

Severity Level	Response Times	Effort Level and Restoration	Escalation
<p>Severity Level 3**</p> <p><b>Business Impact: Minor Business Impact, compromised operations.</b> An Error other than a Severity Level 1 or Severity Level 2 Error that has moderate impact on use of or access, with low business impact, but not preventing Customer from performing daily activities.</p> <p>Example: The Service Request affects use by Covered Firmware or Covered Software users, allowing Customer's functions to continue to meet daily business needs.</p>	<p>During regular business-hours Itron will respond to Customer regarding Service Request within two (2) business days.</p> <p>While Service Request remains unresolved, Itron will update the Service Request weekly, or as otherwise agreed by the parties.</p> <p>Customer will respond to an Itron inquiry or request within two (2) business days.</p>	<p>Itron will work during normal business hours to:</p> <p>i) restore Covered Firmware or Covered Software with a change to eliminate root cause, ii) a workaround which restores Covered Firmware or Covered Software and downgrades the Severity Level to S4.</p>	
<p>Severity Level 4</p> <p><b>Business Impact: Standard Operations intact.</b> A low or no-impact Error other than a Severity Level 1, Severity Level 2 or Severity Level 3 Error, or a request for enhancement / new functionality</p> <p>Example:</p> <p>Generally, a cosmetic Error or an Error which does not degrade Customer's use of the product or system.</p>	<p>During regular business-hours Itron will respond to Customer regarding Service Request within three (3) business days.</p>	<p>Itron GSS Management Team will make commercially reasonable efforts during normal business hours to understand the Service Request and provide applicable recommendations as to when a Fix may be schedule in a future release, or how to proceed with a formal enhancement request to Itron's product and delivery teams.</p>	

\* Severity Level 1 and Severity Level 2 must be reported by phone to insure they are addressed under the appropriate severity level response process. Service Requests entered by email or Web access are generally addressed as a Severity Level 3.

\*\* Service Request opened on Non-production servers / environments are entered as a Severity Level 3.

**END**

## SOFTWARE ADDENDUM

### 1 Relationship to Main Body of Terms of Sale.

This Addendum is an attachment to the main body of these Terms of Sale and is hereby incorporated into these Terms of Sale by this reference to the extent applicable to the products or services purchased or licensed by Customer under the Agreement. If there is any inconsistency between the terms and conditions set forth in the main body of these Terms of Sale, and the terms and conditions set forth in this Addendum, the terms and conditions set forth in 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 main body of these Terms of Sale:

**Authorized Installations** means installations of Itron Software only on one production environment and one test environment on Customer premises.

**Authorized User** means an employee or contractor of Customer who Customer permits to access and use the Itron Software and/or Documentation pursuant to Customer's license hereunder.

**Endpoints** means (i) a physical device (e.g., a meter, encoder-receiver-transmitter module, or other measuring, monitoring or sensing device) capable of being used in connection with Itron Software, or (ii) a virtual device created in the Itron Software to simulate the existence of a physical device. An example of a virtual device that is an Endpoint would include a single electricity meter that serves ten (10) apartment units. If the consumption data from that electricity meter was divided between ten (10) units (e.g., on the basis of square footage) and used in the Itron Software as if that single electricity meter was actually ten (10) electricity meters, it would count as ten (10) Endpoints. Further, each account, whether active or inactive, in the applicable that is associated with a single physical device counts as a separate Endpoint.

**Itron Software** means the machine readable (object code) version of computer programs listed on a Proposal to be licensed to Customer under the Agreement that are developed by or on behalf of Itron.

**License Term** means the duration of the Itron Software license granted by Itron to Customer under this Addendum; unless otherwise provided in a Proposal or Order Document, the License Term for each Itron Software product is perpetual.

**Software** means Itron Software and Third-Party Software, including any updates provided to Customer pursuant to the Agreement.

**Software Warranty Period** means a period of ninety (90) days from the date of delivery, unless another Software Warranty Period is expressly stated in the Proposal or Order Document.

**Third-Party Software** means the machine readable (object code) version of computer programs listed on a Proposal to be licensed to Customer by a third-party and that are not developed by or on Itron's behalf.

### 3 Ordering Software.

Customer shall order Software by issuing a Purchase Order to Itron in accordance with the Agreement.

### 4 Delivery and Invoicing.

Itron will promptly deliver Software electronically, on tangible media, or by other means following Itron's acceptance of the applicable Purchase Order. Risk of loss of any tangible media on which the Software is delivered will pass to Customer on delivery to carrier. Itron will invoice Customer for Fees due for Software upon the date of delivery.

### 5 Itron Software License.

Subject to and conditioned on Customer's payment of all applicable Fees and compliance with this Agreement, Itron hereby grants to Customer a non-exclusive, non-sublicensable, and non-transferable license during the License Term to use Authorized Installations of Itron Software and related Documentation for Customer's internal business purposes

solely within the Territory in connection with the number of Endpoints or other devices specified on the applicable Proposal or Order Document.

## **6 Third-Party Software.**

All Third-Party Software and related documentation is separately licensed to Customer by the applicable third-party, and Customer's rights and responsibilities with respect to such software or documentation shall be governed in accordance with the third-party licensor's applicable software license. If Customer chooses to order Third-Party Software, Customer shall enter into or accept one or more separate third-party agreements as part of the ordering, fulfillment, installation and/or download processes for such Third-Party Software.

## **7 Documentation.**

Itron will make its Documentation available via download and provide Customer with download instructions.

## **8 Itron Software License Restrictions.**

Customer shall not use the Itron Software or Documentation for any purpose beyond the scope of the licensed granted in this Addendum. Without limiting the foregoing, Customer will not at any time, directly or indirectly: (i) modify or create any derivative works from Itron Software, (ii) distribute the Itron Software, (iii) include or combine Itron Software with any software, equipment, or hardware other than as expressly authorized in writing by Itron, (iv) use Itron Software to provide services to third-parties, (v) reverse assemble, decompile, reverse engineer Itron Software or otherwise attempt to derive its source code except to the extent that such restriction is prohibited by applicable law, (vi) export Itron Software out of the Territory, (vii) use any Itron Software to create products or services that compete with any of Itron's products or services, or (viii) copy Itron Software except to make one machine readable copy for disaster recovery or archival purposes. Customer's breach of these restrictions or use of Itron Software or Documentation other than as licensed hereunder shall constitute a material breach of the Agreement and shall result in revocation and immediate termination of all rights and licenses granted under the Agreement. Revocation does not preclude Itron from pursuing any legal and equitable remedies for Customer's breach of these restrictions. Customer is responsible and liable for all uses of Itron Software and Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted or in violation of the Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of the Agreement if taken by Customer will be deemed a breach of the Agreement by Customer. Customer shall take reasonable efforts to make all Authorized Users aware of the provisions of the Agreement as applicable to such Authorized User's use of the Itron Software and shall cause Authorized Users to comply with such provisions.

## **9 Limited Itron Software Warranty.**

For the Software Warranty Period, Itron warrants solely to Customer that the Itron Software will substantially conform in all material respects to the applicable Itron published specifications. As Customer's sole and exclusive remedy for any breach of this warranty, Itron will, at its option, during the applicable Software Warranty Period, repair or replace non-conforming Itron Software to substantially conform to the foregoing warranty, provided that Itron will have no obligation to repair or replace any non-conforming Itron Software if the Agreement has terminated or expired. The foregoing warranty does not apply to non-conformities in Itron Software due to: (i) modifications not made or approved by Itron in writing; (ii) Customer's or any third party's negligence or intentional acts; (iii) misuse or abuse, including the failure to use or install Itron Software in accordance with the Documentation; (iv) incorrect data, or data entry or output, as applicable, by Customer or a third party; (v) use with third party software, hardware or firmware not provided or authorized by Itron in writing; (vi) a Force Majeure event; or (vii) viruses or security vulnerabilities introduced into the Itron Software or Customer's systems through no fault of Itron. After the applicable Software Warranty Period, any Itron Software errors and any maintenance updates will be addressed under the Maintenance and Support Services Addendum.

## **10 Effect of Expiration or Termination for Cause.**

Upon termination of an Itron Software license for cause or expiration of a License Term, whichever occurs first, Customer shall immediately discontinue use of the applicable Itron Software and related Documentation, and Customer will destroy or return to Itron any and all copies. Upon Itron's request, Customer will confirm in writing that Customer has destroyed or has returned Itron Software and related Documentation in compliance with this section. This requirement applies to copies in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other files or materials. Termination of an Itron Software license for cause will not restrict Itron from

pursuing any other remedies available to it, including injunctive relief, nor will it relieve Customer of its obligation to pay all fees that accrued prior to such termination.

### **11 Third-Party Software Warranty.**

Itron is not the owner of Third-Party Software and makes no representations or warranties whatsoever, directly or indirectly, express or implied, as to the suitability, durability, and fitness for use, merchantability, condition, quality, performance or non-infringement of any Third-Party Software. Third-Party Software shall be subject to any warranties provided by the Third-Party Software provider. 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 Software provider.

### **12 License Use Verification & Audit.**

#### **12.1 License Use Verification.**

Customer represents and warrants the Itron Software will be used by Customer in compliance with the licenses granted in this Addendum. Promptly upon Itron's written request, and no more than once annually, Customer must furnish Itron with a letter signed by an officer of Customer, verifying such compliance, and confirming the number, identification, type and location of Endpoints and other devices being managed by Customer using Itron Software.

#### **12.2 Audit.**

Itron has the right to audit Customer records to verify the number of Endpoints and other devices being managed by Customer using Itron Software and otherwise confirm Customer's compliance with license restrictions and Fee obligations of the Agreement. Itron must provide Customer with at least thirty (30) days prior written notice of the audit. The audit must be conducted during Customer's normal business hours at a mutually agreeable location. Itron's right to conduct an audit under this Section is limited to one (1) time per year, unless Itron has reason to believe that Customer is out of compliance with the license restrictions and Fee obligations of the Agreement. Itron has the right to use an independent auditor to conduct the audit. The audit shall be at Itron's sole cost and expense, unless the audit identifies a deficiency in Fees or other amounts owed or reimbursable by Customer during the audited period that is greater than five percent (5%) of the total amounts payable by Customer – in which case Customer must reimburse Itron for all reasonable costs of the audit. All amounts found to be owed by Customer pursuant to an audit will be payable within thirty (30) days after receipt of invoice from Itron.

### **13 Modifications.**

Itron may modify the terms and conditions set forth in this Addendum in accordance with Section 22 (Modifications) of the main body of these Terms of Sale.

### **14 Local Law Requirements.**

#### **14.1 Local Law Requirements: United States**

With respect to Customers domiciled in the United States, the following provision is hereby added to the end of Section 8 of this Addendum:

If an Itron Software license is acquired under a United States government contract, Customer acknowledges that such Itron Software (including updates thereto) and associated Documentation are "Commercial Computer Software" as defined in 48 C.F.R. 12.212 of the Federal Acquisition Regulations (FAR) and in 48 C.F.R. 227.7014(a)(i) of the Department of Defense Federal Acquisition Regulations Supplement (DFARS), and are provided with only the commercial rights and subject to the restrictions described in these Terms of Sale.

#### **14.2 Local Law Requirements: European Union**

With respect to Customers domiciled in the European Union, the following provision is hereby added to the end of Section 8 of this Addendum:

To the extent directive 2009/24/EC on the legal protection of computer programs or similar legislation or regulations (collectively, the "directives") may provide Customer the right to decompile Itron Software in order to obtain information necessary to achieve the interoperability of an independently created computer program, prior to exercising any such possible rights under the directives, Customer agrees to: (a) first notify Itron of Customer's good faith belief that information necessary to achieve the interoperability of an independently created computer program is not otherwise

available and that decompilation is indispensable within the meaning of the directives; and (b) provide Itron with a reasonable amount of time to respond to Customer regarding the foregoing assertions.

**13 Survival.**

The following Sections of this Addendum shall survive termination or expiration of these Terms of Sale: 1 (Relationship to Main Body of Terms of Sale), 2 (Additional Definitions), 4 (Delivery and Invoicing), 5 (Itron Software License) except to the extent applicable license rights expire or are terminated in accordance with these Terms of Sale, 6 (Third-Party Software), 8 (Itron Software License Restrictions), 9 (Limited Itron Software Warranty), 10 (Effect of Expiration or Termination for Cause), 11 (Third-Party Software Warranty), 12 (License Use Verification & Audit), 14 (Local Law Requirements), and 14 (Local Law Requirements).

**END**

## DISTRIBUTED INTELLIGENCE APPLICATION ADDENDUM

### 1 Relationship to Main Body of Terms of Sale.

This Addendum is an attachment to the main body of these Terms of Sale and is hereby incorporated into these Terms of Sale by this reference to the extent applicable to the products and services purchased or licensed by Customer under the Agreement. If there is any inconsistency between the terms and conditions set forth in the main body of these Terms of Sale, and the terms and conditions set forth in this Addendum, the terms and conditions set forth in 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 main body of these Terms of Sale:

**DI** means distributed intelligence technology.

**DI Application** means an application capable of distribution to and use by a Target DI Device. DI Applications covered by this Addendum are identified in the Proposal.

