ITRON SOFTWARE LICENSE AGREEMENT

**Specific Terms**

This Software License Agreement (“**Agreement**”) is made and entered into between the Itron legal entity (“**Itron**”) and the “**Licensee**” identified in these Specific Terms. This Agreement consists of these Specific Terms and the General Terms and Conditions attached as Attachment A. Capitalized terms not defined in these Specific Terms will have the meanings set forth in the General Terms and Conditions.

|  |  |
| --- | --- |
| **License** | **XXX [Define the license company]** |
| **Effective Date** | XXX **[Define the date of effect for contract]** |
| **Term** | 10 years from Effective Date |
| **Software(s)** | 1. Itron IoT frame transcoder library (dll .net) 2. Itron Android Radian Communication Driver 3. Itron Universal wM-Bus Communication Driver 4. Itron RFCT Configuration Tool 5. Itron NFC Field Tool 6. Integrator Package (include 2/3/4/5)   **[Select the Software(s) impacted by the contract]** |
| **Additional Restrictions** | * Each SW tool listed above requires a specific dedicated license.   In the case of RFCT Configuration Tool (4) usage, no additional License is needed for Itron Communication drivers (2 and 3) as they are embedded.   * License files are controlled by Android device (RF Master or Android Devices).   Same license can integrate Several RF Master or Several Android Devices, but not both.   * The license for Itron IoT frame transcoder library (dll .net) (1) is limited to installation and use of one copy of the Software by Licensee.   The license allows:  to decipher and decode either the Enhanced or Complete data set collected via IoT networks (LoRaWAN, Sigfox) from Itron IoT Devices owned or controlled by Customer in the Territory  to send secure commands to synchronize the clock of said Itron IoT Devices   * The license for Itron IoT frame transcoder library (1) or Itron Communication Driver (2 or 3) allows Licensee to incorporate the Library or Driver in its own Reading software in order to offer services to its Customers, notwithstanding any restriction to the contrary in the General Terms and Conditions, Clause 2.2.   In that case the license file will be linked to integrator and Host Software ID.   * The license for Itron RFCT Configuration Tool (4) or NFC Field Tool (5) is limited to installation and use by Licensee of one copy of the Software for one Device used by Licensee to remotely configure Itron IoT Device owned or controlled by Customer in the Territory. * In the case of Integrator, a single package could be furnished including RFCT, NFC Field Tool and Both communication drivers. This package will only be usable in the authorized software on Itron IoT Devices owned or controlled by Customer in the Territory   "**Customer**" means: any company managing a public or private water, gas or heat distribution network, or water or heat consumption allocation, and established in the Territory.  "**Territory**" means: XXX [insert country name].  Any use of the Software that is not expressly included in the above license scope (and subject to other restrictions in this Agreement), or for reading data from any other source, or for the benefit of anyone other than the Licensee in the Territory, is prohibited. |
| **Name of Third-Party Software** | XXX |
| **Fees** | IoT frame transcoder library: 300€ per SW application renewable every 2 years  Communication Drivers: 300€ per SW Application renewable every 2 years  RFCT Configuration Tool: 100€ per Android Device or RF Master renewable every 2 years  NFC Field Tool: 100€ per Android Device renewable every 2 years  Integrator Package : 10000€ renewable every year |

|  |  |  |
| --- | --- | --- |
|  | **Licensee** | **[Itron entity name]** |
| **Signature** |  |  |
| **Name** |  |  |
| **Title** |  |  |
| **Date** |  |  |
| **Registered Office Address** |  |  |
| **Notification Address** |  | Itron France  2 rue de Paris, 92190 Meudon, France  Attn: EMEA Legal Department |
| **Registered number** |  | RCS Nanterre 434.027.249 |

**ATTACHMENT A – GENERAL TERMS AND CONDITIONS**

1. **DEFINITIONS**

"**Deliverable**" means any software, license files, reports, results, studies or other documentation identified as a "Deliverable" to be provided by Itron.

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

"**Device**" means a hand-held unit or terminal or other mobile device used in the field to read data from meters.

"**Documentation**" means the standard printed or electronic materials provided by Itron to Licensee that describe the functional, operational or performance capabilities of the Software.

“**Licensee Material**” means information, content, data, Personal Information, equipment, software and other materials that Licensee makes available to Itron for use in connection with this Agreement, regardless of who owns or controls such information or materials.

