

INDIRECT SALES AGREEMENT

This Indirect Sales Agreement (the "**Agreement**") is entered into as of 12/11/2017 (the "Effective Date") by and between Itron, Inc. ("**Itron**") and The City of Marquette ("**Customer**"). Itron and Customer may each be referred to as a "**Party**" and together as the "**Parties**."

Customer shall execute this Agreement prior to its receipt of any Itron software, services or equipment by an authorized Itron distributor (each a "**Distributor**"). The terms of Customer's agreement with a Distributor shall govern Customer's purchase of Itron equipment or services from a Distributor (it being understood that Distributor will pass certain Itron warranties through to Customer). The terms of this Agreement shall govern (i) any software provided by Itron, regardless of whether the order for such software is placed with a Distributor or directly with Itron, and (ii) any order of equipment or services placed directly with Itron.

The Parties agree as follows:

1. Software Terms

SECTION 1 BELOW APPLIES ONLY TO ITRON SOFTWARE LICENSED TO CUSTOMER AND DOES NOT APPLY TO SOFTWARE-AS-A-SERVICE:

a. Definitions.

"**Delivery**," with respect to Software, means that Itron has either made the Software available to Distributor via electronic means or has provided the Software to a carrier on physical media for delivery to Distributor.

"**Documentation**" means all printed or electronic materials published or otherwise that are provided to Customer and that describe or relate to the functional, operational or performance capabilities of the Software.

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

"**Object Code**" means the binary, machine-readable version of the Software.

"**Software**" means software identified on Attachment A that is owned by Itron and any modifications, corrections, improvements or enhancements thereto provided by Itron.

"**Source Code**" means human-readable computer programming code, associated procedural code and related documentation.

"**Specifications**" means the applicable published Itron functional specifications for an item of Software.

"**Third Party Software**" means software that is not owned by Itron but is identified on Attachment A as being provided by Itron.

"**Use**" means the ability to run, execute, display and, subject to the restrictions described below, duplicate and distribute internally.

"**Warranty Period**," with respect to a particular item of Software, means the warranty term beginning on the warranty start date, as set forth on Attachment A.

b. License Grant.

Subject to the terms of this Agreement, Itron grants to Customer a nonexclusive, nontransferable, perpetual Object Code license to Use the Software and Documentation for its internal business purposes only in connection with the number of Endpoints set forth in Attachment A.

c. Restrictions.

As a condition to the foregoing license grant, Customer shall not (i) violate any restriction set forth on Attachment A, (ii) modify or create any derivative work from the Software, (iii) include the Software in any other software, (iv) use the Software to provide processing services to third parties or on a service bureau basis, (v) reverse assemble, decompile, reverse engineer or otherwise attempt to derive Source Code (of the underlying ideas, algorithms, structure or organization) from Software, or (vi) use the Software to process business information concerning customers derived through merger, asset acquisition or other entity combination. Except as expressly permitted in this Agreement, Customer may not copy the Software other than to make one machine readable copy for disaster recovery or archival purposes. Customer may only make copies of Documentation as reasonably necessary for the use contemplated herein. The Software and Documentation shall be considered the confidential information of Itron and, as such, shall be subject to the confidentiality provisions of this Agreement.

d. Invoicing.

Distributor will invoice Customer for the Software and Itron will invoice Distributor.

e. Limited Software Warranty

i. Warranty and Remedy.

For the Warranty Period, Itron warrants to Customer that the Software will perform substantially in accordance with the Specifications. Itron does not warrant that the Software will operate uninterrupted or error-free. Itron's sole obligation and Customer's exclusive remedy in connection with the breach of a warranty provided under this Section shall be for Itron to repair or replace the non-conforming Software. If Itron, in its sole discretion, is unable to repair or replace non-conforming Software, Itron will refund to Customer the amount paid for such Software. Software that is repaired or replaced pursuant to this Section will be warranted for the remainder of the original warranty

period or 30 days, whichever is longer. Customer's license to Software for which it has received a refund hereunder shall terminate upon its receipt of a refund.

ii. *Exclusions.*

The warranty provided in this Section shall not apply to the extent that non-compliance relates to or is the result of (i) use of the Software in combination with software, equipment or communications networks not provided by Itron, (ii) a change to the Software's operating environment not made or authorized by Itron, (iii) Customer's failure to install any correction or enhancement provided by Itron, (iv) viruses introduced through no fault of Itron, (v) any use of the Software not authorized by this Agreement. The warranty provided in this Section is valid only if Customer has complied with the terms of this Agreement (including paying the applicable Software license fees) and shall be void to the extent of any modification to the Software not authorized by Itron.

f. *Third Party Software and Documentation.*

Itron shall provide the Third Party Software, if any, identified on Attachment A and any related documentation. Any Third Party Software, and related documentation provided by Itron in connection with this Agreement shall be subject to a separate license agreement between the Customer and the third party software provider and will be subject to separate third party warranties, if any. Customer agrees that it will be bound by and will abide by all such third party software licensing arrangements. Customer is solely responsible for acquiring any software that is required to use the Software or Third Party Software.

g. *Audit.*

Customer will maintain accurate and detailed records as necessary to verify compliance with this Agreement. Itron may audit these records to verify compliance at any time during Customer's regular business hours after giving notice 5 business days in advance of the audit. Except as described below, Itron will bear all costs and expenses associated with the exercise of its audit rights. Any errors in payments identified will be corrected by Customer by appropriate adjustment. In the event of an underpayment of more than 5 percent, Customer will reimburse Itron the amount of the underpayment, reasonable costs associated with the audit, and interest on the overdue amount at the maximum allowable interest rate from the date the obligation accrued.

h. *Obligations Upon Termination for Cause.*

Upon a termination by Itron for cause, Customer's license to any Software and right to receive maintenance and support for such Software shall immediately terminate and Customer shall (i) delete any Software from all of its computers, (ii) immediately deliver to Itron or destroy all copies of such Software and any related Documentation and (iii) certify in writing to Itron within 10 days of any such termination that, to the best of Customer's knowledge, Customer has complied with this Section.

i. *Other Provisions.*

Customer shall not, directly or indirectly, export or transmit the Software to any country to which such export or transmission is prohibited by any applicable regulation or statute. The Parties agree that Software provided under this Agreement shall be deemed to be "goods" within the meaning of Article 2 of the Uniform Commercial Code, except when such a practice would cause an unreasonable result. The Parties agree that the Uniform Computer Information Transaction Act (or a version thereof or substantially similar law) shall not govern this Agreement.

2. **Equipment Terms**

SUB-ITEMS a., b. AND c. BELOW APPLY ONLY TO EQUIPMENT PURCHASED BY CUSTOMER DIRECTLY FROM ITRON:

a. *Equipment Purchase.*

Customer agrees to purchase the equipment, if any, identified on Attachment A (the "**Equipment**") from Itron at the price(s) and in the quantities set forth thereon pursuant to the terms of this Agreement. Prices set forth on Attachment A are valid for one year from the date of this Agreement.

b. *Ordering*

During the term of this Agreement, Customer shall order quantities of Equipment by issuing a purchase order, change order or release (each an "**Order**") to Itron, in each case specifying the type and quantity of Equipment, the shipment destination and the requested delivery date. Unless otherwise agreed in a separate writing signed by an authorized representative of each Party, the requested delivery date in an Order must be no earlier than ninety days following Itron's receipt of such Order.

c. *Firmware*

The purchase of Equipment manufactured by Itron will include a perpetual, irrevocable license to use and execute any software embedded in the Equipment. The license to any software embedded in third party Equipment provided by Itron shall be between Customer and the manufacturer of such third party Equipment.

d. *Invoicing.*

Itron will invoice Customer for the Equipment upon shipment.

e. *Delivery, Title and Risk of Loss.*

Unless otherwise agreed by the Parties, Itron will make arrangements with its carrier to deliver Equipment to Customer's location at Customer's expense. For Equipment delivered to Canada, title to the Equipment and risk of loss shall pass to Customer upon delivery to the Customer. For Equipment delivered to all other locations, title to the Equipment and risk of loss shall pass to Customer upon Itron's delivery to a carrier for shipment to Customer.

f. *Limited Equipment Warranty*

i. *Warranty and Remedy.*

Except as otherwise set forth on Attachment A, Itron warrants to Customer that the Equipment that is manufactured by Itron will be free from defects in materials and workmanship and will conform to the applicable published Itron specifications for a period of one year from the date of shipment if purchased directly from Itron and 14 months if purchased through a Distributor. Except to the extent otherwise provided in Attachment A, Itron's sole obligation and Customer's exclusive remedy in connection with the breach of a warranty provided under this Section or under Attachment A shall be for Itron to repair non-conforming Equipment or provide Customer with replacement Equipment after Customer has returned non-conforming Equipment properly packaged and prepaid to a repair facility designated by Itron in accordance with Itron's then-current RMA procedures. If Itron, in its sole discretion, determines that it is unable to repair or replace such non-conforming Equipment, Itron will refund to Customer the amount paid for such Equipment. Equipment that is repaired or replaced pursuant to this Section will be warranted for the remainder of the original warranty period or 30 days, whichever is longer. Customer will pay the cost of returning non-conforming Equipment to the place of repair designated by Itron and Itron will pay the cost of delivering repaired or replacement Equipment to Customer.

ii. *Exclusions.*

The warranty provided herein does not cover damage due to external causes, including accident, abuse, misuse, inadequate maintenance, problems with electrical power, acts of God; service (including installation or de-installation) not performed or authorized by Itron; usage not in accordance with product instructions or in a configuration not approved by Itron; normal wear and tear; and problems caused by use of parts and components not supplied by Itron. The warranty provided herein shall be void if the Equipment is modified in a way not authorized in writing by Itron. The above warranty does not cover any third party equipment provided by Itron. Any warranty for such equipment will be between Customer and the third party manufacturer.