**DI Application License Term** means the license term for each DI Application set forth in the Proposal, which commences when the DI Application is allocated on the DI Platform for Customer endpoint download following receipt of an accepted Purchase Order.

**DI Platform** means Itron's cloud-based Distributed Intelligence platform. The DI Platform includes the EAC and infrastructure necessary to distribute DI Applications.

**DI Platform Services** means the SaaS services provided by Itron to Customer with respect to the DI Platform.

**DI Documentation** means Documentation (as defined in the main body of these Terms of Sale) relating to DI Applications and/or the DI Platform.

**Itron DI Application** means a DI Application that is owned or branded by Itron.

**Itron Enterprise Application Center** or **EAC** means applications and/or services for the management and distribution of DI Applications as well as resource usage tracking and health tracking of DI Applications.

**Maintenance Services** has the meaning set forth in the Maintenance and Support Services Addendum.

**Minimum DI Subscription Term** means the minimum number of years during which Customer is required to subscribe for DI Platform Services, which shall be five (5) years following the DI Platform Services Commencement Date (as defined below in [Section 7.2](#)), unless otherwise stated in the Proposal.

**Target DI Device** means, in general, any device or device type that is capable of receiving and executing DI Applications from the DI Platform. Target DI Devices for each DI Application are identified in the Proposal.

**Third-Party DI Application** means a DI Application that is owned or branded by a third party.

### 3 Access to DI Platform, DI Documentation, and Use Restrictions.

#### 3.1 Access and Use of DI Platform and DI Documentation.

Subject to and conditioned on Customer's and its authorized users' compliance with these Terms of Sale, including this Addendum, and payment of applicable Fees, Itron hereby grants Customer a non-exclusive, non-transferable (except in compliance with [Section 23](#) of the main body of these Terms of Sale), right to access and use the DI Platform Services for the management and distribution of DI Applications as well as resource usage tracking and health tracking of DI Applications. Such use is limited to Customer's internal use. Itron shall use commercially reasonable efforts to make the DI Platform available through the DI Platform Services purchased by Customer at least 99.5% of the time, excluding any downtime resulting from maintenance or circumstances beyond Itron's reasonable control. Customer shall have and maintain sole and exclusive control of authorization, approval and access to DI Applications on Customer's systems and Target DI Devices. Without limiting the generality of the foregoing, Customer's end-users and other third parties shall

not be able to directly purchase and/or install DI Applications on Customer's systems and Target DI Devices. Customer will only be entitled to access and deploy DI Applications which are owned by or properly licensed by Customer. Itron hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable (except in compliance with Section 23 of the main body of these Terms of Sale) license to use and make a reasonable number of copies of the DI Documentation solely for Customer's internal business purposes in connection with its permitted use of the DI Platform Services and DI Applications.

### **3.2 Use Restrictions.**

Customer shall not, and shall not permit any other person to, access or use the DI Platform Services or DI Documentation except as expressly permitted by Section 3.1 above. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as Section 3.1 expressly permits: (a) copy, modify, or create derivative works or improvements of the DI Platform Services or DI Documentation; (b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any DI Platform Services or DI Documentation to any person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service; (c) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to the source code of the DI Platform Services or DI Documentation, in whole or in part; (d) bypass or breach any security device or protection used by the DI Platform Services or DI Documentation or access or use the DI Platform Services or DI Documentation other than by an authorized user through the use of his or her own then valid access credentials; (e) input, upload, transmit, or otherwise provide to or through the DI Platform Services or Itron systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any harmful code; (f) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the DI Platform Services, Itron systems, or Itron's provision of services to any third party, in whole or in part; (g) remove, delete, alter, or obscure any trademarks, specifications, documentation, warranties, or disclaimers, or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from any DI Platform Services or DI Documentation, including any copy thereof; (h) access or use the DI Platform Services or DI Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property or other right of any third party, or that violates any applicable law; (i) access or use the DI Platform Services or DI Documentation for purposes of competitive analysis of the DI Platform Services or DI Documentation, the development, provision, or use of a competing software service or product or any other purpose that is to Itron's detriment or commercial disadvantage; or (j) otherwise access or use the DI Platform Services or DI Documentation beyond the scope of the authorization granted under Section 3.1. Customer's breach of the restrictions set forth in this section shall constitute a material breach of the Agreement and shall result in revocation and immediate suspension or termination, as determined by Itron in its sole discretion, of all rights granted under this Addendum with respect to DI Platform. Revocation does not preclude Itron from pursuing any legal and equitable remedies for Customer's breach of these restrictions.

## **4 Itron DI Application License and Restrictions.**

### **4.1 Itron DI Application License.**

Subject to and conditioned on Customer's and its authorized users' compliance with these Terms of Sale, including this Addendum, and payment of applicable Fees, Itron hereby grants Customer a non-exclusive, non-transferable (except for a duly performed assignment), license to download and use Itron DI Applications on Target DI Devices up to the number of Target DI Devices specified in the Proposal during the applicable DI Application License Term for Customer's internal business purposes.

### **4.2 Restrictions.**

Customer shall not, and shall not permit any other person to, access or use Itron DI Applications except as expressly permitted by Section 4.1 above. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as Section 4.1 expressly permits: (a) copy any Itron DI Application; (b) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of any Itron DI Application; (c) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of any Itron DI Application or any part thereof; (d) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other Intellectual Property or proprietary rights notices from any Itron DI Application; (e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Itron DI Application, or any features or functionality of any Itron DI Application, to any third party for any reason; (f) include or combine Itron DI Applications with any software, equipment, or hardware, or (g) use any Itron DI Application to create products or services that compete with any of Itron's products or services. Customer's breach of these restrictions shall constitute a material breach of the Agreement and shall result in revocation and immediate termination of all rights and licenses granted under the Agreement with respect to the affected Itron DI Application. Revocation does not preclude Itron from pursuing any legal and equitable remedies for Customer's breach of these restrictions.

## **5 Maintenance Services.**

Itron will provide Maintenance Services for DI Applications in accordance with the Maintenance and Support Services Addendum. Unless otherwise expressly provided in the Proposal, Fees for such Maintenance Services are not included in the fees for DI Applications or DI Platform Services and must be purchased and paid for in accordance with the Maintenance and Support Services Addendum. As the term is used in the Maintenance and Support Addendum, the "M&S Commencement Date" for Maintenance Services for DI Applications shall be the date upon which the initial DI Application licenses are allocated on the DI Platform for download to the Target DI Devices. In addition to other terms and conditions set forth in Maintenance and Support Services Addendum, Itron's obligation to provide Maintenance Services for DI Applications is contingent upon Customer downloading and installing all updates to DI Applications made available by Itron, and providing Itron with access to Customer's systems and Target DI Devices as reasonably requested by Itron to perform Maintenance Services.

## **6 Fees.**

Fees for DI Platform setup, DI Platform Services, DI Application licenses, and Maintenance Services for DI Applications are set forth in the Proposal. To the extent expressly provided in the Proposal, Fees for DI Application licenses and Maintenance Services for DI Applications may be included within the fees for DI Platform Services. Unless otherwise provided in the Proposal, all Fees are valid for one (1) year following the effective date of the Proposal.

## **7 Invoicing, Renewal, Discontinuance.**

### **7.1 DI Applications.**

Itron will invoice Customer for DI Application license fees when they are allocated on the DI Platform for Customer endpoint download following receipt of an accepted Purchase Order.

### **7.2 DI Platform Services.**

Customer shall pay DI Platform Services Fees annually in advance for each year in which it purchases DI Platform Services. Unless otherwise provided in an applicable Statement of Work or Order Document, Itron will invoice Customer for DI Platform implementation services, one-time setup fees and initial DI Platform Services fees when the initial DI Applications are allocated on the DI Platform for Customer endpoint download following receipt of an accepted Purchase Order (the "**DI Platform Services Commencement Date**"). Itron may discontinue DI Platform Services by providing Customer with written notice of discontinuance no less than one-hundred and eighty (180) days prior to any anniversary of the DI Platform Services Commencement Date; provided, however, that Itron will not discontinue DI Platform Services under this sub-section during the Minimum DI Subscription Term or any DI Application License Term purchased by Customer. For the avoidance of doubt, the foregoing sentence does not prevent Itron from exercising any right of suspension or termination under the Agreement. Unless Itron discontinues DI Platform Services in accordance with this sub-section, Itron will provide Customer with a renewal notice for DI Platform Services at least one-hundred and twenty (120) days prior to each anniversary of the DI Platform Services Commencement Date. Customer may discontinue DI Platform Services by providing Itron with written notice of non-renewal no less than ninety (90) days prior to any anniversary of the DI Platform Services Commencement Date. Otherwise, approximately twenty (20) days prior to each anniversary of the DI Platform Services Commencement Date, Itron will provide Customer with an invoice for DI Platform Services fees payable by Customer for the forthcoming year. If Customer discontinues DI Platform Services prior to expiration of the Minimum DI Subscription Term, Itron will invoice Customer, and Customer will pay, for any unpaid fees for DI Platform Services through the end of the Minimum DI Subscription Term. Itron has the right to adjust DI Platform fees at any time if Customer's use of the DI Platform exceeds the pricing tier set forth in the Proposal. Subscription Fees adjusted as a result of Customer exceeding the applicable tier are typically invoiced within thirty (30) to sixty (60) days after provisioning of each respective Endpoint occurs.

### **7.3 Maintenance Services.**

Fees for Maintenance Services for DI Applications will be invoiced in accordance with the Maintenance and Services Addendum.

## **8 Itron DI Application Warranty and Exclusions.**

### **8.1 Itron DI Application Warranty.**

For a period of ninety (90) days from the date of initial allocation on the DI Platform for Customer endpoint download, Itron warrants solely to Customer that each Itron DI Application will substantially conform in all material respects to the applicable Itron published specifications. As Customer's sole and exclusive remedy for any breach of this warranty, Itron will, at its option, during the warranty period, repair or replace non-conforming Itron DI Application to substantially conform to the foregoing warranty. After the warranty period, Itron DI Application errors will be addressed under the Maintenance and Support Services Addendum.

**8.2 Exclusions.**

The foregoing warranty does not apply to non-conformities in Itron DI Application due to: (a) modifications not made or approved by Itron in writing; (b) Customer's or any third party's negligence or intentional acts; (c) misuse or abuse, including the failure to use or install Itron DI Applications in accordance with the DI Documentation; (d) incorrect data, or data entry or output, as applicable, by Customer or a third party; (e) third party software, hardware or firmware not provided or authorized by Itron in writing; (f) a Force Majeure event; or (g) viruses or security vulnerabilities introduced into an Itron DI Application or Customer's systems through no fault of Itron.

**9 Third Party DI Application Licensing and Warranty Disclaimer.****9.1 Third Party DI Application Licensing**

All Third-Party DI Applications and related DI Documentation are separately licensed to Customer by the applicable third-party developer, and Customer's rights and responsibilities with respect to such software and documentation shall be governed in accordance with the third-party developer's applicable software license. If Customer chooses to order Third-Party DI Applications through Itron, Customer shall enter into or accept one or more separate third-party agreements as part of the ordering, fulfillment, installation and/or download processes for such Third-Party DI Applications. The terms of any such third-party agreements may also be incorporated into the applicable Order Document.

**9.2 Warranty Disclaimer.**

Itron is not the owner of Third-Party DI Applications and makes no representations or warranties whatsoever, directly, or indirectly, express, or implied, as to the suitability, durability, and fitness for use, merchantability, condition, quality, performance, or non-infringement of any Third-Party DI Applications or related third-party platforms or systems. Third-Party Software shall be subject to any warranties provided by the Third-Party DI Application provider. 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 DI Application provider.

**10 Relationship to Equipment Warranties.**

Nothing in this Addendum is intended to modify or expand warranties on any equipment that Customer purchases directly or indirectly from Itron.

**11 Modifications.**

Itron may modify the terms and conditions set forth in this Addendum in accordance with [Section 22](#) (Modifications) of the main body of these Terms of Sale.

**10 Survival.**

The following sections of this Addendum shall survive termination or expiration of the Agreement or any part of it: 1 (Relationship to Head Agreement), 2 (Additional Definitions), 3.2 (Use Restrictions), 4.2 (Restrictions), 7 (Invoicing, Renewal, Discontinuance), 8 (Itron DI Application Warranty and Exclusions), 9 (Third Party DI Application Licensing and Warranty Disclaimer), 10 (Relationship to Equipment Warranties), and 10 (Survival).

