

# MASTER SALES AGREEMENT

This Master Sales Agreement (this "**Agreement**") is made between **Itron, Inc.** an entity organized under the laws of Washington having an address at 2111 N. Molter Road, Liberty Lake, WA 99019, USA ("**Itron**") and City of McCleary an entity organized under the laws of Washington, having an address at 100 S 3<sup>rd</sup> Street, McCleary, WA, 98557 ("**Customer**") on the last date of execution below ("**Effective Date**"). Itron and Customer are referred to individually as a "**Party**" and collectively as the "**Parties**".

## General Terms and Conditions

### 1 Introduction

#### 1.1 Scope and Structure.

This Agreement applies to certain products and services provided by Itron to Customer and consists of these General Terms and Conditions, Addenda, Order Documents and Statements of Work. The Addenda, Order Documents and Statements of Work form integral parts of this Agreement as if fully set forth in this Agreement, and all provisions appearing therein shall be deemed to be incorporated into and made a part of this Agreement.

#### 1.2 General Terms and Conditions.

These General Terms and Conditions contain terms and conditions that are generally applicable to all products and services provided by Itron to Customer under this Agreement.

#### 1.3 Addenda.

Addenda contain supplemental terms and conditions applicable to certain categories of products and services. Addenda incorporated into this Agreement on the Effective Date are identified on the Attachment Schedule to these General Terms and Conditions. After the Effective Date, the Parties may add Addenda to this Agreement by written amendment signed by the Parties.

#### 1.4 Order Documents.

Order Documents contain Fees, any related Statements of Work, and supplemental and/or modified terms and conditions applicable to specific products and/or services. Order Documents incorporated into this Agreement on the Effective Date are identified on the Attachment Schedule to these General Terms and Conditions. After the Effective Date, the Parties may add additional Order Documents. Any additional Order Documents must be signed by the Parties to be effective.

#### 1.5 Order of Precedence.

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

#### 1.6 Purchase Order Requirement.

Customer shall purchase or license products or services described in each Order Document or Statement of Work under this Agreement 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 the terms of this Agreement. No Purchase Order is binding on Itron unless accepted by Itron. No contingency contained on any Purchase Order shall be binding upon Itron. The Parties agree that the terms of this Agreement shall apply to all Purchase Orders. The Parties hereby reject any additional or inconsistent terms of any Purchase Order or other correspondence or documentation submitted by Customer to Itron.

### 2 Definitions.

The following defined terms are used throughout this Agreement. Additional terms may be defined in Addenda, Order Documents and Statements of Work.

**Affiliate** means any legal entity that directly or indirectly controls, is controlled by, or is under common control with, a Party to this Agreement, 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 terms and conditions of this Agreement, 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 this 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 these General Terms and Conditions.

**Defending Party** means a Party obligated to provide defense to the other Party under Section 7 ("Third Party Claims") of these General Terms and Conditions.

**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 this 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 Document** means (i) any document attached hereto and identified as an Order Document on the Attachment Schedule to these General Terms and Conditions on the Effective Date, and (ii) any other document identified as an Order Document that contains Fees and any related Statement of Work and supplemental terms and conditions applicable to specific products and/or services, references this Agreement, and is signed by the Parties after the Effective Date.

**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.

**Statement of Work** or **SOW** means any document identified as a Statement of Work and describing professional services to be provided by Itron that (i) is attached to an Order Document, or (ii) references this Agreement and is signed by the Parties.

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

### **3 Term.**

The initial term of this Agreement begins on the Effective Date and expires five (5) years following the Effective Date. Thereafter, the term of this Agreement will automatically renew for successive one-year periods, unless either Party provides the other with written notice of its intent not to renew at least ninety (90) days prior to commencement of the next renewal period. Any in-process Statements of Work and any accepted Purchase Orders as of the expiration date of this Agreement shall be completed by the Parties and the term of this Agreement will be extended solely for that purpose until completion. This section is subject to Section 11 ("Termination") of these General Terms and Conditions.

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

All warranties relating to products and services provided by Itron under this 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 THIS AGREEMENT.