3. *Cloud Service Terms*

a. *Access to Cloud Service.*

Subject to the terms of this Agreement, Itron grants to Customer, for its internal business purposes only, the non-transferrable, non-exclusive right to access and use the service identified on Attachment A (the "**Cloud Service**") in accordance with the terms of service attached hereto as Attachment B (the "**Terms of Service**").

b. *Use Restrictions.*

Customer is responsible for maintaining the confidentiality of all information required to access the Cloud Service and for the activities of its employees or representatives that access the Cloud Service. Customer will not (i) access or use the Cloud Service other than in accordance with the Cloud Service documentation; (ii) reverse engineer the software underlying the Cloud Service; (iii) engage in any activity that interferes with or disrupts the Cloud Service or any servers or networks connected to the Cloud Service; (iv) allow a third party to access the Cloud Service or operate the Cloud Service for the benefit of a third party, including as a service bureau; (v) modify or create derivative works based on the Cloud Service; or (vi) use the Cloud Service in a manner that violates any law or regulation or the rights of any third party.

c. *Cloud Service Term.*

Itron will make the Cloud Service available to Customer for an initial one-year period beginning on the Effective Date. Thereafter, Itron shall provide the Cloud Service for successive one-year periods unless the Cloud Service is terminated in writing by either Party at least 90 days prior to the end of the then-current one-year period.

d. *Invoicing.*

Itron shall invoice Customer for the initial annual Cloud Service fee identified on Attachment A immediately following the Effective Date. Thereafter, Itron shall invoice Customer for each successive one-year period prior to the commencement of such period. Itron may elect to increase the annual fee for any successive annual period by providing Customer with written notice of such increase at least 90 days prior to the commencement of such period.

e. *Customer Data.*

Customer retains all right, title and interest in and to any electronic data or information contained in any database, table or similar file or document provided by Customer for use in connection with any Cloud Service (the "**Customer Data**"). Customer grants to Itron a license to use the Customer Data to the extent necessary for Itron to provide the Cloud Service, or as required by law. Customer is solely responsible for the Customer Data, including providing the Customer Data required for proper operation of the Cloud Service, and will not provide, post or transmit any Customer Data or any other information or material that: (i) infringes or violates the rights of any third party or any law or regulation or (ii) contains any virus or programming routine that has the effect of damaging, surreptitiously intercepting or expropriating any system, data or personal information. Itron may take any remedial action it deems advisable to address any violation of this Section but Itron is under no obligation to review Customer Data for accuracy or potential liability. Customer agrees to indemnify Itron for any loss or damage suffered by Itron in connection with Customer's breach of its obligations under this Section.

f. *Service Levels.*

Itron agrees to make commercially reasonable efforts to: (i) maintain Appropriate Security Measures (defined below); (ii) provide regular backups for the Customer Data as further described in the Terms of Service; and (iii) make the Cloud Service generally available 24 hours a day and 7 days a week except for (y) planned downtime in accordance with the Terms of Service and (z) downtime caused by circumstances beyond Itron's reasonable control, including telecommunications or network failures or delays, computer failures that could not reasonably have been prevented by Itron or acts of vandalism (e.g., network intrusions and denial of service attacks). Itron's sole obligation, and Customer's exclusive remedy, in connection with a breach of any obligation of Itron with respect to the performance or

availability of the Cloud Service shall be for Itron, at its option, to correct the failure or to refund to Customer the amount paid for the Cloud Service for the period in which it was affected. Customer's subscription to the Cloud Service shall terminate upon its receipt of any such refund. **"Appropriate Security Measures"** means customary technical, physical and procedural controls to protect Customer Data against destruction, loss, alteration, or unauthorized disclosure to third parties. Customer acknowledges that, notwithstanding Appropriate Security Measures, use of or connection to the Cloud Service presents the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to the Cloud Service and Customer Data. Accordingly, Itron does not guarantee the privacy, security or authenticity of any information stored in connection with or transmitted to or from any Cloud Service.

g. Federal Communications Commission ("FCC") Licensed Facilities.

Customer acknowledges and agrees that Itron maintains the exclusive right to operate and control any Federal Communications Commission ("FCC") licensed facilities involved in the provision of services, including the transmitter and other components that produce RF energy (e.g. Itron Cell Control Units, Endpoints, etc.). Itron will make all decisions regarding any FCC licenses used to implement the Cloud Services provided for by this Agreement, including the preparation and filing of applications with the FCC.

4. Software-as-a-Service.

Any Software-as-a-Service purchased by Customer shall be governed by the Software-as-a-Service Addendum to this Agreement in addition to the terms of this Agreement.

5. Payment Terms and Taxes.

The following terms shall apply to any equipment, services, Software-as-a-Service, or software purchased by Customer directly from Itron. For invoices not paid within 45 days of the invoice date, in addition to other remedies to which Itron may be entitled, Itron may charge Customer a late fee of one percent per month applied against overdue amounts. Customer shall also be responsible for collection costs associated with late payment, if any, including reasonable attorneys' fees. No endorsement or statement on any check or payment or in any letter accompanying a check or payment or elsewhere shall be construed as an accord or satisfaction. Unless otherwise indicated on Attachment A, Customer shall pay all amounts owing under this Agreement in U.S. Dollars. The prices set forth on Attachment A do not include taxes. Customer will be responsible for and pay all applicable sales, use, excise, value-added and other taxes associated with the provision of products or services by Itron, excluding taxes on Itron's income generally. If Customer is a tax exempt entity, or pays taxes directly to the state, Customer will provide Itron with a copy of its Tax Exemption Certificate or Direct Pay Permit, as applicable, upon execution of this Agreement. Notwithstanding the foregoing, Software-as-a-Service shall be invoiced according to Section 2 of the Software-as-a-Service Addendum.

6. Changes.

Changes to the products or services ordered by Customer pursuant to this Agreement, including the purchase of additional quantities or entirely new products or services, may be made at Itron's then-current pricing by purchase order or Change Order (in a form acceptable to Itron), provided that any such purchase order must first be accepted by Itron.

7. Confidentiality.

With respect to any information supplied in connection with this Agreement and designated by either Party as confidential, or which the recipient should reasonably believe to be confidential based on its subject matter or the circumstances, the recipient agrees to protect the confidential information in a reasonable and appropriate manner, and to use and reproduce the confidential information only as necessary to realize the benefits of or perform its obligations under this Agreement and for no other purpose. The obligations in this Section will not apply to information that is: (i) publicly known; (ii) already known to the recipient; (iii) lawfully disclosed by a third party; (iv) independently developed; or (v) disclosed pursuant to a legal requirement or order. The recipient may disclose the confidential information on a need-to-know basis to its contractor's, agents and affiliates who agree to confidentiality and non-use terms that are substantially similar to these terms. The parties acknowledge and agree that any software provided by Itron in connection with this Agreement shall be considered the confidential information of Itron.

8. IP Ownership

Between Itron and Customer, all patents, copyrights, mask works, trade secrets, trademarks and other proprietary rights in or related to any product, software or deliverable provided by Itron pursuant to this Agreement are and will remain the exclusive property of Itron. Any modification or improvement to an Itron product or deliverable that is based on Customer's feedback shall be the exclusive property of Itron. Customer will not take any action that jeopardizes Itron's proprietary rights nor will it acquire any right in any such product, software or deliverable or Itron's confidential information other than rights granted in this Agreement.

9. Indemnification

a. General Indemnity.

Itron will defend Customer from any third party claim for (i) wrongful death of or bodily injury, to the extent caused by Itron's gross negligence or intentional torts, or (ii) physical damage to tangible personal property, to the extent caused by Itron's gross negligence or intentional torts, and will pay costs and damages awarded against Customer in any such claim that are specifically attributable to Itron's gross negligence or intentional torts or those costs and damages agreed to by Itron in a monetary settlement of such claim.

b. Infringement Indemnity.

Itron will defend at its own expense any action brought against Customer by an unaffiliated third party to the extent that the action is based upon a claim that any product manufactured, software licensed or service provided by Itron hereunder directly infringes any U.S. patent (issued as of the Effective Date) or any copyright or trademark, and Itron will pay those costs and damages awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to by Itron in a monetary settlement of such action. The foregoing indemnity does not apply to products not manufactured by Itron or software licensed by third parties.

c. *Conditions to Infringement Indemnity.*

Itron's infringement indemnity obligations under this Section are conditioned on Customer's agreement that if the applicable product or service, becomes, or in Itron's opinion is likely to become, the subject of such a claim, Customer will permit Itron, at Itron's option and expense, either to procure the right for Customer to continue using the affected product or service or to replace or modify the same so that it becomes non-infringing. Such replacements or modifications will be functionally equivalent to the replaced product or service. If the foregoing alternatives are not available on terms that are reasonable in Itron's judgment, Itron shall have the right to require Customer to cease using the affected product or service in which case Itron will refund to Customer the depreciated value of the affected product or service.

d. *Exclusions.*

Itron shall have no obligation under this Agreement to the extent any claim of infringement or misappropriation results from: (i) use of a product or service, other than as permitted under this Agreement or as intended by Itron, if the infringement would not have occurred but for such use; (ii) use of any product or service in combination with any other product, equipment, software or data, if the infringement would not have occurred but for such combination; (iii) any use of any release of a software or any firmware other than the most current release made available to Customer, (iv) any claim based on Customer's use of a product after Itron has informed Customer of modifications or changes to the product required to avoid such claims and offered to implement those modification or changes, if such claim would have been avoided or mitigated by the implementation of Itron's suggestions, (v) any modification to a product made by a person other than Itron or an authorized representative of Itron, or (vi) compliance by Itron with specifications or instructions supplied by Customer. Itron shall not be liable hereunder for enhanced or punitive damages that could have been avoided or reduced by actions within the control of Customer.

e. *Right to Defend.*

As a condition to Itron's indemnity obligations under this Agreement, Customer will provide Itron with prompt written notice of the claim, permit Itron to control the defense or settlement of the claim and provide Itron with reasonable assistance in connection with such defense or settlement. Customer may employ counsel at its own expense to assist it with respect to any such claim.

f. *Indemnity Disclaimer*

THIS SECTION CONSTITUTES ITRON'S SOLE AND EXCLUSIVE OBLIGATION WITH RESPECT TO THIRD PARTY CLAIMS BROUGHT AGAINST CUSTOMER.