# Software-As-A-Service ADDENDUM

## General SaaS Terms and Conditions

### 1 Relationship to Main Body of Terms of Sale and Special Terms

This is an attachment to the main body of these Terms of Sale and is hereby incorporated into these Terms of Sale by this reference to the extent applicable to the products and services purchased or licensed by Customer under the Agreement. This Addendum consists of the SaaS General Terms and Conditions below, which generally apply to all Service Offerings, and the attached Special Terms and Conditions, which apply to specific Service Offerings. If there is any inconsistency among the Special Terms and Conditions, the SaaS General Terms and Conditions, and the main body of the Terms of Sale, these documents shall be given precedence in the following order: (a) the Special Terms and Conditions, (b) the SaaS General Terms and Conditions, and (c) the main body of the Terms of Sale.

### 2 Additional Definitions

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

**Annual Adjustment** means Itron's annual price increase.

**Available** means the percentage of time during a month when the applicable Service Offering is accessible to the Customer, excluding any Planned Maintenance or agreed-upon Downtime. Availability is calculated as follows:

$$\text{Availability \%} = \left( \frac{\text{Total minutes in the month} - \text{Total Downtime minutes in the month}}{\text{Total minutes in the month}} \right) \times 100$$

**Downtime** means the time during which the applicable Service Offering is not Available due to unplanned outages or issues.

**Endpoint** means an electric meter, gas or water endpoint receiver-transmitter, battery-powered device, or any other device that Itron has agreed to monitor as part of a Service Offering which Endpoints are identified in the Proposal.

**Hybrid SaaS** means Customer has purchased an object code license to Software pursuant to the terms of the Software Addendum and a Service Offering for such Software.

**Maintenance Services** means services provided under the Maintenance and Support Services Addendum.

**Minimum SaaS Subscription Term** means the minimum number of SaaS Billing Cycles during which Customer is required to subscribe for each Service Offering, which shall be three (3) SaaS Billing Cycles following the applicable Service Offering Commencement Date, unless otherwise stated in the Proposal.

**One-Time Setup Fee** means the one-time setup fee for each Service Offering identified in the Proposal.

**Planned Maintenance** means pre-arranged and communicated periods where the applicable Service Offering may be offline for updates or maintenance.

**Recovery Point Objective** or **RPO** means the maximum tolerable time period during which data might be lost from production Software due to a service interruption event.

**Recovery Time Objective** or **RTO** means the duration of time allowing for the execution of all failover processes required to return access, connectivity, functionality, and operation of production Software to Customer following declaration of a disaster event.

**SaaS** means software-as-a-service whereby Itron or its designated provider hosts and provides Customer with access to Software on Servers via the internet.

**SaaS Billing Cycle** means a period of one year beginning on the Service Offering Commencement Date for the initial Service Offering or any anniversary thereof. For clarity, there is only one SaaS Billing Cycle for all Service Offerings, unless otherwise provided in the applicable Special Terms and Conditions.

**SaaS General Terms and Conditions** means the terms and conditions set forth in the main body of this Addendum.

**Servers** means the physical or virtual servers owned by Itron or its designated provider on which Software will be installed, operated, and maintained.

**Service Offering** means SaaS, including Hybrid SaaS, plus any services that are additional or supplemental, as described in the applicable Special Terms and Conditions.

**Service Offering Commencement Date** means, with respect to each Service Offering, the earlier of (a) validation of such Service Offering implementation by Itron pursuant to the applicable Statement of Work, or (b) seven (7) days after completing application system setup and the Customer has been provided valid access credentials for such Service Offering.

**Software** means the software identified on the Proposal for which Customer has purchased a Service Offering.

**Special Terms and Conditions** means Service Offering-specific terms and conditions set forth on Attachment A to this Addendum.

**Subscription Fees** means annual fees identified in the Proposal for each Service Offering, plus the Annual Adjustment, if any. Subscription Fees include applicable Maintenance Services fees for SaaS. Subscription Fees do not include any applicable license or Maintenance Services fees for Hybrid SaaS.

**Subscription Term** means the subscription term purchased by Customer for each Service Offering, which begins upon the applicable Service Offering Commencement Date.

**Territory** means the country in which Itron delivers products and services to Customer

### 3 Access Rights

#### 3.1 Access Rights

Itron will provide SaaS for the Itron Software identified in the table in this Section 3.1 for which Customer has purchased a Service Offering. Subject to Customer's compliance with the Agreement (including payment of all applicable Fees), Itron hereby grants to Customer, for the Subscription Term(s) purchased, a non-exclusive, non-transferable, non-assignable, limited right to access and use the Service Offerings, with respect to Endpoints owned or otherwise controlled by Customer, for its internal business purposes in the Territory. Customer will use the Service Offerings only in accordance with Itron user guides, the Agreement, and laws and government regulations. Customer shall make every reasonable effort to prevent unauthorized third parties from accessing the Service Offerings.

Itron Software Eligible for SaaS	
ACE VISION	IntelliSOURCE Express
ChoiceConnect Fixed Network	Itron Enterprise Edition
Distributed Intelligence (Riva system)	Itron Enterprise Edition Service Mode
Distributed Intelligence (GenX system)	Itron Mobile
EMMSYS	MV-90 xi
Everblu FN (Fixed Network)	MV-PBS
FDM Tools	MV-WEB
FDM Workorders	Itron Security Manager
Field Tools Advanced	Operations Optimizer
Field Tools Basic	Streetlight Vision
Gas and Water Analytics	Temetra
Gridscape	UIQ: Advanced Metering Manager, Meter Program Configurator, Control Platform, Outage Detection and SensorIQ
HAN Communications Manager	

### **3.2 Restrictions on Use**

Customer must not, and must ensure that users do not: (a) modify, translate or create derivative works of any Service Offering or related Documentation; (b) copy, reproduce, distribute, republish, download, display, post or transmit any portion of a Service Offering or related Documentation in any form or by any means; (c) sell, assign, transfer, lease or sublicense any Service Offering; (d) allow any third party, other than authorized users, to access any Service Offering or related Documentation without Itron's prior written consent; (e) use any Service Offering or related Documentation to provide services to third parties, or otherwise use any Service Offering on a "service bureau" or "timesharing" or subscription basis including, in connection with devices or equipment not owned or otherwise controlled by Customer; (f) reverse engineer, disassemble, decrypt, extract or otherwise reduce any Service Offering to a human perceivable form or otherwise attempt to determine the source code or algorithms of any Service Offering (except to the extent the foregoing restriction is expressly prohibited by applicable law); (g) infringe any of Itron's or its providers' Intellectual Property; (h) publicly publish the results of any benchmark tests run on any Service Offering; (i) use any Service Offering or related Documentation to engage in any fraudulent, illegal or unauthorized act; (j) introduce into or transmit through any Service Offering any material containing software viruses, worms, trap doors, back doors, Trojan horses or other harmful or malicious computer code, files, scripts, agents or programs; (k) remove, alter or obscure any titles, product logo or brand name, trademarks, copyright notices, proprietary notices or other indications of Itron's or its providers' Intellectual Property, whether such notice or indications are affixed on, contained in or otherwise connected to a Service Offering; (l) attempt to gain unauthorized access to a Service Offering or Itron's or its providers' systems or networks; (m) merge any Service Offering with any other product or service without Itron's prior written consent and the payment of any additional fees; or (n) access or use any Service Offering or related Documentation to build or support, and/or assist a third-party in building or supporting, products or services competitive to Itron or its providers.

### **3.3 User IDs and Passwords**

Itron shall provide Customer with user identifications and passwords ("**User IDs**") to access the Service Offerings. Customer shall be solely responsible for all use of Customer's subscriptions and accounts. Customer shall maintain the confidentiality of all User IDs assigned to Customer. User IDs may not be shared or used by more than one user (unless such license is reassigned in its entirety to another authorized user).

### **3.4 Content Restrictions**

Customer may not use a Service Offering or Server to host, distribute or process any content that: (a) Customer knows or has reason to believe infringes the Intellectual Property of any third party or violates any rights of publicity or privacy; (b) violates any applicable law, statute, ordinance; (c) is defamatory, trade libelous, unlawfully threatening or unlawfully harassing; or (d) is obscene, pornographic or indecent (items (a) – (d) are collectively referred to as "Prohibited Content"). Itron reserves the right to remove any Prohibited Content from a Server without prior notice to Customer. Customer will indemnify, defend and hold Itron and its providers harmless for any claims, liabilities, losses, causes of action, damages, settlements, and costs and expenses (including, without limitation attorneys' fees and costs) arising from any third-party claims related to or generated by the Customer's breach of this section.

### **3.5 Breach of Restrictions**

Customer's breach of the restrictions set forth in Section 3.2 ("Restrictions on Use") or Section 3.4 ("Content Restrictions") shall constitute a material breach of the Agreement and will give Itron the right to revoke and immediately suspend or terminate, as determined by Itron in its sole discretion, all rights and licenses granted under this Addendum with respect to the Service Offerings. Revocation does not preclude Itron from pursuing any legal and equitable remedies for Customer's breach of these restrictions.

## **4 Fees and Invoicing**

### **4.1 Subscription Fees.**

Customer shall pay Subscription Fees in advance of each SaaS Billing Cycle in which it will receive a Service Offering.

### **4.2 Invoicing.**

Unless otherwise provided in the applicable Statement of Work, Itron will invoice Customer for each One-Time Setup Fee upon the applicable Service Offering Commencement Date. Initial Subscription Fees for each Service Offering will be prorated based on when the applicable Service Offering Commencement Date occurs relative to the then-current SaaS Billing Cycle. Itron will invoice Customer for each subsequent SaaS Billing Cycle approximately twenty (20) days prior to the commencement of such SaaS Billing Cycle. Maintenance Services fees and license fees relating to Hybrid SaaS are not included in this Addendum or the Subscription Fees and will be invoiced in accordance with the Maintenance and Support Services Addendum and Software Addendum, as applicable. Itron may adjust Subscription Fees at any time if Customer's use of a Service Offering exceeds the applicable tier set forth in the Proposal.

## 5 Renewal, Discontinuance, Suspension, End of Support.

### 5.1 Renewal Notice.

Unless a Party discontinues a Service Offering in accordance with this Section, Itron will provide Customer a renewal notice for each Service Offering at least one hundred twenty (120) days prior to the commencement of each SaaS Billing Cycle.

### 5.2 Discontinuance.

Customer may discontinue a Service Offering by providing Itron with written notice of non-renewal no less than ninety (90) days prior to the commencement of a SaaS Billing Cycle. If Customer discontinues a Service Offering prior to expiration of the Minimum SaaS Subscription Term for that Service Offering, Itron will invoice Customer, and Customer will pay, for any unpaid Subscription Fees for the respective Service Offering through the end of the applicable Minimum SaaS Subscription Term.

Itron may discontinue a Service Offering following the applicable Minimum SaaS Subscription Term by providing Customer with no less than one hundred and eighty (180) days' written notice of the applicable discontinuance date. If the applicable discontinuance date will occur with a subsequent SaaS Billing Cycle, Subscription Fees for the discontinued Service Offering will be prorated based on when the discontinuance date occurs relative to the SaaS Billing Cycle.

### 5.3 Suspension or Restriction of Service

Itron may suspend or restrict all or part of the Service Offerings at any time to the extent necessary to protect the security and integrity of the Software, Servers, platforms, and systems, or for a breach of [Section 3.2](#) ("Restrictions on Use") or [Section 3.4](#) ("Content Restrictions") until such breach is cured.

## 6 Monthly Application Availability Service Level

### 6.1 Availability Service Level

Provided Customer has paid all applicable Fees (including all Subscription Fees and, in the case of Hybrid SaaS, all maintenance and license fees), Itron will use reasonable endeavors to ensure each Service Offering in a production environment will be Available at least 99.5% of the time, measured and reported monthly, beginning in the first full calendar month following the respective Service Offering Commencement Date ("**Availability Service Level**"). The Availability Service Level will be measured and calculated separately for each Service Offering. Itron records and data will be the sole basis to determine whether a Service Offering is Available for the Availability Service Level measurements and calculations.

### 6.2 Availability Service Level Credits

Subject to the service level exclusions in [Section 7.1](#) ("Service Level Exclusions") of these SaaS General Terms and Conditions, Customer will be entitled to the following credits as its sole and exclusive remedy for Itron's failure to meet the Availability Service Level:

<b>SaaS Application Availability (production environments only)</b>	
<b>Monthly Availability</b>	<b>Credit (% of monthly Subscription Fee for applicable Service Offering)</b>
≥99.5% and <99.9%	2%
≥99.0% and <99.5%	4%
≥97.5% and <99.0%	10%
≥96.0% and <97.5%	12.5%
<95.0%	20%

### 6.3 Planned Maintenance

Planned Maintenance, whenever reasonably practicable, will be performed during off-business hours between 6:00 p.m. to 12:00 a.m. Customer's local time, with as little disruption to Customer's use of the Service Offerings as possible. Planned Maintenance will be facilitated through Itron change control which would include a project plan, date and time of maintenance window, and customer approval. Unplanned maintenance, whenever reasonably practicable, shall also be performed during off-business hours between 6:00 p.m. and 12:00 a.m., Customer's local time. Itron will provide

Customer with notice of unplanned maintenance as soon as reasonably practical. Itron will minimize Service Offering disruptions to the extent reasonably practical.