**“Personal Information”** means any information provided by Licensee to Itron (a) that identifies or can be used to identify, contact, or locate the person to whom such information pertains; or (b) from which identification or contact information of an individual person can be derived.

"**Software**" means software identified in the Specific Terms that is owned by Itron and any modifications, corrections, improvements or enhancements thereto provided by Itron that are designated by Itron as being licensed to Licensee under this Agreement.

"**Third Party Software**" means software that is not owned by Itron but is identified in the Specific Terms as being provided by Itron.

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

1. **LICENSE AND RESTRICTIONS**

2.1Grant to Licensee*.* Subject to Licensee’s strict compliance with the terms and conditions of this Agreement, Itron grants Licensee, during the term specified in the Specific Terms, a nonexclusive, nontransferable, object code license to Use the Software and Documentation solely for Licensee’s internal business purposes and solely as described in the Additional Restrictions set forth in the Specific Terms.

* 1. Use Restrictions. Licensee will not (a) violate any Additional Restrictions set forth in the Specific Terms; (b) modify or create any derivative work from the Software; (c) include the Software in any other software; (d) use the Software to provide processing services to third parties or on a service bureau basis; (e) subject to Section 2.3, reverse assemble, decompile, reverse engineer or otherwise attempt to derive source code (of the underlying ideas, algorithms, structure or organization) from Software; (f) use the Software to process business information concerning customers derived through merger, asset acquisition or other entity combination; or (g) circumvent or attempt to circumvent any technological mechanism (such as digital rights management technology) that is designed to restrict access or limit copying and that is included in or applied to any Software*.*

To the extent the European Union Directive 2009/24/EC on the legal protection of computer programs or similar legislation or regulations (collectively, the “Directives”) may provide Licensee the right to decompile the Software in order to obtain information necessary to achieve the interoperability of an independently created computer program, prior to exercising any such possible rights under the Directives, Licensee agrees to (a) first notify Itron of Licensee’s good faith belief that information necessary to achieve the interoperability of an independently created computer program is not otherwise available and that decompilation is indispensable within the meaning of the Directives; and (b) provide Itron with a reasonable amount of time to respond to Licensee regarding the foregoing assertions.

* 1. Copy and Installation Restrictions. Except as expressly permitted in this Agreement, (a) the Software may not be installed on a Device that is not owned or controlled by Licensee; (b) Licensee may not copy the Software other than to make a machine readable copy or copies for disaster recovery or archival purposes only, strictly within the limits of what is expressly permitted by applicable law. Licensee may only make copies of Documentation as reasonably necessary for the use contemplated herein. Licensee will not remove any copyright, trademark or confidentiality notices placed on the Software and Documentation and will reproduce all such notices when making copies of the Software and/or Documentation.
  2. Reporting. Licensee will provide Itron with an annual report, in a form and delivery manner designated by Itron, specifying the number of Devices on which the Software is used and such other information that may be requested by Itron regarding Licensee’s use of the Software.
  3. Software Updates. Itron may, but will not be obligated under this Agreement to, provide updates, enhancements, improvements, new release or other versions of the Software to Licensee. In the event Itron offers and Licensee enters into a Maintenance Agreement for the Software, Itron will provide updates and error corrections to the Software in accordance with the Maintenance Agreement. In any event, Licensee will direct any and all maintenance requests to Itron first. For clarity, except for repair or replacement in accordance with this Agreement or any applicable Maintenance Agreement, Itron reserves the right to designate enhanced, modified, new release and other versions of the Software as being subject to additional or separate license terms, including additional license fees.
  4. Grant to Itron. Licensee grants Itron a non-exclusive license to use, copy, modify and create derivative works of the Licensee Materials during the Term and solely in connection with Itron’s fulfillment of its obligations under this Agreement.