10. Warranty Disclaimer.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, ITRON DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES, CONDITIONS OR REPRESENTATIONS INCLUDING, WITHOUT LIMITATION, (I) IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, (II) WARRANTIES OF TITLE AND AGAINST INFRINGEMENT AND (III) WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. TO THE EXTENT ANY IMPLIED WARRANTY CANNOT BE EXCLUDED, SUCH WARRANTY IS LIMITED IN DURATION TO THE EXPRESS WARRANTY PERIOD.

11. WAIVER OF CONSEQUENTIAL DAMAGES.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR COVER OR FOR INCIDENTAL, SPECIAL, CONSEQUENTIAL (INCLUDING LOSS OR CORRUPTION OF DATA OR LOSS OF REVENUE, SAVINGS OR PROFITS) OR EXEMPLARY DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ITRON'S PRICING REFLECTS THIS ALLOCATION OF RISKS AND LIMITATION OF LIABILITY.

12. CAP ON LIABILITY.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, EXCEPT FOR A BREACH BY CUSTOMER OF (I) ANY INTELLECTUAL PROPERTY RIGHT OF ITRON OR (II) ANY LICENSE GRANTED BY ITRON HEREUNDER, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR DAMAGES IN EXCESS OF FIFTY PERCENT (50%) OF THE FEES PAID BY CUSTOMER TO ITRON UNDER THIS AGREEMENT IN THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE OF ANY CLAIM. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE. ITRON'S PRICING REFLECTS THIS ALLOCATION OF RISKS AND LIMITATION OF LIABILITY.

13. Term and Termination

a. *Term of Agreement.*

Unless terminated earlier as provided herein, the term of this Agreement shall be from the Effective Date through December 31st of the year in which any products or services to be provided hereunder have been provided. The term of this Agreement shall thereafter automatically renew for successive one year periods unless either Party provides the other with written notice of its intent not to renew at least 90 days prior to such termination; provided, however, that Customer shall be obligated to purchase and Itron shall be obligated to provide any product or service that is the subject of an unfulfilled order accepted by Itron prior to the time of any such termination. Notwithstanding the foregoing, the term of any license provided by Itron hereunder shall be as set forth in the provision granting such license.

b. *Termination for Cause.*

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; (ii) breaches its obligations related to the other Party's confidential information; or (iii) commits a material breach of this Agreement, the Distributor/Customer agreement or the Distributor/Itron agreement that remains uncured for 30 days following delivery of written notice

of such breach (including, but not necessarily limited to, a statement of the facts relating to the breach or default, the provisions of this Agreement that are in breach or default and the action required to cure the breach or default).

c. *Survival.*

Any provision of this Agreement that contemplates performance or observance subsequent to termination or expiration of this Agreement shall survive termination or expiration and continue in full force and effect for the period so contemplated including, but not limited to, provisions relating to warranties and warranty disclaimers, intellectual property ownership, payment terms, confidentiality, waiver of consequential damages, and cap on liability.

14. **Miscellaneous**

a. *Entire Agreement.*

This Agreement and any attachments hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all previous agreements pertaining to such subject matter. All prior agreements, representations, warranties, statements, negotiations, understandings, and undertakings are superseded hereby and Customer represents and acknowledges that it has not relied on any representation or warranty other than those explicitly set forth in this Agreement in connection with its execution of this Agreement. Neither Party shall be bound by terms and conditions imprinted on or embedded in purchase orders, order acknowledgments, statements of work not attached hereto or other communications between the Parties subsequent to the execution of this Agreement.

b. *Amendments and Waivers.*

Any term of this Agreement may be amended and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively), only by a writing signed by an authorized representative of each Party and declared to be an amendment hereto. No delay or failure to require performance of any provision of this Agreement shall constitute a waiver of that provision. No waiver granted under this Agreement as to any one provision herein shall constitute a subsequent waiver of such provision or of any other provision herein, nor shall it constitute the waiver of any performance other than the actual performance specifically waived.

c. *Governing Law.*

This Agreement and performance hereunder will be governed by and construed in accordance with the laws of the State of Michigan without reference to Michigan conflicts of law principles or the United Nations Convention on Contracts for the Sale of Goods.

d. *Assignment.*

Customer may not assign or transfer its interests, rights or obligations under this Agreement by written agreement, merger, consolidation, operation of law or otherwise without the prior written consent of an authorized executive officer of Itron. Any attempt to assign this Agreement by Customer shall be null and void. For purposes of this Agreement, the acquisition of an equity interest in Customer of greater than 25 percent by any third party shall be considered an assignment.

e. *Publicity.*

Unless otherwise provided in a separate confidentiality agreement between the Parties, each Party may issue a press release following the execution of this Agreement, subject to the other Party's written approval, which shall not be unreasonably withheld. Each Party hereby consents to the other Party's use of its name, URL and logo on its website and in its customer and partner lists for corporate and financial presentations.

f. *Force Majeure.*

Neither Party will be responsible for any failure or delay in performing any obligation hereunder if such failure or delay is due to a cause beyond the Party's reasonable control, including, but not limited to acts of God, flood, fire, volcano, war, third-party suppliers, labor disputes or governmental acts (a "**Force Majeure Event**"). Notwithstanding the foregoing, no obligation to make any payment required under this Agreement is excused as a result of a Force Majeure Event.

g. *Notices.*

Any notice required or permitted under this Agreement or required by law must be in writing and must be delivered in person, by facsimile, by certified mail (return receipt requested), or by a nationally recognized overnight service with all freight charges prepaid, to the address set forth below. Notices will be deemed to have been given at the time of actual delivery, if in person, or upon receipt (as evidenced by facsimile confirmation, return receipt or overnight delivery verification). Either Party may change its address for notices by written notice to the other Party in accordance with this Section.

Itron: Attn: General Counsel
Itron, Inc.
2111 North Molter Road
Liberty Lake, WA 99019

Customer: Attn: City Manager
City of Marquette
300 W. Baraga Ave
Marquette, MI 49855

h. *Miscellaneous.*

Headings used in this Agreement are intended for convenience or reference only and will not control or affect the meaning or construction of any provision of this Agreement. If any provision in this Agreement is held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will in no way be affected or impaired thereby and such provision shall be interpreted so as to best accomplish the intent of the Parties within the limits of applicable law. Any principle of construction or rule of law that provides that an agreement shall be construed against the drafter of the agreement shall not apply to the terms and conditions of this Agreement. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered will be deemed an original, and all of which together shall constitute one and the same agreement. If available, maintenance and support for products will be provided pursuant to the Maintenance Addendum attached hereto. Itron shall perform all work to be performed in connection with this

Agreement as an independent contractor and not as the agent or employee of Customer. All persons furnished by Itron shall be for all purposes solely Itron's employees or agents and shall not be deemed to be employees of Customer for any purpose whatsoever. This Agreement is entered into only for the benefit of Customer and Itron. No other person or entity shall have the right to make any claim or assert any right hereunder, and no other person or entity shall be deemed a beneficiary of this Agreement.

[Signature Page Follows]

SIGNATURE PAGE
TO
INDIRECT SALES AGREEMENT

Agreed to and accepted:

Itron, Inc.

Signature: Julie Schmitt
Print Name: Julie Schmitt
Title: Director, Finance
Date: December 5, 2017

City of Marquette

Signature: Thomas L. Baldini
Print Name: Thomas L. Baldini
Title: Mayor

Date: 12/11/17
Signature: Kris M. Hazers
Print Name: Kris M. Hazers
Title: Clerk

Date: 12/12/17
Approved as to Substance:
Signature: L. M. Angeli
Print Name: L. MICHAEL ANGLI
Title: City Manager
Date: 12/11/17

Approved as to Form:
Signature: Rld O Keefe
Print Name: RONALD O KEEFE
Title: City Attorney
Date: 12/11/17

Tax Exempt:

Yes/No (if Yes, attach copy of Tax Exemption Certificate)

TECHNOLOGY & SERVICES ADDENDUM
– *Maintenance & Support Services (Hardware & Software)* –

1. Additional Definitions. The following defined terms are in addition to those defined in the Agreement:

“**Annual Adjustment**” means Itron’s standard annual price increase.

“**Annual Fee**” means the annual fee identified in the pricing summary for each category of Covered Product plus the Annual Adjustment, if any. The Annual Fee for any partial Maintenance Year (i.e., for Covered Products with a Maintenance Commencement Date that falls after the beginning of the Maintenance Year) shall be prorated based on the applicable number of months Customer is to receive Services under this Addendum during such Maintenance Year.

“**Contact Documents**” means the “Itron Support Services Contacts” document, which can be obtained by calling (877) 487-6602, including for example, the Itron Equipment Repair Table and Working Effectively with Itron Client Services documents.

“**Covered Product**” means Covered Software and Covered Equipment.

“**Covered Software**” means the software identified in the pricing summary to this Addendum.

“**Covered Equipment**” means the equipment identified in the pricing summary to this Addendum which is Itron Equipment. (Itron Equipment is distinguished from equipment manufactured by a third-party that Customer may purchase through Itron under an Equipment Purchase Agreement Document or other commercial sales agreement.

“**End of Support**” means a commercial decision by Itron to discontinue maintenance and support services for specific Covered Products or to discontinue offering a particular Covered Product to Itron customers in general, along with that Covered Product’s associated maintenance and support.

“**Error**” means a failure of the Covered Software or Covered Software platform to substantially comply with the applicable Specifications.

“**Fix**” means a correction of an Error, including a work-around, in order for Covered Software to function in accordance with the applicable Specifications.

“**Improvement**” means an update, modification, enhancement, extension, new version (regardless of name or number), new module, or other change to Covered Software that is developed or otherwise provided by Itron.

“**M&S Commencement Date**” means the date upon and after which a Covered Product is entitled to receive Services under this Addendum in accordance with the terms of this Addendum, which – unless otherwise stated in the pricing summary – is (a) for Covered Software that is an Itron product, the first day of the month following delivery by agreed-upon method of the Covered Software (e.g., electronic or physical medium), except that the Maintenance Commencement Date for MV-RS Software is the warranty expiration date; and (2) for Covered Equipment that is Itron Equipment, the warranty expiration date.

“**M&S Services Option**” means the maintenance and support services option for Covered Equipment or Covered Software, including Service Levels, as set forth in Attachment 1.

“**Maintenance Year**” means, for each Covered Product, a period of one (1) year beginning on the Effective Date, any anniversary thereof, or agreed-upon coverage start date.