### **5 Intellectual Property.**

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

Subject to the limited rights expressly granted by Itron to Customer under this Agreement, 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 this Agreement. Subject to the limited rights expressly granted by Customer to Itron under this Agreement, 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 this 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 Order Document or Statement of Work. Unless otherwise provided in an applicable Addendum, Order Document, or Statement of Work, Fees for products and services are valid for one (1) year from the effective date of the Order Document or Statement of Work.

### **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.**

Customer must pay each invoice within thirty (30) days from the original invoice date. Payment must be made in US Dollars (USD) and made 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 these General Terms and Conditions. Notwithstanding anything to the contrary, each Party shall continue performing its obligations under this Agreement during any such dispute, including timely payment by Customer of all undisputed amounts due and payable under this 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 this 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 this Agreement by reason of any setoff of any claim or dispute with Itron, whether relating to Itron's breach, bankruptcy, or otherwise.

### **6.8 Taxes.**

All prices are exclusive of any taxes, however designated, including without limitation sales or use, goods and services, consumption or other similar fees or taxes imposed on it with respect to the payments due to Itron under this 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 this 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. The Parties agree to fully cooperate with one another regarding taxes and any related issues arising from this 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 this 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 this 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 this Agreement and applicable Documentation, (f) Itron's compliance with any designs, specifications, or instructions provided by Customer, or (g) any use of any wireless data services provided by Customer or a third-party.

### **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 this 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.**

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) 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 this 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 this 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 this 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 this 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 this 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 this 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 this 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 this 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 this Agreement that remains uncured for thirty (30) days following delivery of written notice of such breach. Any notice of breach must specify (a) the nature of the breach, and (b) the specific act or acts 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 this Agreement.

## **12 Survival.**

The following sections of these General Terms and Conditions shall survive termination or expiration of this Agreement, including any Order Document or Statement of Work: 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 this Agreement or any Order Document or Statement of Work.

### **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 THIS 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 THIS 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 THIS AGREEMENT.

### **14 Disputes.**

The Parties shall attempt in good faith to resolve any dispute, controversy, or claim arising out of or relating to this 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 (“**Executive(s)**”). 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**

This Agreement and all related documents, including all Addenda, Order Documents and Statements of Work hereto, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of Texas, United States of America (including its statutes of limitations), without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Texas. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against any other Party in any way arising from or relating to this Agreement and all contemplated transactions, including, but not limited to, contract, equity, tort, fraud, and statutory claims, in any forum other than the United States District Court for the Western District of Texas or, if such court does not have subject matter jurisdiction, the courts of the State of Texas sitting in Travis County. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts and agrees to bring any such action, litigation, or proceeding only in the United States District Court for the Western District of Texas or, if such court does not have subject matter jurisdiction, the courts of the State of Texas sitting in Travis County. Each Party agrees that a final judgment in any such action,

litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

#### **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 this 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. 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 this Agreement or products and services orderable under this Agreement.

#### **17 Publicity.**

Neither Party may issue a press release related to this Agreement or their relationship without the other Party's prior written consent. The Parties will create and provide their prior written approval for publication a press release announcing their relationship under this 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 this Agreement.

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

This 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 this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for Customer's obligations to make payments to Itron under this 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 Effective Date of this Agreement) 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 this 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 this Agreement, 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

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: City of McCleary  
100 S 3<sup>rd</sup> Street  
McCleary, WA 98557  
Email: [chadb@cityofmccleary.com](mailto:chadb@cityofmccleary.com)  
Attention: Public Works Director

## **22 Miscellaneous.**

If any provision of this 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 division of this Agreement 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 this Agreement. Any references to a particular section of this Agreement 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 this 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 this Agreement will constitute a waiver of any other breach. This Agreement is not made for the benefit of any third parties. All communications and notices to be made or given pursuant to this Agreement must be in English. Customer may not assign this Agreement or any of its rights hereunder without Itron's prior written consent. Subject to the foregoing, this 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. This Agreement may be executed and delivered in counterparts, including by a facsimile or by scan and electronic transmission, each of which will be deemed an original. Any document generated by the Parties related to this Agreement may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. This Agreement contains the complete and entire agreement between the Parties as to its subject matter, and replaces and supersedes any prior or contemporaneous communications, representations, or agreements, whether oral or written with respect to such subject matter. This Agreement may not be modified except by mutual written agreement signed by the Parties' authorized representatives expressly modifying this Agreement. Electronic communications do not constitute a "written agreement" under this provision. In this Agreement, the word "including" shall mean "including, without limitation."