1. **PAYMENTS AND TAXES**
   1. Payments. Licensee shall pay Itron the fees set forth in the Specific Terms. Licensee will pay invoices within 30 days of the invoice date and otherwise in accordance with payment instructions included on the invoice. All fees are due and payable in the currency in which they were quoted and invoiced by Itron. Itron may charge Licensee interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) on all past due amounts. Licensee will also be responsible for collection costs associated with late payment, if any, including reasonable attorneys' fees. Any maintenance or other services or license Itron agrees to provide to Licensee will be subject to price and terms agreed separately for such services or license.
   2. Taxes. All Fees and any other amounts payable by Licensee are exclusive of applicable taxes and duties, including VAT and applicable sales tax. Licensee will provide any information reasonably requested by Itron to determine whether Itron is obligated to collect VAT from Licensee, including Licensee’s VAT identification number. If any deduction or withholding is required by law, Licensee will notify Itron and will pay any additional amounts necessary to ensure that the net amount that Itron receives, after any deduction and withholding, equals the amount Itron would have received if no deduction or withholding had been required. Additionally, Licensee will provide Itron with documentation showing that the withheld and deducted amounts have been paid to the relevant taxing authority. If Licensee is a tax exempt entity, or pays taxes directly, Licensee will provide Itron with a copy of its tax exemption certificate or direct pay permit, as applicable, upon execution of this Agreement.
2. **CHANGES.** Changes to the Software license grant or services ordered by Licensee pursuant to this Agreement, including any additional or incremental licenses, changes in scope of the license, or the purchase of additional or entirely new services, may be made at Itron's then-current pricing by a change order signed by the parties.
3. **CONFIDENTIALITY; PERSONAL INFORMATION; INJUNCTIVE RELIEF; FEEDBACK**
   1. Confidentiality. All 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 of disclosure, will be treated by the receiving party as confidential information in a reasonable and appropriate manner and may be used and reproduced by the receiving party 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: (a) publicly known; (b) already known to the recipient; (c) lawfully disclosed by a third party; (d) independently developed; or (e) disclosed pursuant to a legal requirement or order (provided the party intending to comply with any such legal requirement or order will give the other party with as much advance written notice of its intention to disclose the information as reasonably possible). 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 Software and Documentation are confidential information of Itron.
   2. Personal Information*.* Licensee will at all times comply with applicable law, including data protection and privacy laws, and be wholly responsible and liable for its violations of law, misuse of Personal Information or violations of applicable notices and statements regarding the collection, use, storage, or disclosure of Personal Information.
   3. Injunctive Relief. Licensee acknowledges and agrees that certain obligations of Licensee set forth in this Agreement, including but not limited to obligations of confidentiality and limited use rights of the Software, are of a special, unique and extraordinary character and that a breach of those obligations would result in irreparable and continuing damage to Itron for which there will be no adequate remedy at law. Accordingly, in the event of any such breach, Itron will be entitled to injunctive relief and/or a decree of specific performance, in addition to such other and further relief as may be proper (including monetary damages if appropriate).
   4. Feedback. Licensee may from time to time provide suggestions, comments or other feedback (“**Feedback**”) to Itron regarding the Software or other Itron products or services. Licensee agrees that Feedback is and will be given entirely voluntarily. Feedback, even if designated as confidential by Licensee, will not create any confidentiality obligation for Itron. Licensee will not provide any Feedback to Itron that (a) Licensee has reason to believe is subject to any patent, copyright, or other intellectual property claim or right of any third party; or (b) is subject to license terms that seek to require any Itron product incorporating or derived from such Feedback, or other Itron intellectual property, to be licensed or otherwise shared with a third party. Itron will be free to use, disclose, reproduce, license or otherwise distribute and exploit the Feedback provided to it as it sees fit, entirely without obligation or restriction of any kind on account of intellectual property rights or otherwise.
4. **IP OWNERSHIP.**  Itron will, as between Itron and Licensee and subject to the limited Licensee use rights set forth in this Agreement, have and retain sole and exclusive ownership of all right, title and interest in and to any product, software or deliverables provided by Itron pursuant to this Agreement, including but not limited to, all patents, copyrights, mask works, trade secrets, trademarks and other proprietary rights. Itron will further, as between Itron and Licensee, have sole ownership of all improvements and modifications to any product, software or deliverables provided by Itron pursuant to this Agreement, whether such improvements or modifications were based upon Licensee feedback and/or made by either party alone or in cooperation with each other. Upon request, Licensee will take all necessary actions to assign ownership of the products, software and deliverables to Itron.
5. **WARRANTY DISCLAIMER.** To the maximum extent permitted by law, the Software is provided “as is” without warranty of any kind. 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 mandatory warranty cannot be excluded under applicable law, such warranty is limited in duration to 90 days from delivery.