“Mandatory Revision” means a software revision that Customer is required to accept in order to correct or address any one of the following issues: a material Error or a material security breach; or third party infringement claim.

“Operating Condition” means that the Covered Equipment performs in accordance with the applicable Specifications.

“Principal Services Contacts” means the Customer personnel that Customer is required to designate to serve as Customer’s principal relationship contacts for all Services under this Addendum.

“Loaned Mobile/Handheld Equipment” means Mobile Collector and/or Handheld units loaned by Itron to Customer, under the terms of this Addendum while Services are being performed on Customer’s Mobile Collector and/or Handheld.

“Service Levels” means, with respect to this Addendum, the response time, effort level, and escalation path procedures and guidelines described in Attachment 1 to this Addendum.

“Software Release” means a collection of Fixes or Improvements made available to Itron customers (either via physical media or electronic download access).

“Service Request” means a request initiated by Customer for a technical support service within the scope of the applicable maintenance and support Services option purchased by Customer.

“Technical Support Services” means Itron technical support services provided by technical representatives by telephone, email or other remote means to assist Customer’s Principal Service Contacts with questions related to the operation of the Covered Products.

2. Effect of Termination.

2.1. Effect of Termination of Agreement. Except as otherwise provided in Section 2.1.2 below, Itron shall not be obligated to provide any Services under this Addendum upon termination of this Addendum.

2.1.1. If either Party terminates the Agreement Customer shall not be entitled to a prorated refund of the applicable Fee.

2.1.2. Unless Itron terminates the Agreement for breach or default by Customer, Itron will continue to provide Services under this Addendum that were purchased by Customer prior to the termination date – and the terms and conditions of this Addendum will continue to govern such Services.

2.2. End of Support. Itron may discontinue Services for any Covered Product, effective as of the end of the current Maintenance Year, by giving Customer written notice of such discontinuance no less than ninety (90) days prior to the end of such Maintenance Year. If the End of Support date is scheduled within a subsequent Maintenance Year, Fees for that subsequent term will be pro-rated through the appropriate End of Support date. At Customer’s request, Itron may elect to provide custom support for products for which Maintenance Services have been discontinued at Itron’s then-current rates. Unless otherwise agreed by the Parties in accordance with the foregoing sentence, Itron shall have no obligation to provide Services under this Addendum with respect to Covered Products for which Itron has discontinued Services pursuant to this Section.

3. Principal Services Contacts.

3.1. Designation by Customer. Customer shall designate no more than two (2) Principal Services Contacts for each Covered Product, as identified in the Contract Documents, to serve as

administrative liaisons for all matters pertaining to the Services provided under this Addendum for such Covered Product line, and shall provide their contact information to Itron's customer account representative. Principal Services Contacts shall report problems with Covered Products (each such report, a "**Service Request**") as soon as practicable for entry into Itron's support tracking system. Although it is Customer's sole right to choose its Principal Services Contacts, Customer and Itron acknowledge that each Principal Services Contact should have the appropriate technical skills and training for the position. If Customer replaces a Principal Services Contact, Customer will provide updated contact information to Itron, and the new Principal Services Contact will undergo the same initial training as described in Section 3.2.

3.2. Training of Principal Services Contacts. Before a Principal Services Contact interfaces with Itron, the Principal Services Contact must attend training sessions offered by Itron, an Itron approved trainer, or Customer's training program approved by Itron to ensure that the Principal Services Contact is (a) knowledgeable about the operation of the Covered Products, and (b) qualified to perform problem determination and remedial functions with respect to the Covered Products. Such training sessions will be at Itron's then-current rates. Customer will be solely responsible for all travel and other expenses incurred in connection with each Principal Services Contact's attending the training sessions. The Principal Services Contact should have the skills and capabilities to train other Customer personnel on Covered Products ("train-the-trainer").

3.3. Additional Training. If Itron notifies Customer that additional training of a Principal Services Contact is necessary, Customer will promptly ensure that the Principal Services Contact receive such training.

4. Technical Support Services & Service Requests.

4.1. Support Services. Itron will provide Technical Support Services during its then-current normal business hours. Technical Support Services include troubleshooting, problem diagnosis, release or system management, and recommendations for fully utilizing the Covered Products. Customer acknowledges and agrees that Technical Support Services are not intended as a substitute for training of Customer personnel, field support, or Itron professional services – all of which can be purchased separately. Nor will Customer use Technical Support Services in lieu of having qualified and trained support personnel of its own. Itron's current Technical Support Services contact and support hours are described in the Contacts Document.

4.2. Service Request Process. Customer shall submit Service Requests in the manner required by the Contact Documents and Service Levels.

4.3. Field Support. Upon mutual agreement of the Parties, Itron will dispatch support personnel to Customer's location to provide technical support. Such support will be billed at Itron's then-current hourly rates (with reasonable travel and living expenses invoiced at Itron's cost without markup), unless the cause of the reported problem is found to be the fault of Itron.

5. Software Maintenance.

5.1. Fixes. Itron shall make commercially reasonable efforts to provide a Fix in accordance with the Service Levels. Itron's obligations with respect to Service Levels are contingent upon Customer (i) devoting the same level of effort to resolving the Error as is required of Itron, (ii) responding to requests made by Itron within the applicable Response Time, and (iii) assigning its most qualified personnel to help Itron address the Error.

5.2. Documentation. Itron will make an electronic copy of the Documentation available to Customer at no additional charge via physical media or download access. Itron will maintain a copy of its most recent supported version of the executable Covered Software to be made available to Customer as necessary in the event of corrupted or inoperative Covered Software.

5.3. Improvements. Itron shall provide Improvements, if any, at its then-current price for such Improvements (or at no charge if such Improvements are made available to Itron customers generally at no charge).

5.4. Software Releases.

5.4.1 Release Numbering Convention. Fixes and/or Improvements are made available to customers through periodic Software Releases. For informational purposes, Itron's current typical practice (which may be changed at any time in Itron's discretion) is to provide Software Releases using the numbering convention "XX.YY.ZZ."

- The "XX" in Itron's numbering convention refers to a "**System Release**," which is a new version of the item of Covered Software. A System Release may include Fixes, Improvements or interfaces to new functional modules or platforms not previously supported by Itron.
- The "YY" in Itron's numbering convention refers to a "**Service Pack Release**," which is an update to a System Release. Service Pack Releases may include Fixes or Improvements and are provided to Itron customers generally on a periodic basis.
- The "ZZ" in Itron's numbering convention refers to a "**Hot Fix Release**," which is an unscheduled release provided to one or more customers as a short-term, temporary fix to a 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 Service Pack for general release.

5.4.2 Support for Releases of Itron Enterprise Edition and Openway Software. This Section 5.4.2 applies only to Covered Software that are Itron Enterprise Edition or OpenWay software products. Services for Itron Enterprise Edition and OpenWay software products under this Addendum shall be limited to the most recent System Release and the prior System Release (and the most current Service Pack Release associated with such System Release). Customer will test and install Service Pack Releases associated with the System Release in use by Customer within twelve (12) months of such Service Pack Releases being made available to Customer. Customer will fully test and upgrade to the latest System Release at least every twenty-four (24) to thirty-six (36) months.

5.4.2.1 Itron may elect to provide Services under this Addendum for an unsupported Software Release of Covered Software at its then-current rates for customer support.

5.4.3 Support for Releases of all Other Covered Software. This Section 5.4.3 applies to all Covered Software *other than* Itron Enterprise Edition and OpenWay Software products. Services under this Addendum for all Covered Software other than Itron Enterprise Edition and OpenWay software products shall be limited to the most recent System Release and the two prior Service Pack Releases. Customer will test and install System Releases and Service Pack Releases within twelve (12) months of such Releases being made available to Customer. Itron may elect to provide Services under this Addendum for an unsupported Software Release of Covered Software at its then-current rates for customer support.

5.4.4 Installation Services for Software Releases. This Section 5.4.4 applies to all Covered Software. Installation services under this Addendum will include limited, remote phone support, for all Covered Software, on Itron certified server configurations, are applicable for one production server and one non-production server owned (test, training, or back-up – for example) / operated by the Customer. At Customer's request, Itron may provide Software Release installation services for install of System Releases or Service Packs on additional production or non-production servers at Itron's then-current hourly rates.

5.4.4.1 Itron may elect to provide Services under this Addendum for installation of System Release of Covered Software on uncertified server configurations at its then-current rates for customer support.

5.5. Mandatory Revision. In the event that Itron, in its sole reasonable discretion, determines that any Covered Software is, or may (as applicable) be: (i) subject to a material Error; (ii) the subject of a material security breach; or, (iii) be subject to a third party infringement claim or suit of any kind, Itron may issue a Mandatory Revision.

5.6. DISCLAIMER OF LIABILITY. ITRON DISCLAIMS ALL LIABILITY AND OBLIGATIONS THAT ARISE DUE TO, OR ARE RESULT OF, CUSTOMER'S FAILURE TO TEST AND INSTALL A MANDATORY REVISION IN A TIMELY FASHION.

5.7. Interoperability. Itron makes no representation or warranty regarding the ability of the Covered Software to interoperate with third party hardware or software other than software or hardware identified as compatible with the Covered Software in Itron's Documentation for the applicable Covered Software.

5.8. Restoring Software to Maintenance Services. If Customer declines Services under this Addendum after the end of warranty or discontinues Services under this Addendum for any Covered Software, and thereafter wishes to resume such Services for the most recent Software Release of that Covered Software, Customer shall, prior to receiving Services, notify Itron in writing of its request for Services and pay Itron's then-current re-initiation fee.

5.9. Exclusions. Itron shall have no obligation to Customer for any Services under this Addendum to the extent any Covered Software is adversely affected by: (i) use of the Covered Software in combination with other software, equipment or communications networks that are not referenced in the Documentation; (ii) any modification to the software, operating environment, system installation, operating instructions, scripts, or database configuration that is made other than by Itron; (iii) the use of a version of the Covered Software that is not supported by Itron; (iv) Customer's failure to implement a Fix provided by Itron; (v) the maintenance and/or support of the Covered Software other than by Itron; (vi) viruses introduced through no fault of Itron; (vii) use of the Covered Software other than as authorized by Itron and the applicable license, including Covered Software operated on Covered Equipment that has been serviced or repaired by a third party that is not Itron certified; or (viii) Customer's failure to perform Customer responsibilities in accordance with this Addendum.