## **7 Service Level Exclusions; Disclaimers**

### **7.1 Service Level Exclusions**

Itron shall not be liable for failing to meet any service level commitment set forth in this Addendum (including any Special Terms and Conditions) or any Order Document, and the Customer is not entitled to credits, to the extent such failure is attributable to any one or more of the following: (a) planned maintenance or scheduled upgrades; (b) an event triggering a disaster recovery (if available for the product offering and purchased by Customer) and for a twenty-four (24) hour period after the resumption of service following such an event to allow the system to return to normal operating ranges; (c) suspension or restriction of service under Section 5 ("Renewal, Discontinuance, Suspension; End of Support") of this Addendum; and (d) conditions beyond Itron's reasonable control, including but not limited to (i) unavailability of Customer or third party wireless services between the Service Offering and the Endpoints; (iii) failures in external Internet or VPN configurations not managed by Itron; (iv) a Force Majeure event; (v) false reports of unavailability as a result of outages or errors of any Itron measurement system; (vi) an act or omission of Customer or third parties, including security incidents caused by such act or omission; (vii) incident investigation or computer failures that could not reasonable have been prevented by Itron; (viii) failures of third-party equipment, hardware, software, or services not provided by Itron; and (ix) Customer's delay in performing maintenance or other tasks designated as its responsibility in the Agreement.

### **7.2 Disclaimers**

#### **7.3 Third-Party Content Disclaimer.**

Itron does not maintain third-party Software or third-party Service Offerings that Customer purchases through Itron (collectively "**Third-Party Content**") and makes no representations or warranties whatsoever, directly or indirectly, express or implied, as to the suitability, durability, and fitness for use, merchantability, condition, quality, performance or non-infringement of any Third-Party Content. Third-Party Content shall be subject solely to any service levels or warranties provided by the third-party provider. Itron will pass through to Customer or make commercially reasonable efforts to enforce on Customer's behalf, any service levels, warranties and remedies received from such third-party provider.

#### **7.4 Use of SaaS with Third-Party Devices.**

Customer may use a Service Offering to collect data from Endpoints equipped with radio communication devices not manufactured or provided by Itron ("**Third-Party Radio Device**"). Itron makes no representations or warranties whatsoever, directly or indirectly, express or implied, as to the suitability, durability, and fitness for use, merchantability, condition, quality, performance or non-infringement of, and disclaims all liability with respect to, Third-Party Radio Devices. Itron shall have no liability (a) if a Third-Party Radio Device is not responding or communicating or (b) for unread endpoints due to defective or unreachable Third-Party Radio Devices. Customer shall contact the supplier of such device for support.

## **8 Sizing of Software-as-a-Service**

Any sizing criteria changes, including without limitation the number of system endpoints, number of network devices, residential meter configuration, commercial and industrial meter configuration, desired data collection intervals, storage duration for historical data, and the number of concurrent and total users of the application, during a Subscription Term will require a Change Order and may result in a change in Subscription Fees.

## **9 Incident Management**

Itron will provide Customer support and incident and problem management services, which include responding to alerts, tracking the issue, troubleshooting the problem and escalating to Itron subject matter experts or third-party providers, in accordance with the Maintenance and Support Services Addendum.

## **10 Customer Technical Responsibilities**

Customer is responsible for selecting, acquiring, securing and maintaining all equipment and ancillary services needed to connect to, access, or otherwise use and maintain compatibility with the Service Offerings, at Customer's sole expense. For the avoidance of doubt, unless otherwise specified in an Order Document, Statement of Work, or any Special Terms and Conditions attached hereto, Customer is responsible for providing WAN connectivity.

## **11 Business Continuity**

Itron has architected and operates a high availability and scalable infrastructure to facilitate virtualized customer environments with various fault tolerant components. Fault tolerance and failover methodologies allow Itron to maximize

system availability and confidently uphold the Availability Service Level and Monthly File Delivery Percentage Service Level. Itron will conduct daily backups of back-office application configuration files and associated data. These backups are for operational purposes only and are not a disaster recovery solution or a solution to be used by the Customer for testing or analysis purposes. Itron will periodically test the restore capability of its business continuity solution. System and database backups are performed via a schedule to provide for a full weekly backup and daily differential backups. System backups and snapshots are also taken prior to any system change that has been approved via the Itron Global Managed Services Change Control Board. The system can be recovered from the backup in the event of a failure. Business continuity is designed to provide recovery for component failures within a data center, this does not provide coverage for the loss or connectivity to a data center. If a more robust mitigation solution is required by Customer, geo-diverse disaster recovery options can be discussed and priced as a more fault tolerant solution.

All incidents requiring system recovery will be required to adhere to Itron’s incident management policy and related standard operating procedures. BUSINESS CONTINUITY: RPO = 72 hours; RTO = 5 business days.

**12 Disaster Recovery**

Disaster Recovery (“DR”) is an optional fee-based service that is offered by Itron for some product offerings. If offered by Itron for Customer’s product offering, Customer may purchase DR for an additional fee. Upon Customer’s purchase of DR services and payment of applicable fees as set forth in the Proposal, Itron will maintain DR services at a dedicated facility that is equipped to facilitate hosted operations, meter reading and interrogations, and Field Area Network (“FAN”) communications in the event DR is needed. At Customer’s request, Itron will test the DR capabilities once per calendar year on Customer’s production environments and provide the results of each such test to the Customer, subject to agreement on applicable Fees and Statement of Work.

In the event of a Severity Level 1 Error (as defined in the Maintenance and Support Services Addendum), Itron will evaluate the scale of the incident, readily available mitigation plans, and the estimated time to recover. If it is apparent to Itron that an incident meeting the standards of a disaster as set forth in Itron’s Disaster Recovery plan has occurred with no possibility of mitigation, Itron will declare a disaster and begin the notification process. Itron will notify the Customer of an any such event that will result in service interruption in excess of twelve (12) hours. Once a disaster has been declared, Itron’s responsibilities for SLAs will be temporarily suspended until the time at which Customer’s environment has been failed over and is operating in the secondary DR datacenter. The Recovery Point Objective (RPO) for DR is four (4) hours. The Recovery Time Objective (RTO) for DR is twelve (12) hours.

**13 Roles and Responsibilities**

The table below lists the respective responsibilities of Customer and Itron to ensure reliable operation of the Software-as-a-Service.

P=Primary responsibility

S=Support responsibility

Description of service or deliverable	Itron	Customer
Submit user access requests for new users and deletion notifications for users no longer involved with the SaaS.		P
Provide immediate notification in the event of a Customer employee termination for those with access to the SaaS.		P
Provide immediate notification in the event of an Itron employee termination for those with access to the SaaS.	P	
Maintain skill sets necessary to properly support the SaaS.	P	
Administer and monitor Servers including but not limited to utilization of CPU, memory, IOPs, and disk space.	P	
Manage and troubleshoot the secure SaaS components and processes (if applicable).	P	
Administer associated Linux, Unix, and Windows operating systems.	P	
Apply operating system and other third-party security patches and critical updates as appropriate.	P	
Maintain and troubleshoot third-party software issues required for SaaS operations pursuant to this Addendum; work with third party to troubleshoot as required.	P	
Maintain anti-virus on all windows-based Servers if applicable to the SaaS platform.	P	

Description of service or deliverable	Itron	Customer
Monitor communications and support communications troubleshooting activities for the SaaS.	<b>P</b>	
Perform software upgrade activities.	<b>P</b>	
Maintain and administer the SaaS Server databases.	<b>P</b>	
Manage upload and submission of meter data files; work with Itron when problems are identified.		<b>P</b>
Provide and maintain a Secure FTP or equivalent if included in the SOW.	<b>P</b>	
Perform regular system, database, and custom component backups in accordance with selected service level.	<b>P</b>	
Maintain the applicable standard operating procedures and run books to maintain, monitor and operate the hosted environment.	<b>P</b>	

**14 Modifications.**

Itron may modify the terms and conditions set forth in this Addendum in accordance with [Section 22](#) (Modifications) of the main body of these Terms of Sale.

**[END]**

# Attachment A

## SPECIAL TERMS AND CONDITIONS

### Managed Services

The Special Terms and Conditions contained within this Attachment apply to Itron's Managed Services Service Offering:

#### 1 Managed Services – Descriptive Overview

- 1.1 When Customer subscribes to Managed Services, as part of the overall Service Offering Itron will provide SaaS for the applicable Software, plus Itron will also assume some of Customer's SaaS-related operational responsibilities, including management of reads from monitored and Available Endpoints or Provisioned and Optimized Endpoints (as applicable), collecting data, and delivering data files to Customer at agreed-upon intervals in agreed upon data formats. Itron will attempt to remotely diagnose and resolve Endpoint exceptions detected by Itron or reported by Customer. If the exception cannot be resolved remotely, or it is determined to impact an individual or small number of Endpoints, Itron will notify Customer that Customer must perform in-field investigation.
- 1.2 Managed Services are only available for Itron Software identified in the table set forth in this Section for which Customer has purchased such Managed Services and paid all applicable Fees.

<b>Itron Software Eligible to Receive Managed Services</b>
IntelliSOURCE Express
Streetlight Vision
UIQ: Advanced Metering Manager, Meter Program Configurator, Control Platform, Outage Detection and SensorIQ

#### 2 Managed Services – Definitions

The following defined terms are applicable to these Special Terms and Conditions for Managed Services:

**Anchor Read** means the "register value" stored once daily in a register in the Communication Module as installed in the Endpoint (usually at midnight).

**Available Endpoint** means an Endpoint which meets the following criteria: (a) the Endpoint, if installed by Customer, has been properly installed, (b) Customer has provided all necessary and correct information for Itron to properly provision the Endpoint in Itron's data collection platform (c) the Endpoint is communicating with Itron's data collection platform and a register read has been received from the Endpoint for three (3) consecutive days. An Endpoint will not be considered an Available Endpoint if any of these conditions have not been met; or (a) if an exception is detected by Itron or reported by Customer, but the exception cannot be resolved remotely, (b) the Endpoint if it is under field investigation, or (c) cellular carrier outages.

**Communications Module** or **NIC** means Itron's network interface card that may be installed in Equipment.

**Endpoint** has the meaning set forth in the SaaS General Terms and Conditions.

**Equipment** has the meaning set forth in the Equipment Addendum.

**Managed Services** means SaaS, plus the additional services to be provided by Itron as set forth in these Special Terms and Conditions for Managed Services.

**Optimization** is a UIQ term which means the procedure by which the layout of the network Equipment configuration and implementation have been validated ("**Optimized**") by performing active and passive tests to confirm that performance and redundancy meet the design specifications and other requirements of the Agreement. Optimization is to be executed on an area-by-area basis (or specified portion thereof), after all network Equipment is installed and a minimum of 98% of the metering Endpoints have been deployed to achieve the required level of saturation of the area.

**Provisioned** means an Endpoint that is located in an area of the NAN and which is in any of the following operational states within the UIQ System: "active," "inactive," or "disconnected," and which has been Optimized, but which is not: (i) in a "new," "discovered," "installed," "initializing," "unreachable" or "init failed" state; or (ii) considered to be in the process of being deployed or being repaired under warranty. Endpoint operational states are defined in the Meter Lifecycle Reference document.

**Service Level Trigger** means satisfaction of the particular condition(s) noted in these Special Terms and Conditions below upon which the applicable service level will start to be enforceable and reported on.

**3 Managed Services - Daily Operational Roles & Responsibilities**

Daily operations, Endpoint data collection activities, delivery of daily data export files, and event exception notification require that activities be performed by both Itron and Customer to ensure effective delivery of Managed Services. The table below lists the respective responsibilities of Customer and Itron for such daily activities. Itron’s obligation to provide Managed Services are expressly contingent upon Customer’s full performance of all responsibilities assigned to Customer.

P=Primary responsibility

S=Support responsibility

Description of Service or Deliverable	Itron	Customer
Create, monitor, and manage interrogation schedules.	<b>P</b>	
Ensure any input files are received and processed and output files are delivered to Customer by posting to a SFTP folder, or equivalent, where it can be retrieved by Customer as needed.	<b>P</b>	
Manage files on the SFTP server where any export files are delivered. If the SFTP server is Itron’s, files should be downloaded nightly and files that have been successfully downloaded and processed are to be removed from the SFTP location within 7 days.	<b>P</b>	<b>S</b>
Perform read rate monitoring and reporting.	<b>P</b>	
Perform remote investigation for specific groups of non-communicating Endpoints affected by a common network issue and coordinate field order with Customer as needed.	<b>P</b>	<b>S</b>
Perform scheduling of Endpoint interrogations including file delivery and delivery of Data Collection Platform standard reports.	<b>P</b>	
Notify Itron in advance when additional devices are planned to be installed. Perform Meter field maintenance; close work orders with Itron.		<b>P</b>
Perform Network Device and Endpoint repair, replacement, or relocation as required.		<b>P</b>
Perform RMA, Processing, Tracking and Performance Reporting for Endpoints and Network devices.	<b>S</b>	<b>P</b>
Administration of the Managed Services platform applications to Service Levels.	<b>P</b>	

**4 Managed Services - Environmental Management Roles & Responsibilities**

In addition to the daily operational tasks, Customer and Itron each have responsibilities for monitoring and managing the operating environment of the Managed Services platform and applications. The table below lists the respective responsibilities of Customer and Itron for such activities. Itron’s obligation to provide Managed Services are expressly contingent upon Customer’s full performance of all responsibilities assigned to Customer.