6. **LICENSEE INDEMNIFICATION**. Licensee will defend Itron from any third party claim and pay any resulting costs and damages (or settlements) that are based upon or arise out of (a) Licensee’s breach of its obligations under this Agreement; (b) Licensee’s failure to comply with applicable laws; (c) Itron’s use of Licensee Materials in accordance with this Agreement; and (d) Licensee’s negligence or intentional torts.
7. **WAIVER OF CONSEQUENTIAL DAMAGES.** Notwithstanding anything to the contrary in this Agreement, except for an indemnification obligation owed by Licensee under this Agreement or a breach by Licensee of any intellectual property right of Itron or any license granted by Itron hereunder, 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 damages, loss or corruption of data or loss of revenue, savings or profits or exemplary damages, even if the party has been advised of the possibility of such damages. Itron's pricing reflects this allocation of risks and limitation of liability.
8. **CAP ON LIABILITY.**  Notwithstanding anything to the contrary in this Agreement, except for an indemnification obligation owed under this Agreement or a breach by Licensee of any intellectual property right of Itron or any license granted by Itron hereunder, the aggregate liability of each party and its affiliates arising in any way in connection with this Agreement—whether under contract law, tort law, warranty or otherwise—will not exceed the higher of the total amount paid hereunder or US$500. Itron will not be liable for any claim made the subject of a legal proceeding more than two (2) years after the cause of action asserted in such claim arose. Itron's pricing reflects this allocation of risks and limitation of liability.
9. **TERM AND TERMINATION**
   1. Term of Agreement*.* The term of any license provided by Itron hereunder will be as set forth in the provision granting such license.
   2. Termination for Cause*.* Other than Licensee’s nonpayment which will constitute a breach of this Agreement if full payment is not received within seven (7) days of written notice, either party may terminate this Agreement by providing the other party with written notice if the other party (a) becomes insolvent, executes a general assignment for the benefit of creditors or becomes subject to bankruptcy or receivership proceedings; (b) breaches its obligations related to the other party's confidential information; or (c) commits a material breach of this Agreement that remains uncured for 30 days following delivery of written notice of such breach.Upon a termination by Itron for cause, Licensee's license to any Software and right to receive maintenance and support for such Software will immediately terminate and Licensee will (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 ten (10) days of any such termination that, to the best of Licensee's knowledge, Licensee has complied with this Section.
   3. Survival*.*  Any provision of this Agreement that contemplates performance or observance subsequent to termination or expiration of this Agreement will 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.
10. **MISCELLANEOUS**
    1. 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 Licensee 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 will be bound by terms and conditions imprinted on or embedded in purchase orders, order acknowledgments, or other communications between the parties subsequent to the execution of this Agreement.
    2. 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 will constitute a waiver of that provision. No waiver granted under this Agreement as to any one provision herein will constitute a subsequent waiver of such provision or of any other provision herein, nor will it constitute the waiver of any performance other than the actual performance specifically waived.
    3. Governing Law, Jurisdiction. This Agreement and performance hereunder will be governed by and construed in accordance with the laws of France without reference to the conflicts of law principles or the United Nations Convention on Contracts for the Sale of Goods. The parties consent to exclusive jurisdiction and venue in the courts of Paris, France.
    4. Assignment*.* Licensee 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 Licensee will be null and void.  For purposes of this Agreement, the acquisition of an equity interest in Licensee of greater than twenty-five (25) percent by any third party will be considered an assignment.
    5. Publicity*.* 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.
    6. 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, lobal pandemic, volcanic eruption, war, third-party suppliers, labor disputes or governmental acts. Notwithstanding the foregoing, Itron will have no obligation to deliver equipment, products, software or provide services to the extent that Licensee is unable to pay as a result of a force majeure event.
    7. Compliance with Laws. Each party will comply with all applicable international and national laws and regulations in the performance of all of activities under this Agreement. Licensee will 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.
    8. Notices*.*Any notice required or permitted under this Agreement or required by law must be in writing and must be delivered in person, by certified mail (return receipt requested), or by a nationally recognized overnight service with all freight charges prepaid, to the address set forth in the Specific Terms (or such other address as a party may subsequently designate in a notice to the other party).  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).
    9. 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 will 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 be construed against the drafter of the agreement will 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 will constitute one and the same agreement. This Agreement is entered into only for the benefit of Licensee and Itron. No other person or entity will have the right to make any claim or assert any right hereunder, and no other person or entity will be deemed a beneficiary of this Agreement*.*