***[Signature Page Follows]***

**AGREED:**

**Itron, Inc.**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**City of McCleary**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## **ATTACHMENT SCHEDULE**

- Maintenance and Support Services Addendum
- SaaS Addendum

# MAINTENANCE AND SUPPORT SERVICES ADDENDUM

## 1 Relationship to General Terms and Conditions.

This Addendum is governed by the General Terms and Conditions and applicable Order Documents. If there is any inconsistency between the General Terms and Conditions and this Addendum, this Addendum shall control, but only to the extent of such inconsistency.

## 2 Additional Definitions.

The following defined terms are in addition to those defined in the General Terms and Conditions:

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

**Annual Fees** means the annual fees identified in an Order Document 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 an Order Document for which Customer has purchased Maintenance Services.

**Covered Firmware** means Itron's network and application firmware embedded within a communicating device identified in an Order Document (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 an Order Document 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 Order Document, will be as follows:

Covered Product	M&S Commencement Date
On premise Covered 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

Covered Product	M&S Commencement Date
	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 year beginning on the Effective Date or any anniversary thereof.

**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 A-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 an Order Document for which Customer has purchased Maintenance Services.

### 3 Principal Services Contacts.

#### 3.1 Designation by Customer.

Customer shall designate a minimum of one and not more than two 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 products 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 on the Itron Equipment Repair Location Table. 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 Effective 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 Effective 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 such 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.**

Itron requires and 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. Itron requires and 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 Survival.**

The following sections of this Addendum shall survive termination or expiration of this Agreement or any Order Document or Statement of Work: Section 5.14 (Exclusions), 6.2 (Exclusions), Section 7 (Fees and Invoicing), 9 (End of Support), and 10 (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></p> <p>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-AS-A-Service ADDENDUM

## General SaaS Terms and Conditions

### 1 Relationship to General Terms and Conditions.

This Software-as-a-Service Addendum (this "**Addendum**") is governed by the General Terms and Conditions of this Agreement and applicable Order Documents.

### 2 Entire Addendum.

This Addendum consists of these General SaaS Terms and Conditions, which generally apply to all Service Offerings, and any attached Special Terms and Conditions, which apply to specific Service Offerings. Unless otherwise provided, references to this Addendum shall be deemed to encompass these General SaaS Terms and Conditions and any attached Special Terms and Conditions.

### 3 Order of Precedence.

In the event of any inconsistencies, ambiguities or conflicts between these General SaaS Terms and Conditions and the Special Terms and Conditions, the Special Terms and Conditions shall prevail, but only with respect to the applicable Service Offering.

### 4 Definitions.

The following defined terms are in addition to those defined in the General Terms and Conditions of this Agreement:

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

**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 Order Document or Pricing Summary.

**General SaaS Terms and Conditions** means the terms and conditions set forth in the main body of this Addendum comprised of Sections 1 ("Relationship to General Terms and Conditions") through 19 ("Roles and Responsibilities").

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

**Minimum 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 applicable Order Document or Pricing Summary.

**One-Time Setup Fee** means the one-time setup fee for each Service Offering identified in the applicable Order Document or Pricing Summary.

**Recovery Point Objective** or **RPO** means the maximum tolerable time period 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 Application Availability** means the total number of minutes in a calendar month that the applicable Software is available via (a) a web browser client, (b) web services interface and (c) thin client. Scheduled downtime is excluded from this calculation. A determination of availability will be based on 24x7 accessibility, less any exclusions set forth in this Addendum.

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

**Service Offering** means SaaS, plus any services that are additional or supplemental to SaaS, 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 each machine readable (object code) versions of computer program identified on the applicable Order Document or Pricing Summary 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 applicable Order Document or Pricing Summary for each Service Offering, plus the Annual Adjustment, if any. Where Customer has purchased an object code license to Software pursuant to the terms of the Software Addendum and wishes to purchase a Service Offering for such Software ("**Hybrid SaaS**"), license fees and fees for applicable Maintenance Services are not included within the Subscription Fees and must be paid separately. Where Customer is not purchasing Hybrid SaaS, fees for applicable Maintenance Services are included within the Subscription Fees.