P=Primary responsibility

S=Support responsibility

Description of Service or Deliverable	Itron	Customer
Submit user access requests for new users and deletion notifications for users no longer involved with the managed system.		<b>P</b>
Provide immediate notification in the event of a Customer employee termination for those with access to the managed system.		<b>P</b>
Provide immediate notification in the event of an Itron employee termination for those with access to the SaaS.	<b>P</b>	

Description of Service or Deliverable	Itron	Customer
Maintain skill sets necessary to properly support the require Managed Services platform technologies.	P	
Maintain skill sets necessary to properly support the required Managed Services platform Field operations.		P
Administer and monitor servers including but not limited to utilization of CPU, memory, IOPs, and disk space.	P	
Manage and troubleshoot the secure network infrastructure components and processes (if applicable).	P	
Administer associated Linux, Unix, and Windows operating systems.	P	
Apply Operating System and other 3rd party security patches and critical updates as appropriate.	P	
Update security appliances (if applicable) with new Endpoint related security files.	P	
Maintain and troubleshoot third party software issues required for Managed Services platform operations, work with third party to troubleshoot as required.	P	
Maintain anti-virus on all windows-based servers.	P	
Perform the initial Network Devices configuration.	P	
Monitor Network and Endpoint communications and support metering and communications troubleshooting activities for the Managed Services platform.	P	
Support solution upgrade activities.	P	
Maintain and administer the Managed Services platform server databases.	P	
Establish and manage the wireless backhaul contracts and accounts if applicable.	P	
Support Customer’s technical operations department to handle Endpoint and Network field exceptions.	P	
Manage upload and submission of meter data files; work with Itron when problems are identified.		P
Provide and maintain a Secure FTP.	P	
Perform regular system, database, and custom component backups in accordance with selected service level.	P	
Develop and maintain related standard operating procedures.	P	
Manage Endpoint firmware revisions, including coordination and scheduling of firmware downloads as necessary (for Itron manufactured devices only with Itron provided firmware).	P	
Monitor Endpoint communications, reporting, and troubleshoot Managed Services platform issues as necessary.	P	
Manage Endpoint manufacturing and security files for all necessary solution components, troubleshoot and coordinate with manufacturing as needed.	P	
Develop, maintain and utilize system operations clock, standard operations procedures, and daily checklists for Itron operators and administrators.	P	

**5 Service Levels - Managed Services**

The following service levels are only available for Itron Software identified in the tables set forth below for which Customer has purchased Managed Services and paid all applicable Fees.

**5.1 Data and On-Demand Read Service Level**

**5.1.1 Service Level Applicability**

The Data Read Service Levels and On-Demand Read Service Level (collectively, the “**Data and On-Demand Read Service Level**”) set forth in this Section 4.1 apply to the Itron Software identified in the following table for which Customer has purchased Managed Services and paid all applicable Fees:

Itron Software Eligible to Receive Data and On-Demand Read Service Level	
UIQ: Advanced Metering Manager, Meter Program Configurator, Control Platform, Outage Detection and SensorIQ	Streetlight Vision

### 5.1.2 Data Read Service Level

- (a) **Service Level Trigger.** The Service Level Trigger for the Data Read Service Level occurs when the applicable Endpoints are Provisioned and Optimized. As each additional area is Optimized, Itron will identify the Endpoints that will be added to the set of Provisioned and Optimized Endpoints subject to the Data Read Service Level.
- (b) **Service Level.** For newly available data on the Communication Module, the UIQ System will gather and process Anchor Reads and interval reads from Provisioned and Optimized Endpoints and deliver, via the “export” mechanism of the UIQ System, at least ninety-nine percent (99.0%) of Anchor Reads captured at midnight and of interval reads captured each day, by 6:00 a.m. local time the next day, and at least ninety-nine and one half percent (99.5%) of Anchor Reads captured at midnight and of interval reads captured each day, by 2:00 p.m. local time the next day (“Data Read Service Level”).
- (c) **Service Level Credits.** Subject to the service level exclusions set forth in [Section 7.1](#) (“Service Level Exclusions”) of the SaaS General Terms and Conditions, Customer will be entitled to the following credits as its sole and exclusive remedy for Itron’s failure to meet the foregoing Provisioned and Optimized Endpoint Data Read Service Level:

<b>Data Read Service Level Credits (production environments only)</b>	
<b>Number of Daily Failures in the Applicable Month</b>	<b>Credit (% of monthly Managed Services Subscription Fee with respect to the applicable Itron SaaS Application)</b>
1 – 3	0%
4 – 10	4%
11-15	10%
16 – 20	20%
21 +	20%

### 5.1.3 On Demand Read Service Level

- (a) **Service Level Trigger.** The Service Level Trigger for the On-Demand Read Service Level occurs when the applicable Endpoints are Provisioned and Optimized. As each additional area is Optimized, Itron will identify the Endpoints that will be added to the set of Provisioned and Optimized Endpoints subject to the On-Demand Read Service Level.
- (b) **Service Level.** The UIQ System will successfully execute at least (98.0%) of all (i) on-demand read, (ii) on-demand remote connect and (c) on-demand remote disconnect requests made by Customer for Provisioned and Optimized Endpoints which are actively communicating (“On-Demand Read Service Level”). An on-demand request is a single transaction to a single Endpoint, initiated by a single user of the UIQ system. An on-demand read request does not include batch read jobs targeted at multiple Endpoints (e.g. “read all unread meters”) or read operations used to detect scope of outages and/or determine whether an outage is over. For the purposes of calculating this Service Level, multiple attempts to connect with a single device within a twenty (24) hour period will count as one failed attempt; on-demand read requests (single or batch) targeted at an Endpoint which was not read in previous 24 hours will be excluded; and on-demand read jobs initiated by system-level accounts (“root” and “UIQ”) will be excluded. Service level credits will apply only if there is a minimum of 2,000 on-demand requests in the applicable month.
- (c) **Service Level Credits.** Subject to the service level exclusions set forth in [Section 7.1](#) (“Service Level Exclusions”) of the SaaS General Terms and Conditions, and provided that the minimum number of on-demand Anchor Reads and interval meter read requests has been met pursuant to the table below, Customer will be entitled to the following credits as its sole and exclusive remedy for Itron’s failure to meet the foregoing On-Demand Read Service Level:

<b>On-Demand Read Service Level Credits (production environments only)</b>	
<b>% of On-Demand Meter Read Requests Successfully Executed in the Applicable Month</b>	<b>Credit* (% of monthly Managed Services Subscription Fee with respect to the applicable Itron SaaS Application)</b>
≥98.0% and 100.0%	0%
≥95.0% and <98.0%	5%
≥90.0% and <95.0%	20%
≤90.0%	20%
*Credits will apply only if there is a minimum of 2,000 on-demand requests in the applicable month. Multiple attempts to connect with a single device within a twenty-four (24) hour period will count as one failed attempt.	

**[END]**

# Special Terms and Conditions

## Temetra

The following Special Terms and Conditions contained within this attachment apply to Itron's SaaS Service Offering for Temetra:

### 1 Mobile Device Software

- (a) License Grant.** Subject to the terms of the Agreement, Itron grants Customer a limited, non-exclusive, and non-transferrable license to download, install, and use Itron's Temetra Mobile application and any associated drivers provided by Itron (collectively, the "**Mobile Device Software**") on Itron-approved mobile devices owned or otherwise controlled by Customer (each a "**Mobile Device**") strictly in accordance with the Documentation.
- (b) License Restrictions.** Customer shall not: (a) copy the Mobile Device Software; (b) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Mobile Device Software; (c) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Mobile Device Software or any part thereof; (d) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Mobile Device Software, including any copy thereof; or (e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Mobile Device Software, or any features or functionality of the Mobile Device Software, to any third party for any reason.
- (c) Directives.** To the extent directive 2009/24/EC on the legal protection of computer programs or similar legislation or regulation (collectively, the "**Directives**") is applicable, such Directives may provide Customer the right to decompile Software in order to obtain information necessary to achieve the interoperability of an independently created computer program, prior to exercising any such possible rights under the Directives, Customer agrees to (a) first notify Itron of Customer's good faith belief that information necessary to achieve the interoperability of an independently created computer program is not otherwise available and that decompilation is indispensable within the meaning of the Directives; and (b) provide Itron with a reasonable amount of time to respond to Customer regarding the foregoing assertions.
- (d) Limited Mobile Device Software Warranty.** For a period of ninety (90) days from the date of delivery of the Mobile Device Software to Customer (the "**Warranty Period**"), Itron warrants solely to Customer that the Mobile Device Software will substantially conform in all material respects to the applicable Itron published specifications. As Customer's sole and exclusive remedy for any breach of this warranty, Itron will, at its option, during the Warranty Period, repair or replace non-conforming Mobile Device Software to substantially conform to the foregoing warranty, provided that Itron will have no obligation to repair or replace any non-conforming Mobile Device Software if the Agreement has terminated or expired. The foregoing warranty does not apply to non-conformities in the Mobile Device Software due to: (i) modifications not made or approved by Itron in writing; (ii) Customer's or any third party's negligence or intentional acts; (iii) misuse or abuse, including the failure to use or install the Mobile Device Software in accordance with the Documentation; (iv) incorrect data, or data entry or output, as applicable, by Customer or a third party; (v) use with third party software, hardware or firmware not provided or authorized by Itron in writing; (vi) a Force Majeure event; or (vii) viruses or security vulnerabilities introduced into the Mobile Device Software or Customer's systems through no fault of Itron. After the Warranty Period, any Mobile Device Software errors will be addressed under maintenance and support terms.
- (e) Updates.** Itron may from time to time in its sole discretion develop and provide Mobile Device Software updates, which may include upgrades, bug fixes, patches, other error corrections, and/or new features (collectively, including related documentation, "**Updates**"). Based on Customer's Mobile Device settings, when Customer's Mobile Device is connected to the internet either: (a) the Mobile Device Software will automatically download and install all available Updates; or (b) Customer may receive notice of or be prompted to download and install available Updates. Customer shall promptly download and install all Updates and acknowledge and agree that the Mobile Device Software, the Service Offering, or portions thereof may not properly operate should Customer fail to do so. Customer further agrees that all Updates will be deemed part of the Mobile Device Software and be subject to all terms and conditions of the Agreement.

**2 Compatible Mobile Devices**

Mobile Device Software is designed to work in connection with Mobile Devices that meet Itron minimum requirements. Itron will provide the minimum specifications to Customer. Itron is not required to make Mobile Device Software work with any other mobile devices.

**3 Internet Connectivity; Disclaimer of Liability**

Mobile Device Software requires internet connectivity, which Customer is solely responsible for obtaining and maintaining. Itron accepts no responsibility for any internet services failure, Mobile Device failure, or for any loss or damage of any kind caused by such failure.

**4 Business Continuity and Disaster Recovery.**

As it applies to these Special Terms and Conditions, the following shall replace Section 12 ("Business Continuity") and Section 13 ("Disaster Recovery") of the SaaS General Terms and Conditions in its entirety:

Itron uses streaming replication to keep a hot failover database always available, with automatic switch over in the event of failure. Application data is automatically backed up every night.

**5 Recovery of Customer Data at the End of the Agreement or SaaS Service.**

Upon Customer's request at expiration or termination of the Service Offering, Itron will maintain Customer's access to the system for a maximum period of three (3) months from the date of expiration or termination, for the sole purpose of enabling Customer to retrieve the following Customer data: access account information, meter details, history of index reading data and photographs. Customer may, at no additional cost, export said system data in the standard file format used by the SaaS Service Offering, or the format already supported by the SaaS Service Offering. At the end of this three (3) month period, the Customer data will be permanently deleted and will no longer be recoverable.

**[END]**

## Special Terms and Conditions – Itron Mobile

The following Special Terms and Conditions contained within this attachment apply to Itron's SaaS Service Offering for Itron Mobile:

### **1 Relationship to Licensed FCS Software and Maintenance & Support**

Customer may be required to update or upgrade its licensed FCS Software from time to time in order to ensure full functionality of Itron Mobile. Customer's subscription and right to use Itron Mobile will terminate if Customer's FCS Software license is terminated.

### **2 Compatible Mobile Devices**

Itron Mobile is designed to work in connection with mobile devices that meet Itron minimum requirements. Itron will provide the minimum specifications to Customer. Itron is not required to make Itron Mobile work with any other mobile devices.