5.10. Customer Software Responsibilities.

5.10.1 Support Tools. Customer will support remote access to the Covered Software by Itron Personnel assigned to provide Services under this Addendum for purposes of remote diagnosis and troubleshooting of the Covered Software.

5.10.2 System Configuration and Administration. Customer will ensure that its equipment, system peripherals, operating system, and data communications environment associated with the Covered Software is configured, operated, and maintained in accordance with the Documentation and any applicable third party documentation. These administrative activities shall include but not be limited to: checking audit logs, clearing discovered exceptions, and performing daily, weekly, and monthly operational tasks and system responsibilities. Customer is responsible for any change they make to the software system, operating system, database or network configuration or change to installation procedures, scripts, and provisions that may affect the usability or operation of the Software or Data. Customer will consult with Itron prior to making changes that may affect the operation of the Covered Software.

5.10.3 Network Administration. Customer will 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 the Covered Software—to ensure continued conformance with the Documentation and any applicable third party documentation. In addition, Customer will administer related host names, Internet Protocol addresses, network interfaces, access, security, communications, and equipment and software version control.

5.10.4 Database Administration. Customer will administer the agreed upon database(s) associated with the Covered Software, including hardware and software components, in accordance with the Documentation or any applicable third party 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 will maintain database files (e.g., truncate, cleanup, and delete files consistent with industry standard practices) and perform regular data backup and data archiving.

5.10.5 Data Review. If Itron determines that it is necessary to evaluate Customer data in order to reproduce error conditions not reproducible with Itron's standard test data sets, Customer will provide Itron with access to such data. Itron will manage such data in a secure manner while in use and delete the data from Itron systems upon completion of the investigation. Itron shall not be liable for any delay or failure to resolve the problem if access to such production data is denied to Itron.

6. Equipment Maintenance.

6.1. Preventive and Corrective Maintenance. Upon receipt of an item of Covered Equipment, Itron shall (i) perform the preventive Services under this Addendum that Itron determines are reasonably necessary to maintain the Covered Equipment in Operating Condition, and (ii) diagnose and correct any failure in such Covered Equipment as necessary to meet Operating Condition (excluding minor cosmetic deficiencies such as blemishes, dents or scratches).

6.2. Maintenance Procedures. Customer shall initiate a request under this Addendum for Services for Covered Equipment by delivering the item in question to the applicable Itron address identified on the Itron Equipment Repair Table (the "**Repair Table**"), which can be obtained by calling (877) 487-6602. Return of the Covered Equipment shall be at Customer's expense and in accordance with the applicable 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 Services ordered by Customer and not otherwise excluded from coverage as provided herein. If the returned equipment is determined to be Covered Equipment and the maintenance requested is in fact

included in the Services ordered by Customer, Itron shall then provide the applicable Services and shall make commercially reasonable efforts to return the item of Covered Itron Equipment to Customer at Itron's expense within the applicable turnaround time identified on the Repair Table. Returned equipment that is found not to be Covered Equipment, or if maintenance or support that is requested is determined not to be included in the Service ordered by Customer, then Itron will provide a quote to Customer under Section 6.4, below.

6.3. Exclusions. The Services described herein do not include repairs related to: (i) damage due to external causes, including accident, abuse, misuse, inadequate maintenance, problems with electrical power, acts of God; usage not in accordance with product instructions or in a configuration not approved by Itron; (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 by Itron; or (iv) Customer's failure to perform Customer responsibilities in accordance with this Addendum, including caring for Products in accordance with System Documentation.

6.4. Estimation Fees. Itron will provide Customer with a price quote for the estimated cost, including labor, materials and shipping, for any repairs that are requested, but not included under this Addendum (whether because the item is not covered or because the nature of the repair is not included). If Customer elects to have Itron proceed with the requested maintenance on any such item, Itron shall provide such services at Itron's then-current rates. If Customer elects not to proceed with the requested repair, Itron will return the item of equipment at Customer's expense. Itron may charge Customer its then-current handling, inspection and shipping fees for any such returned equipment.

6.5. Adding/Restoring Equipment to Maintenance Services. Following the effective date of this M&S Addendum, additional Covered Equipment purchased by Customer, of a similar type and model already covered by Services under this Addendum, shall automatically be deemed to be Covered Equipment following expiration of the warranty for such equipment. If Customer declines coverage after the end of warranty, discontinues Services for any Covered Equipment or has Covered Equipment serviced or repaired by a third party that is not Itron certified, and thereafter wishes to add such equipment as Covered Equipment, Itron may, prior to such equipment being included as Covered Equipment, (i) inspect such equipment at its then-current rates to determine whether it is in Operating Condition and/or (ii) charge its then-current re-certification fee, in addition to the Covered Equipment's first term maintenance fee.

6.6. Customer Equipment Responsibilities. Itron shall make available, and Customer shall obtain, a copy of Itron's user documentation for Covered Equipment and Customer shall perform regular 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 the Services.

6.7. Loaner Equipment Program. [Reserved]

7. Fees and Invoicing. As compensation for the Services under this Addendum, Customer shall, in advance, pay to Itron the Annual Fee for each Maintenance Year in which it receives Services under this Addendum. Itron shall invoice Customer for Services to be provided during the first Maintenance Year as soon as practicable following the Effective Date. For Services provided during any subsequent Maintenance Year, including Services for newly purchased or licensed Covered Products, Itron shall provide Customer with a renewal notice at least one-hundred twenty (120) days prior to the commencement of each Maintenance Year. Customer may discontinue Maintenance Services for a Product by providing Itron with written notice of non-renewal for such Product no less

than ninety (90) days prior to the commencement of any subsequent Maintenance Year. Approximately twenty (20) days prior to the commencement of any subsequent Maintenance Year, Itron shall provide Customer with an invoice for the Annual Fee payable by Customer for the forthcoming Maintenance Year (including the Annual Adjustment). Itron may, in its discretion, invoice Customer for Services for a Covered Product that is added during the course of any Maintenance Year as soon as such Covered Product has been added or at the beginning of the next Maintenance Year.

8. **Support For Third Party Products.** For any Covered Product that is a "Third-Party Product" (each, a "*Third Party Covered Product*") Itron shall provide first-tier Customer support by handling all initial Customer inquiries, identifying 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 Products consistent with the maintenance terms identified in Attachment 2 to this Addendum for such Third Party Products. Notwithstanding anything else to the contrary, Itron's sole obligation with respect to maintenance and support for Third Party Products shall be as set forth in this Section.

[Attachment 1 Follows]

Attachment 1 to Maintenance & Support Services Addendum

– Software Maintenance & Support Service Levels –

Severity Level	Response Times	Effort Level and Escalation Path
<p>Severity Level 1. Critical Business Impact / System Down: An Error for which there is no work-around, which causes the Product / Software or a critical business function / process of the Itron system to be unavailable. System use and operation cannot continue.</p> <p>*Severity 1 errors must be reported by phone to initiate the Severity 1 response process. SRs initiated by email or web interface are logged as a Severity 3 until reviewed by Itron Technical Support Services and validated as a higher priority.</p>	<p>During after-hour periods, Itron will respond to a critical support voice messages within 15 minutes by a return call to Customer, which will validate receipt of the critical support call and begin the SR process. During regular business-hours Itron will begin the SR process during Customer's initial call.</p> <p>Following the start of the SR process Itron will respond to Customer's SR within 2 business hours with an investigation response.</p> <p>Following the investigation response, Itron will update Customer at three hour intervals during each day the SR remains unresolved, or as otherwise agreed by the Parties.</p> <p>Customer will respond to an Itron inquiry or request within three hours.</p>	<p>Itron will make diligent efforts on a 24x7 basis*, or as otherwise agreed by the Parties. A SR shall be escalated to Itron's TSS Management Team if a Fix is not provided within 1 business day of Itron's receipt of the Customers call and creation of the SR.</p> <p>*24X7 support for Severity Level 1 Errors is not currently available for Itron Meter Products, Energy Forecasting and Load Research Products, and Distribution Products.</p>

Severity Level	Response Times	Effort Level and Escalation Path
<p>Severity Level 2. Moderate Business Impact / Degraded Operation: An Error other than a Severity Level 1 Error, for which there is no work-around, which limits access or use of the software or a business function, causing the system to miss required business interface or deadlines. The system remains available for operation but in a restricted fashion.</p> <p>*Severity 2 errors must be reported by phone to initiate the Severity 2 response process. SRs initiated by email or web interface are logged as a Severity 3 until reviewed by Itron Technical Support Services and validated as a higher priority.</p>	<p>Itron will respond to Customer SR within 1 business day and will update the SR at least every other day.</p> <p>Customer will respond to an Itron inquiry or request within 1 business day.</p>	<p>Itron will make diligent efforts during normal business hours. SRs shall be escalated to Itron's TSS Management Team if a Fix is not provided within 3 business days of Itron's receipt of Customer's call and creation of the SR.</p>
<p>Severity Level 3. Minor Business Impact / Compromised Operation: An Error other than a Severity Level 1 or Severity Level 2 Error that has an inconvenient use of or access to a software function. (e.g., a feature is not working as documented but a work-around is available and significant business functions are not materially impaired).</p>	<p>Itron will respond to Customer SR within 2 business days.</p>	<p>Itron technical representatives will make diligent efforts during normal business hours.</p>
<p>Severity Level 4. No Business Impact / Standard Operation: An Error other than a Severity Level 1, Severity Level 2 or Severity Level 3 Error. Generally a cosmetic Error or an Error which does not degrade Customer's use of the system.</p>	<p>Itron will respond to Customer SR within 3 business days, or as otherwise agreed by the Parties.</p>	<p>Itron support representatives will devote commercially reasonable efforts during normal business hours.</p>
<p>Severity Level 5. Customer SR for an enhancement or new functionality.</p>	<p>N/A</p>	<p>The SR will be evaluated as a potential, future product enhancement. If the enhancement or new functionality requires more immediate attention for Customer, Itron will engage Itron's Professional Services Group to create a customized proposal for Customer, at Itron's then-current services rates.</p>

– Third Party Covered Product Maintenance Terms –

A. Cisco Products. The following terms apply to Cisco products and services provided by Itron under the Agreement:

1. Definitions

"**Approved Source**" means (a) Cisco Systems, Inc., (b) Cisco Systems Canada Co., or (c) a distributor that is authorized by Cisco to redistribute Products and Services within the Territory to Integrator, as they are from time to time identified at http://tools.cisco.com/WWChannels/LOCATR/jsp/distributor_locator.jsp or as otherwise provided by Cisco from time to time.