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

## 5 Access Rights and Restrictions.

### 5.1 Access Rights.

SaaS is only available for Itron Software identified in the table set forth in this Section 5.1 below for which Customer has purchased a Service Offering and paid all applicable fees. Subject to Customer's compliance with the Agreement (including payment of all applicable fees which, in the case of Hybrid SaaS, shall include Software licensing fees and Maintenance Services support 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 (as defined in the General Terms and Conditions of the Agreement).

<b>Itron Software Eligible to Receive SaaS</b>	
ACE VISION	Itron Analytics
Action Manager	Itron Mobile
ChoiceConnect Fixed Network	Mlogonline
Distributed Intelligence (Riva system)	MV-90 xi
Distributed Intelligence (GenX system)	MV-PBS
EMMSYS	MV-WEB
Everblu FN (Fixed Network)	OpenWay Collection Engine (CE)
FCS	OpenWay Collection Manager (CM)
FDM Tools	Operations Optimizer - AMI Operations
FDM Workorders	Operations Optimizer - Grid Operations
Field Tools Advanced	Operations Optimizer - Network Operations

<b>Itron Software Eligible to Receive SaaS</b>	
Field Tools Basic	Operations Optimizer – Revenue Assurance
Gas and Water Analytics	Operations Optimizer – QuickStart (RA/AMI Ops)
Gridscape	Performance Manager
HAN Communications Manager	Saturne
IntelliSOURCE Express	Streetlight Vision
Itron Enterprise Edition	Temetra
Itron Enterprise Edition Service Mode	UIQ: Advanced Metering Manager, Meter Program Configurator, Control Platform, Outage Detection and SensorIQ

## 5.2 Restrictions on Use.

Customer and its authorized users may 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 Rights; (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 Rights, 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.

## 5.3 Content Restrictions.

Customer may not distribute, download, or place on any Itron or its providers’ website or Server, or use with any Service Offering, any content that: (a) Customer knows or has reason to believe infringes the Intellectual Property Rights 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 the 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 any Prohibited Content distributed, downloaded, or placed on any Itron or its providers’ website or Server or used with any Service Offering by Customer.

## 5.4 Breach of Restrictions.

Customer’s breach of the restrictions set forth in [Section 5.2](#) (“Restrictions on Use”) or [Section 5.3](#) (“Content Restrictions”) 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 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.

## 6 Invoicing and Payment.

Customer shall pay Subscription Fees in advance for each SaaS Billing Cycle for which it has purchased a Service Offering. Itron will invoice Customer for the One-Time Setup Fee and initial Subscription Fees for each Service Offering upon the Service Offering Commencement Date. Initial Subscription Fees for the Service Offering with the first Service Offering Commencement Date shall be based on a full SaaS Billing Cycle. Initial Subscription Fees for each Service Offering with a subsequent Service Offering Commencement Date shall be prorated based on the number of months remaining in the current SaaS Billing Cycle following the Service Offering Commencement Date. Itron may discontinue a Service Offering by providing Customer with written notice of discontinuance no less than 180 days prior to the commencement of a SaaS Billing Cycle. Otherwise, Itron will provide Customer with a renewal notice for the Service Offering at least 120 days prior to the commencement of each SaaS Billing Cycle. Customer may discontinue a Service Offering by providing Itron with written notice of non-renewal no less than 90 days prior to the commencement of a SaaS Billing Cycle. Otherwise, approximately 20 days prior to the commencement of each SaaS Billing Cycle, Itron will provide Customer with an invoice for Subscription Fees payable by Customer for the forthcoming SaaS Billing Cycle. If Customer discontinues a Service Offering prior to expiration of the Minimum 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 Subscription Term. Maintenance Services fees and license fees relating to Hybrid SaaS will be invoiced in accordance with the Maintenance and Support Services Addendum and Software Addendum, as applicable. Itron has the right to adjust Subscription Fees at any time if Customer's use of a Service Offering exceeds the applicable tier set forth in the respective Order Document or Pricing Summary. 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 Monthly Application Availability Service Level.