### **3 Customer's Obligation to Protect Customer Information on Mobile Devices**

Customer must take steps to protect Customer information stored on mobile devices. User identification codes, passwords, and any information provided to Customer as part of Itron's security procedures must be treated by Customer as confidential and must not be disclosed in violation of the Agreement. Customer is at all times responsible for its employees and subcontractors' use of Itron Mobile. Itron has the right to disable any user identification codes or passwords if Customer or its employees and contractors have failed to comply with any of the provisions of the Agreement.

### **4 Internet Connectivity; Disclaimer of Liability**

Itron Mobile requires internet connectivity, which Customer is solely responsible for obtaining and maintaining. Itron accepts no responsibility for any internet services failure, mobile device failure, or for any loss or damage of any kind caused by such failure.

**[END]**

## Special Terms and Conditions

### Field Tools Advanced

The following Special Terms and Conditions contained within this attachment apply to Itron's SaaS Service Offering for Field Tools Advanced:

#### **1 Compatible Mobile Devices**

Field Tools Advanced is designed to work in connection with mobile devices that meet Itron minimum requirements. Itron will provide the minimum specifications to Customer. Itron is not required to make Field Tools Advanced work with any other mobile devices.

#### **2 Customer's Obligation to Protect Customer Information on Mobile Devices**

Customer must take steps to protect Customer information stored on mobile devices. User identification codes, passwords, and any information provided to Customer as part of Itron's security procedures must be treated by Customer as confidential and must not be disclosed in violation of the Agreement. Customer is at all times responsible for its employees and subcontractors' use of Field Tools Advanced. Itron has the right to disable any user identification codes or passwords if Customer or its employees and contractors have failed to comply with any of the provisions of the Agreement.

#### **3 Internet Connectivity; Disclaimer of Liability**

Field Tools Advanced requires internet connectivity, which Customer is solely responsible for obtaining and maintaining. Itron accepts no responsibility for any internet services failure, mobile device failure, or for any loss or damage of any kind caused by such failure.

**[END]**

# Special Terms and Conditions

## Operations Optimizer

The following Special Terms and Conditions contained within this attachment apply to Itron's SaaS Service Offering for Operations Optimizer:

### 1 User IDs and Passwords

As it applies to these Special Terms and Conditions, the following shall replace Section 3.3 ("User IDs and Passwords") of the SaaS General Terms and Conditions in its entirety:

Itron shall provide Customer with an integration with Azure Active Directory for managing their user identifications and passwords ("User IDs") to access Itron's Operations Optimizer. Customer shall be solely responsible for all use of Customer's subscriptions and accounts. Customer shall maintain the confidentiality of all User IDs assigned to Customer. User IDs may not be shared or used by more than one user.

### 2 Roles and Responsibilities

As it applies to these Special Terms and Conditions, the table in Section 14 ("Roles and Responsibilities") of the SaaS General Terms and Conditions shall be replaced in its entirety with the following:

Description of service or deliverable	Itron	Customer
Manage user access according using Azure Active Directory to add new users and promptly remove users no longer involved with the Software as a Service.		<b>P</b>
Maintain skill sets necessary to properly support the SaaS.	<b>P</b>	
Administer and monitor Servers including but not limited to utilization of CPU, memory, IOPs, and disk space.	<b>P</b>	
Manage and troubleshoot the secure SaaS components and processes (if applicable).	<b>P</b>	
Administer associated Linux, Unix, and Windows operating systems.	<b>P</b>	
Apply operating system and other third-party security patches and critical updates as appropriate.	<b>P</b>	
Maintain and troubleshoot third-party software issues required for SaaS operations pursuant to this Addendum; work with third party to troubleshoot as required.	<b>P</b>	
Maintain anti-virus on all windows-based Servers if applicable to the SaaS platform.	<b>P</b>	
Monitor communications and support communications troubleshooting activities for the SaaS.	<b>P</b>	
Perform software upgrade activities if required.	<b>P</b>	
Maintain and administer the SaaS Server databases.	<b>P</b>	
Manage upload and submission of meter data files; work with Itron when problems are identified.		<b>P</b>
Provide and maintain a Secure FTP or equivalent if included in the SOW.	<b>P</b>	
Perform regular system, database, and custom component backups in accordance with selected service level.	<b>P</b>	
Maintain the applicable standard operating procedures and run books to maintain, monitor and operate the hosted environment.	<b>P</b>	

[END]

# Special Terms and Conditions

## AMI Essentials (Water and Gas)

The Special Terms and Conditions below apply only to Itron's AMI Essentials (Water and Gas) Service Offering:

### 1 Mobile Device Software

- (a) License Grant.** Subject to the terms of the Agreement, Itron grants Customer a limited, non-exclusive, and non-transferrable license to download, install, and use Itron's Temetra Mobile application and any associated drivers provided by Itron (collectively, the "**Mobile Device Software**") on Itron-approved mobile devices owned or otherwise controlled by Customer (each a "**Mobile Device**") strictly in accordance with the Agreement and the Documentation.
- (b) License Restrictions.** Customer shall not: (a) copy the Mobile Device Software; (b) modify, translate, adapt, or otherwise create derivative works or improvements, whether or not patentable, of the Mobile Device Software; (c) reverse engineer, disassemble, decompile, decode, or otherwise attempt to derive or gain access to the source code of the Mobile Device Software or any part thereof; (d) remove, delete, alter, or obscure any trademarks or any copyright, trademark, patent, or other intellectual property or proprietary rights notices from the Mobile Device Software, including any copy thereof; or (e) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Mobile Device Software, or any features or functionality of the Mobile Device Software, to any third party for any reason.
- (c) Directives.** To the extent directive 2009/24/EC on the legal protection of computer programs or similar legislation or regulation (collectively, the "**Directives**") is applicable, such Directives may provide Customer the right to decompile Software in order to obtain information necessary to achieve the interoperability of an independently created computer program, prior to exercising any such possible rights under the Directives, Customer agrees to (a) first notify Itron of Customer's good faith belief that information necessary to achieve the interoperability of an independently created computer program is not otherwise available and that decompilation is indispensable within the meaning of the Directives; and (b) provide Itron with a reasonable amount of time to respond to Customer regarding the foregoing assertions.
- (d) Limited Mobile Device Software Warranty.** For a period of ninety (90) days from the date of delivery of the Mobile Device Software to Customer (the "**Warranty Period**"), Itron warrants solely to Customer that the Mobile Device Software will substantially conform in all material respects to the applicable Itron published specifications. As Customer's sole and exclusive remedy for any breach of this warranty, Itron will, at its option, during the Warranty Period set forth in this [Section 1\(d\)](#), repair or replace non-conforming Mobile Device Software to substantially conform to the foregoing warranty, provided that Itron will have no obligation to repair or replace any non-conforming Mobile Device Software if the Agreement has terminated or expired. The foregoing warranty does not apply to non-conformities in the Mobile Device Software due to: (i) modifications not made or approved by Itron in writing; (ii) Customer's or any third party's negligence or intentional acts; (iii) misuse or abuse, including the failure to use or install the Mobile Device Software in accordance with the Documentation; (iv) incorrect data, or data entry or output, as applicable, by Customer or a third party; (v) use with third party software, hardware or firmware not provided or authorized by Itron in writing; (vi) a Force Majeure event; or (vii) viruses or security vulnerabilities introduced into the Mobile Device Software or Customer's systems through no fault of Itron. After the Warranty Period, any Mobile Device Software errors will be addressed under Maintenance Services.
- (e) Updates.** Itron may from time to time in its sole discretion develop and provide Mobile Device Software updates, which may include upgrades, bug fixes, patches, other error corrections, and/or new features (collectively, including related documentation, "**Updates**"). Based on Customer's Mobile Device settings, when Customer's Mobile Device is connected to the internet either: (a) the Mobile Device Software will automatically download and install all available Updates; or (b) Customer may receive notice of or be prompted to download and install available Updates. Customer shall promptly download and install all Updates and acknowledge and agree that the Mobile Device Software, the Service Offering, or portions thereof may not properly operate should Customer fail to do so. Customer further agrees that all Updates will be deemed part of the Mobile Device Software and be subject to all terms and conditions of the Agreement.

## 2 Compatible Mobile Devices

Mobile Device Software is designed to work in connection with Mobile Devices that meet Itron minimum requirements. Itron will provide the minimum specifications to Customer. Itron is not required to make Mobile Device Software work with any Devices that do not meet Itron minimum requirements.

## 3 Internet Connectivity; Disclaimer of Liability

Mobile Device Software requires Internet connectivity, which Customer is solely responsible for obtaining and maintaining. Itron accepts no responsibility for any internet services failure, Mobile Device failure, or for any loss or damage of any kind caused by such failure.

## 4 Business Continuity and Disaster Recovery

As it applies to these Special Terms and Conditions, the following shall replace [Section 12](#) ("Business Continuity") and [Section 13](#) ("Disaster Recovery") of the SaaS General Terms and Conditions in its entirety:

Itron uses streaming replication to keep a hot failover database always available, with automatic switchover in the event of failure. Application data is automatically backed up every night.

## 5 Recovery of System Data

Prior to the end of the Subscription Term, or earlier termination of the Agreement, (the "**Recovery Request Deadline**") Customer may request to Itron in writing to recover system data relating to this Service Offering ("**Recovery Request**"). Provided that Itron has received the Recovery Request from Customer prior to the Recovery Request Deadline, Itron will maintain Customer's access to this Service Offering for a period of three (3) months from Recovery Request Deadline (the "**Recovery Period**"), for the sole purpose of enabling Customer to retrieve the following system data: access account information, meter details, history of index reading data and photographs. Customer may, at no additional cost, export said system data in the standard file format used by this Service Offering, or the format already supported by this Service Offering. At the end of the Recovery Period, the system data will be permanently deleted and will no longer be recoverable. Notwithstanding the foregoing, if Customer fails to pay undisputed amounts due, Itron will have no obligation to maintain system data or Customer's access to this Service Offering following the Recovery Request Deadline. Itron may restore system data (if recoverable) and reinstate Customer's access to this Service Offering upon payment of Itron's then current reinstatement fee.

## 6 Connectivity

Data transmission between an End Point and the Head End System ("**Connectivity**") is provided by a third-party carrier network. In the event of a disruption in Connectivity, Itron will use commercially reasonable efforts to assist the network carrier to resolve the disruption.

## 7 AMI Essentials Use Restrictions

### 7.1 Limitations

The following restrictions on Customer's use of AMI Essentials (Water & Gas) are in addition to those set forth in [Section 3.2](#) ("Restrictions on Use") of the SaaS General Terms and Conditions:

#### 7.1.1 Conventional AMI Use Cases

Unless otherwise approved in writing by Itron in accordance with Section 7.1.2 below, Customer will use AMI Essentials (Water & Gas) only for the following conventional AMI use cases: (a) up to four reads per day of the following available read types: no more than twice daily retrieval of interval data, daily reading of meter registers, on-demand reads, meter pings, and (b) up to five Firmware upgrades for the life of the Endpoint. Usage beyond conventional use cases could result in premature battery failure.

#### 7.1.2 New Use Cases

If Customer requests additional use cases, Itron or its designee will review any request for new use cases, study the impact on network capacity and functionality and render a decision within 90 days of the request. Itron reserves the right to charge additional fees for any new use cases.

## 8 Service Levels

The read rate service level commitments outlined below are contingent upon Customer's purchase of (and ongoing right to receive) AMI Essentials (Water & Gas) in accordance with the Agreement. The service level commitments do not apply to pilot deployments of AMI Essentials (Water & Gas).

## 8.1 Service Level Definitions

**Available Endpoint** means an Endpoint that meets the following criteria: (a) the Endpoint has been properly installed according to Itron installation instructions; (b) Customer has provided all necessary and correct information for Itron to properly provision the Endpoint in Itron’s data collection platform; (c) the Endpoint is communicating with Itron’s data collection platform and a register read has been received from the Endpoint for three (3) consecutive days; (d) adequate cellular coverage signal quality is measured, as defined by applicable product specifications; (e) cellular coverage is not affected by temporary or permanent obstructions or other conditions outside of Itron’s control; (f) Customer operates and maintains the Endpoint according to Itron’s published policies and procedures; (g) the solution has been optimized as part of the deployment process, including read times to support optimal performance and avoid network congestion; (h) there are no wireless carrier interruptions or gaps in cellular coverage. An Endpoint will not be considered an Available Endpoint under any of these conditions: (a) if an exception is detected by Itron or reported by Customer, but the exception cannot be resolved remotely, or (b) the Endpoint is under field investigation.

**Billing Read Rate** means the percentage of Available Endpoints from which register read data has been collected over a rolling 3-day period, measured for each calendar day.

## 8.2 Service Level Report

Itron will deliver a monthly service level report that identifies performance against service levels. If Itron does not meet a service level, the report will give the reason the service level was not achieved and describe the corrective actions taken.