"**Cisco**" means Cisco Systems, Inc. and Cisco Systems Canada Co.

"**End User**" is the City of Marquette, Michigan.

"**First Call**" means the initial call made by the End User when requesting assistance with a Product.

"**Integrator**" means Itron, Inc. and Itron Canada, Inc.

"**Integrator Agreement**" means the Special Purpose Systems Integrator Agreement between Cisco and Integrator.

"**Other Products**" means Products which an End User acquired from sources other than Integrator.

"**Price List**" is the price list(s) published at Cisco.com applicable to the relevant Cisco entity to which each Purchase Order is issued by Integrator.

"**Products**" means Cisco Connected Grid Router ("**CGR**") and Cisco Connected Grid Network Management System ("**NMS**").

"**Purchase Order**" is a written or electronic order issued by Integrator to Cisco for Products or Services to be purchased, licensed or provided under the Integrator Agreement.

"**Service**" means the Cisco brand Services available for resale by Integrator, which can be found at www.cisco.com/go/servicedescriptions/.

"**Service Description**" means a description of the Services, as of the purchase date of such Services, to be made available by Cisco to End Users through Integrator, and the terms and conditions under which Cisco provides those Services. Each available Service has its own Service Description, which can be found www.cisco.com/go/servicedescriptions/.

"**Software**" means is the Cisco Connected Grid Network Management System and any other software identified on and described in Exhibit G to the Integrator Agreement.

"**Territory**" means Canada and the United States of America, excluding Puerto Rico, unless mutually agreed in writing by the parties.

2. Maintenance and Support Terms

For each Service purchased by Integrator, Cisco will make available to End User, on Integrator's behalf, the Services described in the applicable Service Description. Services are subject to the description set forth in the applicable Service Description. For NMS, the Service Description is found under Software Application Services located at: http://www.cisco.com/legal/Cisco_SAS-SASU.pdf. For CGR, the Service Description is found under SMARTnet and SMARTnet On-site located at:

http://www.cisco.com/web/about/doing_business/legal/service_descriptions/docs/Smartnet_Onsite_Exhibit.pdf.

Upon Cisco's acceptance of a Purchase Order for Services, the then-current Service Description shall apply to such Services.

In order to be eligible to receive the Services as set out herein for (a) Products that have not been previously supported, (b) Products for which support has lapsed, or (c) Other Products, the following will apply:

- (i) Cisco may charge an inspection fee for Products and Other Products in accordance with Cisco's standard fee schedule on the Price List in effect at the time of inspection (any related upgrades, replacements, repairs, or troubleshooting are excluded); and
- (ii) Integrator shall provide Cisco with such information as Cisco may require to ensure that a valid Software license exists for Software to be supported. If a valid Software license does not exist, Integrator shall pay Cisco the Software license fee for the Software.

Cisco reserves the right to survey an End User for use in ensuring End User's satisfaction with (a) the Services, and (b) Integrator's and/or Cisco's support. From time-to-time, no more than once per calendar year, provided that Cisco follows End User security requirements, and with reasonable notice, Cisco will be entitled to perform an inventory review of an End User's installed base and review serial numbers and other records (upon reasonable advance notice) to validate entitlement at Cisco's sole cost and expense. Upon notice to Integrator, Cisco will be entitled to suspend any portion of a Service with respect to a specific End User in instances when it is prevented by Integrator or such End User from performing an inventory review or otherwise verifying End User's entitlement to the Service.

End User acknowledges the contents of the relevant Service Descriptions located at www.cisco.com/go/servicedescriptions/.

Integrator may take the First Call from the End User and may open a case with Cisco on behalf of the End User using the applicable Maintenance Contract Number or other contract number(s) and Cisco serial number(s). End User may call Cisco directly for support, provided that Integrator may require the End User to place the First Call with Integrator and allow Integrator to open a case with Cisco on behalf of the End User in accordance with this Section provided that Integrator shall not delay opening a case.

At least thirty (30) calendar days advance Written Notice to Cisco is required for Product relocations (outside End User's then-current service territory) and Service level/Product configuration changes, when applicable.

If Integrator elects not to support a Product at the time of a Product purchase or if, for any reason, a Product becomes unsupported at some point after the Product's initial deployment, End User authorizes Integrator to and Integrator shall, at Cisco's written request, provide Cisco with the contact information, including but not limited to name, address, and phone number of the End User who has purchased the unsupported Product from Integrator, within 30 calendar days of Integrator's receipt of written request from Cisco. Integrator and End User authorize Cisco to contact the End User for the express purpose of contracting directly with End User for support Services for the unsupported Product identified by Integrator.

Prior to expiration of a Service contract: (a) Cisco, or its authorized agents, will send reminders to Integrator or as directed by Integrator; (b) Integrator will, upon request by Cisco, reconfirm the End User's identity and Service contract numbers of the expiring Service contract(s); and (c) Integrator will (i) initiate the renewal process with its End User and forward to Cisco the completed renewal with Purchase Order or (ii) notify Cisco of Integrator's intent to cancel Services. If, upon the expiration date of Cisco Services for the Product, Cisco has not received a Purchase Order for the renewal, Cisco, or its authorized agents, may contact the End User to arrange for the renewal of Cisco Services for the Product either directly with Cisco or with another Cisco-authorized reseller.

3. Warranty

NOTHING IN THIS SECTION (3) WILL AFFECT THE WARRANTIES PROVIDED WITH ANY HARDWARE PURCHASED OR SOFTWARE LICENSED BY INTEGRATOR AND/OR END USER. ANY AND ALL SERVICES PROVIDED HEREUNDER WILL BE PERFORMED IN ACCORDANCE WITH INDUSTRY STANDARDS OF PROFESSIONAL SKILL, CARE AND DILIGENCE. EXCEPT AS SPECIFIED IN THIS SECTION, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF THE PURPOSE IS KNOWN TO CISCO), SATISFACTORY QUALITY, AGAINST INFRINGEMENT OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE GREATEST EXTENT

ALLOWED BY APPLICABLE LAW. INTEGRATOR MUST NOTIFY CISCO PROMPTLY OF ANY CLAIMED BREACH OF ANY WARRANTIES. INTEGRATOR'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY WILL BE PROMPT RE-PERFORMANCE OF THE SERVICES; OR IF CISCO DETERMINES, ACTING REASONABLY, THAT IT IS UNABLE TO RE-PERFORM SUCH SERVICES IN ACCORDANCE WITH THE ABOVE WARRANTY, TERMINATION OF THE APPLICABLE SERVICE ON THE PRODUCT LIST AND RETURN OF THE FEES PAID TO CISCO BY INTEGRATOR FOR SUCH NON-CONFORMING SERVICES. THIS DISCLAIMER AND EXCLUSION WILL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH ABOVE FAILS OF ITS ESSENTIAL PURPOSE. THE WARRANTY PROVIDED IS SUBJECT TO THE LIMITATION OF LIABILITY SET FORTH IN THIS EXHIBIT. EXCEPT AS EXPRESSLY PERMITTED IN THIS SECTION B, INTEGRATOR SHALL NOT MAKE ANY WARRANTY COMMITMENT, WHETHER WRITTEN OR ORAL, ON CISCO'S BEHALF.

Cisco reserves the right to make changes to the scope and content of the Service terms currently set forth in this Section 3 (with the exception of the warranty term and this Section 3) to be consistent with a change in Cisco's then-current general support program, including terminating the availability of a given Service (provided, that no change or combination of changes resulting in the elimination of critical Services from a Service Description shall be made until after Cisco announces an EOL with respect to the applicable Product, in which case Section 13.7 of the Integrator Agreement shall apply), at any time upon ninety (90) calendar days prior written notice and such changes shall become effective upon the next October 1st. If Integrator does not agree with a change of scope or content of this Section 3, which is allowed by this Section, Integrator may terminate this Section 3 by providing Cisco written notice of termination. Any such changes in scope and content which conflict with the terms set forth in the main body of the Integrator Agreement shall be superseded by such terms set forth in the main body of the Integrator Agreement. For the avoidance of doubt, no change allowed under this Section shall apply to any Services purchased prior to the effective date of such change.

4. End User Obligations

- (1) End User agrees to comply with Cisco's Export Restrictions.
- (2) End User agrees to comply with terms and conditions provided in the applicable Cisco Service Description which are posted at www.cisco.com/go/servicedescriptions/.
- (3) End User will keep Cisco Confidential Information confidential.