### 7.1 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) SaaS Application Availability with respect to each production environment Service Offering will be at least 99.5%, measured and reported monthly beginning in the first full calendar month following the respective Service Offering Commencement Date ("**Monthly SaaS Application Availability Service Level**"). The Monthly SaaS Application Availability Service Level will be measured and calculated separately for each Service Offering. Itron records and data will be the sole basis for all SaaS Application Availability Service Level measurements and calculations.

### 7.2 Service Level Credits.

As Customer's sole and exclusive remedy for Itron's failure to meet the foregoing Monthly SaaS Application Availability Service Level, subject to the service level exclusions in [Section 8.1](#) (Service Level Exclusions) below, Customer will be entitled to credits as follows:

SaaS Application Availability (production environments only)	
Monthly SaaS Application Availability 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%	20%

## 8 Service Level Exclusions; Disclaimers.

### 8.1 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 to the extent such failure is attributable to any one or more of the following: (a) planned maintenance, unplanned maintenance, or scheduled upgrades; (b) an event triggering a disaster recovery 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 11 ("Suspension or Restriction of Service") 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 (other than Itron's contractors, subcontractors or suppliers), 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 this Agreement.

## **8.2 Disclaimers.**

**(a) 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.

**(b) 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. In particular, 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.

## **9 Sizing of Software-as-a-Service.**

Itron will size Service Offerings, Servers, and systems for Customer's specific deployment. System sizing depends upon the Service Offering and types of devices and sensors and may be a factor in determining Subscription Fees. Sizing criteria may include 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. Any sizing changes during a Subscription Term will require a Change Order and may result in a change in Subscription Fees.

## **10 Conditions on Use of Service.**

Customer will use the Service Offerings only in accordance with Itron user guides, the Agreement (including, this Addendum, the General Terms and Conditions, applicable Order Documents), and laws and government regulations. The rights of any user to access and use the Service Offerings cannot be shared or used by more than one individual (unless such license is reassigned in its entirety to another authorized user), and Customer shall make every reasonable effort to prevent unauthorized third parties from accessing the Service Offerings.

## **11 Suspension or Restriction of Service.**

Itron may suspend or restrict all or part of the Service Offerings at any time to protect the integrity and functionality of the Software, Servers, platforms, and systems, or for a breach of [Section 5.2](#) ("Restrictions on Use"), [Section 5.3](#) ("Content Restrictions") or [Section 10](#) ("Conditions on Use of Service"), until such breach is cured.

## **12 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.

### **13 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 or, Statement of Work, or any Special Terms and Conditions attached hereto, Customer is responsible for providing WAN connectivity.

### **14 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.

### **15 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. 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.

### **16 Unplanned Maintenance.**

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.

### **17 Business Continuity.**

#### **17.1**

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 Monthly SaaS Application 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 an event of a failure. Business continuity is designed to provide recovery for component failures within a datacenter, 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.

#### **17.2**

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.

### **18 Disaster Recovery.**

#### **18.1**

Disaster Recovery ("DR") is an optional service that is offered by Itron to hosted customers who purchase DR for an additional fee. Upon Customer's purchase of DR services and payment of applicable fees as set forth in the Order Document or Pricing Summary, 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. Upon mutual agreement, separate SOW and for identified cost, Itron can exercise the DR capabilities once per calendar year on Customer's production environments and provide the results of each such test to the Customer.

## 18.2

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.

## 19 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	
Monitor communications and support communications troubleshooting activities for the SaaS.	P	
Perform software upgrade activities.	P	
Maintain and administer the SaaS Server databases.	P	
Manage upload and submission of meter data files; work with Itron when problems are identified.		P
Provide and maintain a Secure FTP or equivalent if included in the SOW.	P	
Perform regular system, database, and custom component backups in accordance with selected service level.	P	
Maintain the applicable standard operating procedures and run books to maintain, monitor and operate the hosted environment.	P	

**END**

# Attachment A

## SPECIAL TERMS AND CONDITIONS Special Terms and Conditions – Managed Services.

The Special Terms and Conditions contained within this Section 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 1.2 below for which Customer has purchased such Managed Services and paid all applicable fees.