## 8.3 Service Level Commitment

Provided Customer has paid all SaaS Subscription Fees, the average monthly read rates of Available Endpoints during the Subscription Term of this Service Offering will meet or exceed the service level commitments as set forth in the table below. Itron records and data will be the sole basis for all Billing Read Rate measurements and calculations.

Service Deliverable	Monthly Service Level	Service Level Credit (% of monthly Subscription Fee for applicable Service Offering)
3-Day Billing Read Rate	>98.5%	0%
	96% - 98.5%	4%
	94% - 96%	10%
	< 94%	20%

## 8.4 Monthly Credit Limit

The cumulative Service Level Credit, if any, awarded to Customer in any single month may not exceed thirty percent (30%) of the Subscription Fee (pro rata monthly equivalent if billed quarterly or annually) for the month in question irrespective of the number of SLAs that may not have been met.

## 9 Fees and Invoicing

The One-Time Setup Fee and Subscription Fees for the AMI Essentials (Water & Gas) Service Offering will be invoiced and paid in accordance with [Section 5](#) (“Fees and Invoicing”) of the SaaS General Terms and Conditions, provided that: (a) during deployment of the quantity of Endpoints specified in the applicable Subscription Fees (the “**Deployment Period**”) and until the first anniversary of the Service Offering Commencement Date following the Deployment Period, the SaaS Billing Cycle and each Subscription Term will be consecutive periods of three calendar months commencing at the end of the calendar month in which the Service Offering Commencement Date occurs, (b) Itron will invoice Customer for Subscription Fees for each Subscription Term in advance upon the commencement of each SaaS Billing Cycle, and (c) Itron will not be required to provide Customer with a renewal notice.

## 10 AMI Essentials (Water & Gas) - Daily Operational Roles & Responsibilities

Daily operations, Endpoint data collection activities, delivery of daily data export files, and event exception notification require that activities be performed by both Itron and Customer to ensure effective delivery of AMI Essentials (Water & Gas). The table below lists the respective responsibilities of Customer and Itron for such daily activities. Itron’s

obligation to provide AMI Essentials (Water & Gas) are expressly contingent upon Customer's full performance of all responsibilities assigned to Customer.

P=Primary responsibility

S=Support responsibility

Description of Service or Deliverable	Itron	Customer
Create, monitor, and manage interrogation schedules.	P	
Ensure any input files are received and processed and output files are delivered to Customer by posting to a SFTP folder, or equivalent, where it can be retrieved by Customer as needed.	P	
Manage files on the SFTP server where any export files are delivered. If the SFTP server is Itron's, files should be downloaded nightly and files that have been successfully downloaded and processed are to be removed from the SFTP location within 7 days.	P	S
Perform read rate monitoring and reporting.	P	
Perform remote investigation for specific groups of non-communicating Endpoints affected by a common network issue and coordinate field order with Customer as needed.	P	S
Perform scheduling of Endpoint interrogations including file delivery and delivery of Data Collection Platform standard reports.	P	
Notify Itron in advance when additional devices are planned to be installed. Perform Meter field maintenance; close work orders with Itron.		P
Perform Network Device and Endpoint repair, replacement, or relocation as required.		P
Perform RMA, Processing, Tracking and Performance Reporting for Endpoints and Network devices.	S	P
Administration of the Managed Services platform applications to Service Levels.	P	

### 11 AMI Essentials (Water & Gas) – Environmental Management Roles & Responsibilities

In addition to the daily operational tasks, Customer and Itron each have responsibilities for monitoring and managing the operating environment of the AMI Essentials (Water & Gas) platform and applications. The table below lists the respective responsibilities of Customer and Itron for such activities. Itron's obligation to provide AMI Essentials (Water & Gas) are expressly contingent upon Customer's full performance of all responsibilities assigned to Customer.

P=Primary responsibility

S=Support responsibility

Description of Service or Deliverable	Itron	Customer
Submit user access requests for new users and deletion notifications for users no longer involved with the managed system.		P
Provide immediate notification in the event of a Customer employee termination for those with access to the managed system.		P
Provide immediate notification in the event of an Itron employee termination for those with access to the SaaS.	P	
Maintain skill sets necessary to properly support the require Managed Services platform technologies.	P	
Maintain skill sets necessary to properly support the required Managed Services platform Field operations.		P
Administer and monitor servers including but not limited to utilization of CPU, memory, IOPs, and disk space.	P	
Manage and troubleshoot the secure network infrastructure components and processes (if applicable).	P	
Administer associated Linux, Unix, and Windows operating systems.	P	
Apply Operating System and other 3rd party security patches and critical updates as appropriate.	P	
Update security appliances (if applicable) with new Endpoint related security files.	P	

Description of Service or Deliverable	Itron	Customer
Maintain and troubleshoot third party software issues required for Managed Services platform operations, work with third party to troubleshoot as required.	<b>P</b>	
Maintain anti-virus on all windows-based servers.	<b>P</b>	
Perform the initial Network Devices configuration.	<b>P</b>	
Monitor Network and Endpoint communications and support metering and communications troubleshooting activities for the Managed Services platform.	<b>P</b>	
Support solution upgrade activities.	<b>P</b>	
Maintain and administer the Managed Services platform server databases.	<b>P</b>	
Establish and manage the wireless backhaul contracts and accounts if applicable.	<b>P</b>	
Support Customer's technical operations department to handle Endpoint and Network field exceptions.	<b>P</b>	
Manage upload and submission of meter data files; work with Itron when problems are identified.		<b>P</b>
Provide and maintain a Secure FTP.	<b>P</b>	
Perform regular system, database, and custom component backups in accordance with selected service level.	<b>P</b>	
Develop and maintain related standard operating procedures.	<b>P</b>	
Manage Endpoint firmware revisions, including coordination and scheduling of firmware downloads as necessary (for Itron manufactured devices only with Itron provided firmware).	<b>P</b>	
Monitor Endpoint communications, reporting, and troubleshoot Managed Services platform issues as necessary.	<b>P</b>	
Manage Endpoint manufacturing and security files for all necessary solution components, troubleshoot and coordinate with manufacturing as needed.	<b>P</b>	
Develop, maintain and utilize system operations clock, standard operations procedures, and daily checklists for Itron operators and administrators.	<b>P</b>	

[END]

# Special Terms and Conditions

## AMI Essentials (Electric)

The Special Terms and Conditions below apply only to Itron's AMI Essentials (Electric) Service Offering:

### 1 AMI Essentials Electric – Descriptive Overview

When Customer subscribes to AMI Essentials Electric, as part of the overall Service Offering Itron will provide SaaS for the applicable Software and procure wireless connectivity for Available Endpoints on Customer's behalf subject to terms and conditions between Itron and the applicable third-party carrier. AMI Essentials Electric is only available for UIQ: Advanced Metering Manager, Meter Program Configurator, and Control Platform Software, provided that Customer has paid all applicable Fees.

#### 1.1 AMI Essentials Electric – Definitions

The following defined terms are applicable to these Special Terms and Conditions for AMI Essentials (Electric):

**Anchor Read** means the "register value" stored once daily in a register in the Communication Module as installed in the Endpoint (usually at midnight).

**Available Endpoint** means an Endpoint which meets the following criteria: (a) the Endpoint has been properly installed; (b) Customer has provided all necessary and correct information for the Endpoint to be properly Provisioned and Optimized in Itron's UIQ System; (c) the Endpoint is communicating with Itron's UIQ System and a register read has been received from the Endpoint for three (3) consecutive days; (d) adequate cellular coverage signal quality is measured, as defined by applicable product specifications; (e) cellular coverage is not affected by temporary or permanent obstructions or other conditions outside of Itron's control; (f) Customer operates and maintains the Endpoint according to Itron's published policies and procedures; (g) the solution has been optimized as part of the deployment process, including read times to support optimal performance and avoid network congestion; (h) there are no gaps in cellular coverage or wireless carrier interruptions. An Endpoint will not be considered an Available Endpoint under any of these conditions; or (a) if an exception is detected by Itron or reported by Customer, but the exception cannot be resolved remotely, (b) the Endpoint is under field investigation, or (c) wireless carrier outages.

**Endpoint** has the meaning set forth in the SaaS General Terms and Conditions.

**Equipment** has the meaning set forth in the Equipment Addendum.

**Optimization** means the optional procedure by which the layout of the network Equipment configuration and implementation have been validated ("**Optimized**") by performing active and passive tests to confirm that performance and redundancy meet the design specifications and other requirements of the Agreement. If purchased by Customer and all applicable fees have been paid, Optimization will be executed on an area-by-area basis (or specified portion thereof), after all network Equipment is installed and a minimum of 98% of the metering Endpoints have been deployed to achieve the required level of saturation of the area.

**Provisioned**, with respect to an Endpoint, means the Endpoint is located in an area of the neighborhood area network (NAN) and in any of the following operational states within the UIQ System: "active," "inactive," or "disconnected," and not: (i) in a "new," "discovered," "installed," "initializing," "unreachable" or "init failed" state; or (ii) in the process of being deployed or being repaired under warranty. Endpoint operational states are defined in the Meter Lifecycle Reference document.

**Service Level Trigger** means satisfaction of the particular condition(s) noted in these Special Terms and Conditions below upon which the applicable service level will start to be enforceable and reported on.

### 2 Service Levels - AMI Essentials (Electric)

The service levels outlined below are available only if Customer has paid all applicable fees.

## 2.1 Monthly File Delivery Service Level

### 2.1.1 Service Level Trigger

The Service Level Trigger for the Monthly File Delivery Service Level occurs upon the Service Offering Commencement Date.

### 2.1.2 Service Level

“**File Delivery**” for the purposes of this [Section 4.1](#), is a measure of the performance of Itron’s or its provider’s systems to deliver register read and interval read consumption data collected from Available Endpoints to Customer in agreed-upon formats, at an agreed-upon intervals for Software that collects and delivers data. The monthly File Delivery percentage service level with respect to Itron SaaS Applications (“**Monthly File Delivery Service Level**”) will meet or exceed 99% each month (for ease of understanding, this means the file is successfully delivered every day of the month). Itron records and the data contained in the file is measured to the agreed to Itron hosted location and will be the sole basis for all File Delivery performance measurements and calculations with respect to the Monthly File Delivery Service Level for Available Endpoints.

## 2.2 Read Rate Service Levels

Read Rate service levels are only available if Customer has purchased AMI Essentials Electric, Optimization Services, and Device Monitoring Services, and paid all applicable fees.

### 2.2.1 Service Level Trigger

The Service Level Trigger for the Read Rate Service Level occurs the Service Offering Commencement Date.

### 2.2.2 Service Level

The average monthly Read Rate will meet or exceed 99% each calendar month (“**Read Rate Service Level**”). Itron records and data will be the sole basis for all Read Rate measurements and calculations. “**Read Rate**” means the percentage of Available Endpoints from which register read data has been collected over a rolling 3-day period, measured for each calendar day.

## 2.3 Read and Demand Service Level

Read and Demand service levels are only if Customer has purchased AMI Essentials Electric, Optimization Services, and Device Monitoring Services, and paid all applicable fees.

### 2.3.1 Data Read Service Level

**Service Level Trigger.** The Service Level Trigger for the Data Read Service Level occurs when the applicable Endpoints are Provisioned and Optimized. As each additional area is Optimized, Itron will identify the Endpoints that will be added to the set of Provisioned and Optimized Endpoints subject to the Data Read Service Level.

**Service Level.** For newly available data on the Communication Module, the UIQ System will gather and process Anchor Reads and interval reads from Provisioned and Optimized Endpoints and deliver, via the “export” mechanism of the UIQ System, at least ninety-nine percent (99.0%) of Anchor Reads captured at midnight and of interval reads captured each day, by 6:00 a.m. local time the next day, and at least ninety-nine percent (99.5%) of Anchor Reads captured at midnight and of interval reads captured each day, by 2:00 p.m. local time the next day (“**Data Read Service Level**”).

### 2.3.2 On Demand Read Service Level

**Service Level Trigger.** The Service Level Trigger for the On-Demand Read Service Level occurs when the applicable Endpoints are Provisioned and Optimized. As each additional area is Optimized, Itron will identify the Endpoints that will be added to the set of Provisioned and Optimized Endpoints subject to the On-Demand Read Service Level.

**Service Level.** The UIQ System will successfully execute at least (98.0%) of all (i) on-demand read, (ii) on-demand remote connect and (c) on-demand remote disconnect requests made by Customer for Provisioned and Optimized Endpoints which are actively communicating (“**On-Demand Read Service Level**”). An on-demand request is a single transaction to a single Endpoint, initiated by a single user of the UIQ system. An on-demand read request does not include batch read jobs targeted at multiple Endpoints (e.g. “read all unread meters”) or read operations used to detect scope of outages and/or determine whether an outage is over. For the purposes of calculating this Service Level, multiple attempts to connect with a single device within a twenty (24) hour period will count as one failed attempt; on-demand read requests (single or batch) targeted at an Endpoint which was not read in previous 24 hours will be excluded; and on-demand read jobs initiated by system-level accounts (“root” and “UIQ”) will be excluded. Service level credits will apply only if there is a minimum of 2,000 on-demand requests in the applicable month.