Software-as-a-Service Addendum

1. **Scope.** This Addendum sets forth the terms and conditions for Itron's Software-as-a-Service.
2. **Subscription Service.** Software-as-a-Service is offered as a monthly or annual subscription service. The subscription fee will be charged on the number of provisioned meters or endpoints. A minimum subscription fee may apply. Itron will begin invoicing Customer following validation of Software-as-a-Service system setup by Itron. Customer payment of the invoiced subscription fee is due within thirty (30) days of receipt of invoice.
3. **Sizing.** The subscription fee for Software-as-a-Service may be based on system Sizing Criteria; if so, the Sizing Criteria will be specified in the Service Level attachment to this Addendum.
4. **No Contingency on Future Releases.** Customer acknowledges and agrees that its purchases under this Software-as-a-Service Addendum are neither contingent upon the delivery of any future functionality or features nor dependent on any oral or written public comments made by Itron regarding future functionality or features.
5. **Documentation.** Customer has the right to use and make a reasonable number of copies of the documentation solely for Customer's internal business purposes during the service term. Documentation will be made available to Customer by download.
6. **Reservation of Proprietary Rights by Itron.** Itron retains all right, title, and interest to and control, operation, and maintenance of all Itron network equipment, hardware, infrastructure, servers, platforms, and the like supporting its Software-as-a-Service.
7. **Certain Restrictions on Customer and Conditions on Use of Services.**
 - 7.1. **Restrictions.** Customer shall not: (a) remove or modify any program markings or any notice of Itron's or its licensors' proprietary and intellectual property rights; (b) make the programs or materials resulting from the Software-as-a-Service available in any manner to any third-party for use in the third-party's business operations; (c) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the Software-as-a-Service (the foregoing prohibition includes but is not limited to Itron data inputs, Itron system data exports, Itron database schema, and data structures), or access or use the Software-as-a-Service in order to build or support, and/or assist a third-party in building or supporting, products or services competitive to Itron; (d) disclose results of any services or program benchmark tests without Itron's prior written consent; and (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the Software-as-a-Service available, to any third-party other than, as expressly permitted under the terms the Agreement; (e) use the Software-as-a-Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (f) use the Software-as-a-Service to store or transmit malicious code; (g) interfere with or disrupt the integrity or performance of the Software-as-a-Service or third-party data contained therein; (h) attempt to gain unauthorized access to the Software-as-a-Service or their related systems or networks; or (i) combine the Software-as-a-Service with any application, software, hardware, equipment, product, or service, except as expressly authorized by Itron in advance, in writing.
 - 7.2. **Conditions.** The rights granted to Customer under this Software-as-a-Service Addendum are also conditioned on the following: (a) the rights of any user licensed to use the Software-as-a-Service (e.g., on a "named user" basis) cannot be shared or used by more than one individual (unless such license is reassigned in its entirety to another authorized user, in which case the prior authorized user shall no longer have any right to access or use the license); (b) except as expressly provided herein, no part of the Software-as-a-Service may be copied, reproduced, distributed, republished, downloaded, displayed, posted or transmitted in any form or by any means, including but not limited to electronic, mechanical, photocopying, recording, or other means; (c) Customer agrees to make every reasonable effort to prevent unauthorized third-parties from accessing the Software-as-a-Service; and (d) Customer agrees to use of the Software-as-a-Service only in accordance with the this Software-as-a-Service Addendum, user guide, and applicable laws and government regulations.

8. Service Levels & Reporting.

8.1. Service Levels. Itron will use commercially reasonable efforts to provide the Software-as-a-Service to the Service Levels described in the Service Level attachment to this Addendum.

8.2. Service Level Reporting. Itron will provide regular Service Level reports to Customer.

9. Location of Services. Unless otherwise agreed to in writing between Itron and Customer in advance, Itron will provide the Software-as-a-Service hereunder from Itron locations within the United States.

10. Technical Support Services. Itron will make available technical representatives with the answer Customer questions related to the use of Software-as-a-Service, including assisting Customer with problems it may experience with using the Software-as-a-Service, and offering recommendations to Customer for fully utilizing the Software-as-a-Service. Training and professional services are not within the scope of technical support services.

11. Training. Customer may purchase training services for the Software-as-a-Service at Itron's then-current training rate.

12. Customer Technical Responsibilities. Customer shall be responsible for selecting, acquiring, paying for, securing and maintaining any equipment and ancillary services needed to connect to, access, or otherwise use the Software-as-a-Service, including for example – and without limitation – modems, hardware, servers, software, operating systems, networking equipment, web servers, and communication services. Customer shall at all times during the Software-as-a-Service Term be responsible for ensuring compatibility with the Software-as-a-Service at Customer's sole expense.

13. User Identifications and Passwords. Itron shall provide Customer with user identifications and passwords ("User IDs") to access the Software-as-a-Service. Customer shall be solely responsible for all use of its Customer subscriptions and accounts. Customers shall maintain the confidentiality of all User IDs assigned to it. User IDs may not be shared or used by more than one user.

14. Use and Maintenance of Customer Data.

14.1. Customer Responsibilities. Customer shall have sole responsibility at all times during the Software-as-a-Service term for the accuracy, quality and legality of all Customer Data used with and by the Software-as-a-Service. In addition, Customer shall at all times during the Software-as-a-Service term be responsible for maintaining the confidentiality of all such Customer Data under its control. Customer acknowledges and agrees that Customer has implemented best practices within its industry to safeguard the security and privacy of Customer Data and in compliance with legal and regulatory requirements in the jurisdictions in which it operates and that Customer will continue to do so throughout the Software-as-a-Service term. During the Software-as-a-Service term, Customer will notify Itron of any breach of Customer Data and of any breach of Customer's security safeguards affecting or potentially affecting the confidentiality, privacy, or security of Customer's Customer Data used in connection with or by the Software-as-a-Service.

14.2. Customer Warranty. Customer represents and warrants that the Customer Data does not and will not: (i) infringe or violate the rights of any third-party or any law or regulation, (ii) violate any privacy or data protection laws or regulations, or (iii) contain any virus or programming routine that has the effect of damaging, surreptitiously intercepting, or expropriating any system, data, or personal information. Itron may take any remedial action at its sole discretion to address any violation of this warranty, but is under no obligation to review Customer Data for accuracy, legality or potential liability, or otherwise take any action with regard to Customer Data under Customer's control. Customer agrees to indemnify and hold harmless Itron for any third-party claim, loss or damage in connection with the Customer Data or Customer's breach of its obligations under this warranty.

15. Security. With respect to Customer Data that Itron may have access to, transport, process, or use in providing Software-as-a-Service to Customer, Itron shall maintain a formal security program during the Software-

as-a-Service term in accordance with Itron policies designed to: (i) protect the security and integrity of Customer Data; (ii) protect against threats or hazards to the security of the Software-as-a-Service, and to (iii) prevent unauthorized access to the Software-as-a-Service by third-parties and Itron personnel. It is Customer's obligation and responsibility to ensure that its use of Software-as-a-Service comply with any and all laws and regulations applicable to Customer, including without limitation, all such laws and regulations governing the privacy and security of Customer Data.

16. Suspension or Restriction of Service; Maintenance.

16.1. Service Suspension or Restriction. To protect the integrity and functionality of the Software-as-a-Service for the benefit of all Itron users and customers, Itron may suspend or restrict all or part of the Software-as-a-Service at any time until further notice to the Customer and provide notice of such suspension or restriction to Customer as soon as reasonably practicable if (i) the provision of the Software-as-a-Service would cause Itron to be in breach of any applicable law; or (ii) Itron reasonably determines that the Software-as-a-Service must be suspended in order for Itron to (a) carry out planned maintenance, repair or upgrading of any equipment or facility forming part of the Software-as-a-Service, on at least ten (10) days' notice; or (b) carry out unplanned maintenance, repair or upgrading of any equipment or facility forming part of the Software-as-a-Service with as much notice as is reasonably practicable; or (c) prevent material harm to the Software-as-a-Service arising from any activity originating from or through Customer's use of the Software-as-a-Service that could disrupt the use of or interfere with the ability of others to effectively use the Software-as-a-Service or any connected network, system, service, or equipment, including without limitation, Customer's noncompliance with this Software-as-a-Service Addendum.

16.2. Planned Maintenance. Planned maintenance whenever reasonably practicable will be performed during off-business hours between 12:00 a.m. to 6:00 a.m. EST, with as little disruption to Customer's use of the Software-as-a-Service as possible, and unplanned maintenance, whenever reasonably practicable, shall also be performed during off-business hours between 6:00 p.m. and 6:00 a.m. EST.

16.3. Minimum Disruption. If the Software-as-a-Service is suspended or restricted, Itron will use reasonable efforts to ensure that there is minimum disruption to the Software-as-a-Service and shall use its commercially reasonable efforts to promptly reinstate it after the condition has been alleviated, provided that if Itron reasonably determines that such action was necessitated by Customer's fault or breach, and such fault or breach represents an uncurbable, continuing and material risk to the integrity of the Software-as-a-Service, then Itron may permanently suspend or restrict all or part of the Software-as-a-Service and provide notice of same to Customer as soon as reasonably practicable. Without limiting the exclusions or limitations of liability in the Agreement, Itron shall not be liable to Company or to any third person for any loss resulting from or in connection with a suspension, withdrawal or restriction of the Software-as-a-Service under this Section. The exercise of the Itron's right to suspend the Software-as-a-Service under this Section is without prejudice to any other remedy available to Itron under this Software-as-a-Service Addendum and the Agreement and does not constitute a waiver of Itron's right to terminate this Software-as-a-Service Addendum.

[Service Level Attachment Follows]

Service Level Attachment to Software-as-a-Service Addendum

1. System Sizing Criteria.

Sizing Criteria	Design Value
Itron Solution Application(s) (name)	OpenWay – Collection Manager, Itron Security Manager, Cisco IoT FND
System Endpoints (#)	Not to exceed 8,500 Endpoints
System Collectors (#)	9 CGRs
System Repeaters or Range Extenders (#)	NA
Residential Meter configuration (#)	NA Registers, NA Channels
C&I Meter Configuration (#)	NA Registers, NA Channels
Interval Data (#)	7,100 endpoints at 60 minute intervals
Historical Data (#)	No to exceed 13 months for Production
Web Portal Users (#)	Not to exceed NA End Users

Sizing Criteria is a baseline assumption of the scope of Software-as-a-Service agreed to by Customer and Itron – and upon which the agreed-upon pricing is dependent. Modifications to Sizing Criteria may require an amendment to the pricing summary. If Customer desires to increase subscriptions, Customer will be required to issue an additional purchase order. Additional fees will be required for exceeding the specified endpoint count, in accordance with Itron’s then current price list.

2. **Operations Monitoring.** Tier One Operator is onsite at Data Center 24 by 7 monitoring production systems.
3. **Application Upgrades and Hot Fixes.**
 - Application upgrades containing new features and function is available will be performed annually to the latest Application General release.
 - Application Hot Fixes will be performed at the discretion of Itron.
 - Change Control authorization will be required for all Application upgrades and Hot Fixes.
4. **KPI Reporting.** KPI reporting will be made available to the customer monthly and include the following:
 - Application Availability.
 - System Changes and Updates that require Change Control Board authorization.
 - Incident reporting including root cause analysis, resolution and preventive measures.
5. **Application Availability Service Level.**
 - 5.1. **Definition of Application Availability.** “Application Availability” is a measure of the extent to which Software-as-a-Service is operational, functional and usable.
 - 5.2. **Application Availability Performance Metric.**

Application	Production Performance Level

All applications for which Software-as-a-Service is provided (See Section 1, System Sizing Criteria).	99.5%
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5.3. Application Availability Performance Formula. Application Availability in the live production-level environment is measured daily. Application Availability equals the hours Itron's Software-as-a-Service platform is available divided by 24 hours.