Itron Software Eligible to Receive Managed Services	
IntelliSOURCE Express	MV-90 xi
Itron Enterprise Edition	Streetlight Vision
Itron Enterprise Edition Service Mode	TMS
OpenWay Collection Engine (CE)	UIQ: Advanced Metering Manager, Meter Program Configurator, Control Platform, Outage Detection and SensorIQ
OpenWay Collection Manager (CM)	

#### 1.3 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** is an OpenWay CE or OpenWay CM term defined as 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.

**Cumulative File Delivery Delay Hours** means – for the purpose of determining Monthly File Delivery Performance % -- the sum of all Daily File Delivery Delay Hours in the Measurement Month.

**Daily File Delivery Delay Hours** means – for the purpose of determining Monthly File Delivery Performance % -- the number of hours that file delivery is delayed in a given day during the Measurement Month.



**Endpoint** has the meaning set forth in the General SaaS 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.

**2 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.	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

Description of Service or Deliverable	Itron	Customer
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	

### 3 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.		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	
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	

Description of Service or Deliverable	Itron	Customer
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	

#### 4 Service Levels - Managed Services.

This [Section 4](#) of the Special Terms and Conditions for Managed Services sets forth the service levels for Managed Services. Such 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.

##### 4.1 Monthly File Delivery Service Level.

###### 4.1.1 Service Level Applicability.

The Monthly File Delivery Service Level for Available Endpoints 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 Monthly File Delivery Service Level	
IntelliSOURCE Express	OpenWay Collection Engine (CE)
Itron Enterprise Edition	OpenWay Collection Manager (CM)
Itron Enterprise Edition Service Mode	TMS
MV-90 xi	

###### 4.1.2 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.

###### 4.1.3 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.

**4.1.4 Service Level Credits.**

Subject to the service level exclusions set forth in [Section 8.1](#) (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%	20%

**4.2 Read Rate Service Levels.**

**4.2.1 Service Level Applicability.**

The Read Rate Service Level set forth in this [Section 4.2](#) 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 Receive Read Rate Service Level</b>
OpenWay Collection Engine (CE)
OpenWay Collection Manager (CM)
TMS

**4.2.2 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.

**4.2.3 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.

**4.2.4 Service Level Credits.**

Subject to the service level exclusions set forth in [Section 8.1](#) (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:

<b>Read Rate Service Level Credits (production environments only)</b>	
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%	20%

### 4.3 Read and Demand Service Level.

#### 4.3.1 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 4.3](#) 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 Receive Data and On-Demand Read Service Level</b>	
UIQ: Advanced Metering Manager, Meter Program Configurator, Control Platform, Outage Detection and SensorIQ	Streetlight Vision

#### 4.3.2 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 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 8.1](#) (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 Provisioned and Optimized Endpoint Data Read Service Level:

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

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

**4.3.3 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 8.1](#) (Service Level Exclusions) of the General SaaS 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>	
% of On-Demand Meter Read Requests Successfully Executed in the Applicable Month	Credit* (% of monthly Managed Services Subscription Fee with respect to the applicable Itron SaaS Application)
≥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.



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**Pricing Summary for**

2111 N Molter Road  
Liberty Lake, WA, 99019-9469  
fax: 866-787-6910  
[www.itron.com](http://www.itron.com)

City of McCleary  
100 S. 3rd St.  
McCleary, WA 98557-9652

For: City of McCleary

Quote Number: Q-00005439  
Presented on: 06/27/2024  
Valid until: 08/26/2024

Contact:

Line	Item Number	Description	Qty	UOM	Unit Price	Extended Price
<b>Itron Managed Services</b>						
1.	3000-00285	MV90 XI-HOSTED APPLICATION MGMT SERVICES – 1 Meter				\$3,924.00
<b>Total Software Recurring Fees</b>						<b>\$3,924.00</b>
<b>Quote Total</b>						<b>\$3,924.00</b>

**Notes and Assumptions**

1. Pricing is based on existing agreements or Itron's standard terms and conditions.
2. Taxes and freight are not included, unless otherwise specified.
3. Prices are in USD.
4. Recurring Services - Renewal Prices. Unless otherwise agreed by the parties, Itron reserves the right to renew Recurring Services after the first year at the then current price list.