### 3 Fees and Invoicing

The One-Time Setup Fee and Subscription Fees for the AMI Essentials (Electric) Service Offering will be invoiced and paid in accordance with [Section 5](#) ("Fees and Invoicing") of the SaaS General Terms and Conditions, provided that: (a) during deployment of the quantity of Endpoints specified in the applicable Subscription Fees (the "**Deployment Period**") and until the first anniversary of the Service Offering Commencement Date following the Deployment Period, the SaaS Billing Cycle and each Subscription Term will be consecutive periods of three calendar months commencing at the end of the calendar month in which the Service Offering Commencement Date occurs, (b) Itron will invoice Customer for Subscription Fees for each Subscription Term in advance upon the commencement of each SaaS Billing Cycle, and (c) Itron will not be required to provide Customer with a renewal notice.

### 4 AMI Essentials Electric - Daily Operational Roles & Responsibilities

Daily operations, Endpoint data collection activities, delivery of daily data export files, and event exception notification require that activities be performed by both Itron and Customer to ensure effective delivery of AMI Essentials (Electric). The table below lists the respective responsibilities of Customer and Itron for such daily activities. Itron's obligation to provide AMI Essentials (Electric) is expressly contingent upon Customer's full performance of all responsibilities assigned to Customer.

P=Primary responsibility

S=Support responsibility

Description of Service or Deliverable	Itron	Customer
Create, monitor, and manage interrogation schedules.	<b>P</b>	
Ensure any input files are received and processed and output files are delivered to Customer by posting to a SFTP folder, or equivalent, where it can be retrieved by Customer as needed.	<b>P</b>	
Manage files on the SFTP server where any export files are delivered. If the SFTP server is Itron's, files should be downloaded nightly and files that have been successfully downloaded and processed are to be removed from the SFTP location within 7 days.	<b>P</b>	<b>S</b>
Perform read rate monitoring and reporting.	<b>P</b>	
Perform remote investigation for specific groups of non-communicating Endpoints affected by a common network issue and coordinate field order with Customer as needed.	<b>P</b>	<b>S</b>
Perform scheduling of Endpoint interrogations including file delivery and delivery of Data Collection Platform standard reports.	<b>P</b>	
Notify Itron in advance when additional devices are planned to be installed. Perform Meter field maintenance; close work orders with Itron.		<b>P</b>
Perform Network Device and Endpoint repair, replacement, or relocation as required.		<b>P</b>
Perform RMA, Processing, Tracking and Performance Reporting for Endpoints and Network devices.	<b>S</b>	<b>P</b>
Administration of the Managed Services platform applications to Service Levels.	<b>P</b>	

### 5 AMI Essentials Electric – Environmental Management Roles & Responsibilities

In addition to the daily operational tasks, Customer and Itron each have responsibilities for monitoring and managing the operating environment of the AMI Essentials (Electric) platform and applications. The table below lists the respective responsibilities of Customer and Itron for such activities. Itron's obligation to provide AMI Essentials (Electric) is expressly contingent upon Customer's full performance of all responsibilities assigned to Customer.

P=Primary responsibility

S=Support responsibility

Description of Service or Deliverable	Itron	Customer
Submit user access requests for new users and deletion notifications for users no longer involved with the managed system.		<b>P</b>
Provide immediate notification in the event of a Customer employee termination for those with access to the managed system.		<b>P</b>

<b>Description of Service or Deliverable</b>	<b>Itron</b>	<b>Customer</b>
Provide immediate notification in the event of an Itron employee termination for those with access to the SaaS.	<b>P</b>	
Maintain skill sets necessary to properly support the require Managed Services platform technologies.	<b>P</b>	
Maintain skill sets necessary to properly support the required Managed Services platform Field operations.		<b>P</b>
Administer and monitor servers including but not limited to utilization of CPU, memory, IOPs, and disk space.	<b>P</b>	
Manage and troubleshoot the secure network infrastructure components and processes (if applicable).	<b>P</b>	
Administer associated Linux, Unix, and Windows operating systems.	<b>P</b>	
Apply Operating System and other 3rd party security patches and critical updates as appropriate.	<b>P</b>	
Update security appliances (if applicable) with new Endpoint related security files.	<b>P</b>	
Maintain and troubleshoot third party software issues required for Managed Services platform operations, work with third party to troubleshoot as required.	<b>P</b>	
Maintain anti-virus on all windows-based servers.	<b>P</b>	
Perform the initial Network Devices configuration.	<b>P</b>	
Monitor Network and Endpoint communications and support metering and communications troubleshooting activities for the Managed Services platform.	<b>P</b>	
Support solution upgrade activities.	<b>P</b>	
Maintain and administer the Managed Services platform server databases.	<b>P</b>	
Establish and manage the wireless backhaul contracts and accounts if applicable.	<b>P</b>	
Support Customer's technical operations department to handle Endpoint and Network field exceptions.	<b>P</b>	
Manage upload and submission of meter data files; work with Itron when problems are identified.		<b>P</b>
Provide and maintain a Secure FTP.	<b>P</b>	
Perform regular system, database, and custom component backups in accordance with selected service level.	<b>P</b>	
Develop and maintain related standard operating procedures.	<b>P</b>	
Manage Endpoint firmware revisions, including coordination and scheduling of firmware downloads as necessary (for Itron manufactured devices only with Itron provided firmware).	<b>P</b>	
Monitor Endpoint communications, reporting, and troubleshoot Managed Services platform issues as necessary.	<b>P</b>	
Manage Endpoint manufacturing and security files for all necessary solution components, troubleshoot and coordinate with manufacturing as needed.	<b>P</b>	
Develop, maintain and utilize system operations clock, standard operations procedures, and daily checklists for Itron operators and administrators.	<b>P</b>	

[END]

## Special Terms and Conditions

### OpenWay Collection Engine (OW-CE), OpenWay Collection Manager (OW-CM), Itron Enterprise Edition and MV-90xi

The following Special Terms and Conditions contained within this attachment apply to Itron's SaaS Service Offering for – OpenWay Collection Engine (OW-CE) and OpenWay Collection Manager (OW-CM):

#### 1 Definitions

The following defined terms are applicable to these Special Terms and Conditions:

**Available Endpoint** means an Endpoint which meets the following criteria: (a) the Endpoint, if installed by Customer, has been properly installed, (b) Customer has provided all necessary and correct information for Itron to properly provision the Endpoint in Itron's data collection platform (c) the Endpoint is communicating with Itron's data collection platform and a register read has been received from the Endpoint for three (3) consecutive days. An Endpoint will not be considered an Available Endpoint if any of these conditions have not been met; or (a) if an exception is detected by Itron or reported by Customer, but the exception cannot be resolved remotely, (b) the Endpoint if it is under field investigation, or (c) cellular carrier outages.

#### 2 Service Levels

##### 2.1 Read Rate Service Levels

###### 2.1.1 Service Level Applicability

The Read Rate Service Level set forth in this [Section 2.1](#) applies to the Itron Software identified in the following table for which Customer has purchased and paid all applicable Fees:

Itron Software Eligible to Receive Read Rate Service Level
OpenWay Collection Engine (CE)
OpenWay Collection Manager (CM)

###### 2.1.2 Service Level Trigger

The Service Level Trigger for the Read Rate Service Level occurs upon system acceptance as defined in the applicable Statement of Work.

###### 2.1.3 Service Level

The average monthly Read Rate will meet or exceed 99% each calendar month ("Read Rate Service Level"). Itron records and data will be the sole basis for all Read Rate measurements and calculations. "Read Rate" means the percentage of Available Endpoints from which register read data has been collected over a rolling 3-day period, measured for each calendar day.

###### 2.1.4 Service Level Credits

Subject to the service level exclusions set forth in [Section 7.1](#) ("**Service Level Exclusions**") of the General SaaS Terms and Conditions, Customer will be entitled to the following credits as its sole and exclusive remedy for Itron's failure to meet the foregoing Read Rate Service Level:

Read Rate Service Level Credits (production environments only)	
Number of Daily Failures in the Applicable Month	Credit (% of monthly Subscription Fee with respect to the applicable Managed Services Service Offering)
≥99.0% and <99.5%	2%
≥98.0% and <99.0%	4%
≥96.5% and <98.0%	10%
≥95.0% and <96.5%	12.5%
<95.0%	30%

**2.2 Monthly File Delivery Service Level**

**2.2.1 Service Level Applicability**

The Monthly File Delivery Service Level for Available Endpoints set forth in this [Section 2.2](#) apply to the Itron Software identified in the following table for which Customer has purchased Managed Services and paid all applicable fees:

<b>Itron Software Eligible to Monthly File Delivery Service Level</b>	
OpenWay Collection Engine (CE)	Itron Enterprise Edition
OpenWay Collection Manager (CM)	MV-90 xi

**2.2.2 Service Level Trigger**

The Service Level Trigger for the Monthly File Delivery Service Level occurs upon system acceptance as defined in the applicable Statement of Work.

**2.2.3 Service Level**

**“File Delivery”** for the purposes of this [Section 2.2](#), is a measure of the performance of Itron’s or its provider’s systems to deliver register read and interval read consumption data collected from Available Endpoints to Customer in agreed-upon formats, at an agreed-upon intervals for Software that collects and delivers data. The monthly File Delivery percentage service level with respect to Itron SaaS Applications (“Monthly File Delivery Service Level”) will meet or exceed 99% each month (for ease of understanding, this means the file is successfully delivered every day of the month). Itron records and the data contained in the file is measured to the agreed to Itron hosted location and will be the sole basis for all File Delivery performance measurements and calculations with respect to the Monthly File Delivery Service Level for Available Endpoints.

**2.2.4 Service Level Credits**

Subject to the service level exclusions set forth in [Section 7.1](#) (“Service Level Exclusions”) of the General SaaS Terms and Conditions, Customer will be entitled to the following credits as its sole and exclusive remedy for Itron’s failure to meet the foregoing Monthly File Delivery Service Level for Available Endpoints:

<b>Monthly File Delivery Service Level Credits (production environments only)</b>	
File Delivery performance	Credit (% of monthly Subscription Fee for applicable SaaS Application)
≥99.0% and <99.5%	2%
≥98.0% and <99.0%	4%
≥96.5% and <98.0%	10%
≥95.0% and <96.5%	12.5%
<95.0%	30%

[END]

# FORM ORDER DOCUMENT

This Order Document is made between **[Itron Entity]** an entity organized under the laws of **[Location]** having an address at **[Address]** ("**Itron**") and **[Customer Entity]**, an entity organized under the laws of **[Location]**, having an address at **[Address]** ("**Customer**") on the last date of execution below ("**Effective Date**").

This Order Document is governed by and incorporates the Itron Terms of Sale available at <https://na.itron.com/terms-of-sale> on the Effective Date ("**Terms of Sale**") [, as adjusted by this Order Document]. If there is a conflict between this Order Document and the Terms of Sale, the Terms of Sale will control, except to the extent stated otherwise in this Order Document. Except as otherwise defined in this Order Document, capitalized terms herein have the meanings assigned to them in the Terms of Sale.

## 1. Scope

This Order Document applies only to the products and/or services described in the pricing summary attached hereto as Attachment A [and the Statement of Work attached hereto as Attachment B] (the "**Deliverables**").

**Drafting Note: Delete bracketed text above if no SOW. Standalone SOW's may be executed w/o order doc.**

## 2. [Supplemental Terms, and Conditions.

In addition to the Terms of Sale, the following supplemental terms and conditions apply to the Deliverables:

### 2.1 [Section Title.]

**Drafting Note: the bracketed section above should capture deal-specific terms and conditions that are intended to supplement (rather than modify) the Terms of Sale. Delete if no supplemental T&C's.**

## 3. [Modified Terms and Conditions.

The following modifications to the Terms of Sale apply to the Deliverables:

### 3.1 [Section Title.]

Section [X] of the [main body of the Terms of Sale / [X] Addendum to the Terms of Sale] is hereby modified as follows:]

**Drafting Note: the bracketed section above should capture deal-specific terms and conditions that are intended to modify (rather than supplement) the Terms of Sale. Delete if no modified T&C's.**

## 4. Miscellaneous.

Except as otherwise expressly provided or modified in this Order Document, the (i) terms and conditions set forth in the Terms Sale remain in full force and effect, and (ii) the Agreement (as defined in the Terms of Sale) constitutes the entire and exclusive agreement between the Parties regarding the subject matter hereof, and supersede all proposals and prior agreements, oral or written, and all other communications.

Each Party has executed this Order Document by its duly authorized representative.

**[Itron Entity]**

**[Customer Entity]**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Attachment A**  
**Pricing Summary**

DRAFT

**Attachment B**  
**Statement of Work**

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