5.4. Exclusions. The calculation of Application Availability shall not include scheduled maintenance periods, unscheduled emergency maintenance, incident investigations (e.g. accidents or other investigations that prohibit Customer or Itron in performing tasks to remedy any errors), outage time caused by declarations of force majeure, internet network delays or failures (including the restricted or denied access attributable to Customer's internet service provider), telecommunications or network delays or failures, computer failures that could not reasonably have been prevented by Itron, acts of vandalism (such as network intrusions and denial of service attacks), or other causes beyond Itron's reasonable control.

6. Performance Services Level Remedy.

6.1 Corrective Action. In the event that Itron fails to meet the Application Availability Service Level in any given month, Itron's sole obligation is to (1) provide Customer with an incident report, and (2) bring the Software-as-a-Services into compliance with the Application Availability Service Level by the conclusion of the next measurement month.

6.2 Termination Option: Three Consecutive Failures. In the event Itron does not meet the Application Availability Service Level for three consecutive months, the Customer may terminate its Software-as-a-Service subscription upon seven (7) days' prior written notice to Itron without any liability whatsoever, with the exception of fees for Software-as-a-Service rendered through the termination effective date.

7. Business Continuity. Business Continuity. All incidents requiring system recovery will be required to adhere to the incident handling and Itron's Crisis Action Plan Standard Operating procedures.

7.1. On Site Recovery. Itron uses a fault tolerant architecture virtualized to providing high availability infrastructure maximizing system availability.

Daily system and database backups are performed and stored on-site and at a secure off-site facility. System backups and snapshots are taken after any change to the system. Weekly backup written to removable media remain on site and are overwritten after seven days and then stored off-site for two weeks. Monthly backups are stored off site for 13 months. The system can be easily recovered from the backup in an event of a failure.

Backup are handled and exchanged using a defined procedure and agreement with a storage partner. All outdated data are carefully disposed of according to our defined standard operating procedures.

7.2 Off Site Recovery. Standard off site recover is included with each production system made available to Customer. Itron has access to recovery sites with qualified infrastructure services. Customer Specific off-site recovery options are available and customized to meet recover point and recovery time objectives.

Incident recovery performance Service Levels are defined in the following table:

Business Continuity and Recovery	Production Performance Recover Objectives after Identification of the incident.
On Site Recovery Time for restore from on-site backup	4 hours
On Site Recovery Time for backup restore from Off-Site backup	12 hours

On Site Recovery Time for hardware failure	12 hours
Off-Site Recovery for Application Non-critical to Customer business operations	72 hours (OpenWay/Cisco) 15 business days (all others)
Off-Site Recovery for Application Critical to Customer business operations	72 hours (OpenWay/Cisco) TBD (fee-based option for all others)

[End of Service Level Attachment]

ATTACHMENT A-1

Please check the type of Software being licensed or hosted (Itron Cloud Service) and enter the number of meters.

[RESERVED – NOT APPLICABLE]

**PRICING SUMMARY FOR PRODUCTS AND SERVICES PURCHASED DIRECTLY FROM ITRON
WILL BE ATTACHED**

ATTACHMENT A-2

Warranty Terms

Product	Warranty Terms
Centron and Sentinel electricity meters	3 years from shipment
Repairs for out-of-warranty electricity meters	Itron shall perform the repairs with reasonable care and in a diligent and competent manner. Itron's sole obligation in connection with repair warranty failures shall be, at its option, to correct or re-perform repairs or refund to Customer the amount paid for the repairs. Customer must report any deficiencies in repair work to Itron in writing within 90 days of shipment to receive the remedies described herein.
OpenWay Riva Water Module (including battery)	Full warranty consistent with the warranty terms in the Agreement for the first 10 years from shipment. For warranty claims in years 11 through 15, Itron's sole obligation will be to provide Customer with a discount on replacement product equal to 50 percent of its then-current list price for the replacement product. For warranty claims in years 16 through 20, Itron's sole obligation will be to provide Customer with a discount on replacement product equal to 25 percent of its then-current list price for the replacement product. The warranty on Itron water endpoints shall be void if the endpoint is used in connection with a third party reading system that is not approved by Itron.
100W and 100W+ series water endpoints (including battery)	Full warranty consistent with the warranty terms in the Agreement for the first 10 years from shipment. For warranty claims in years 11 through 15, Itron's sole obligation will be to provide Customer with a discount on replacement product equal to 50 percent of its then-current list price for the replacement product. For warranty claims in years 16 through 20, Itron's sole obligation will be to provide Customer with a discount on replacement product equal to 25 percent of its then-current list price for the replacement product. The warranty on Itron water endpoints shall be void if the endpoint is used in connection with a third party reading system that is not approved by Itron.
OpenWay Riva Leak Sensor	Full warranty consistent with the warranty terms in the Agreement for the first 5 years from shipment.
Leak Sensor (Non-OpenWay Riva)	Full warranty consistent with the warranty terms in the Agreement for the first 10 years from shipment. For warranty claims in years 11 through 15, Itron's sole obligation will be to provide Customer with a discount on replacement product equal to 50 percent of its then-current list price for the replacement product. For warranty claims in years 16 through 20, Itron's sole obligation will be to provide Customer with a discount on replacement product equal to 25 percent of its then-current list price for the replacement product.
Upgraded handhelds or Mobile Collectors	90 days from shipment.
METRIS Meters and I-250 Meters	Itron warrants that eighty five percent (85%) or more of the METRIS Meters and I-250 Meters shipped to Customer during any calendar year will be free from defects in materials and workmanship such that they maintain set point calibration that is within two percent of their original factory set point calibration (open and check) ("Calibration Warranty"). The foregoing Calibration Warranty is valid until the earlier of (i) 15 years from shipment to

Customer of the METRIS Meter and I-250 Meter for which warranty coverage is sought, (ii) the measurement of more than one million cubic feet of gas measured by such meter, or (iii) until such meter is replaced by Customer in connection with a periodic meter change-out.

Itron's sole obligation and Customer's exclusive remedy in connection with the breach of a warranty provided under this Section shall be for Itron, at its option, to repair any non-conforming METRIS Meters and I-250 Meters, provided that if Itron determines that it is unable to repair a non-conforming METRIS Meter and I-250 Meter, Itron will refund to Customer the depreciated value of such non-conforming METRIS Meter and I-250 Meter. At the request of Itron, Customer will provide evidence of a meter's service history to verify warranty coverage.

ATTACHMENT B
Terms of Service

(TO BE ATTACHED IF CLOUD SERVICE IS PURCHASED)

Pricing Summary



Electric / Gas / Water
Information collection, analysis and application

Pricing Summary for

City of Marquette, MI

1111 N. Motor Rd.
Liberty Lake, WA 99019
Tel: 855-787-6310
www.iron.com

SI/RF# 12393-17 Ver 6 Nov
November 3, 2017

Item	Category	Description	Qty	Unit Price	Extended Price	Notes
Software as a Service (SaaS)						(1-5)
				<u>Monthly Fee</u>	<u>Annual Fee</u>	
1	Annual Services	OpenWay Operations Center	7,011	\$3,425.00	\$40,860.00	
2	Annual Services	Iron Analytics with Customer Portal Software	7,011	\$1,258.45	\$15,077.44	
		Software as a Service (SaaS) Year 1		\$3,405.00	\$55,937.44	
Annual Maintenance						(7-8)
3	Maintenance	Connect Grid Router Base Support	9	\$346.90	\$3,121.20	
		Annual Maintenance Total			\$3,121.20	

Notes and Assumptions

- (1) Software as a Service (SaaS) is based on the total number of Endpoints.
Software as a Services (SaaS) offering that includes software license, software maintenance, IT Administration, IT infrastructure, and backhaul communication fees.
- (2) SaaS for OpenWay Operations Center is configured to support 7,011 ERT's for up to 450 days of storage.
- (3) SaaS for Iron Analytics with Customer Portal is configured to support up to 7,011 ERT's and 5 years storage of 60 minute interval data.
- (4) SaaS is offered for a minimum term of 12 months and will be invoiced annually.
On an annual basis, the Iron Cloud Services Team will assess how many endpoints are being managed by the system. If the endpoint count exceeds contracted amount by >5%, Iron will provide client revised pricing.
- (5) Utility to perform CGR monitoring and troubleshooting and interrogation monitoring, scheduling and troubleshooting.
Utility to perform meter exceptions.
Includes backhaul from CGR to head end. Backhaul charges are based on a system design ratio of 2000 meter to 1 CGR. If the ratio is significant reduced, additional backhaul charges may apply.
Iron to perform server administration, database administration, local area network administration, monitoring software administration.
Includes one production environment only. Additional environments such as Disaster Recovery and Test environments can be quote as options.
- (6) An annual escalator of 5% per year will apply starting in year 2.
- (7) Maintenance Notes:
 - Equipment will be added to an existing maintenance contract, if applicable.
 - Please do not include maintenance fees on your purchase order.
 - Maintenance will be invoiced at the end of the warranty period.
 - Maintenance will be invoiced separately.
- (8) Connected Grid Router pricing includes a standard five (5) year warranty.
- (9) OpenWay Riva Water Module full warranty is consistent with the warranty terms in the Agreement for the first 10 years from date of shipment.
For warranty claims in years 11 through 15, Iron's sole obligation will be to provide Customer with a discount on replacement product equal to 50 percent of its then-current list price for the replacement product.
For warranty claims in years 16 through 20, Iron's sole obligation will be to provide Customer with a discount on replacement product equal to 25 percent of its then-current list price for the replacement product.
- (10) Cisco Maintenance and SaaS will be billed directly by Iron to the City of Marquette, MI.
- (11) Taxes and freight are not included. Prices are in US dollars. Prices are valid for one year.