

## ECOFIT MASTER AGREEMENT EQUIPMENT ADDENDUM

Last Updated: October 31, 2019

This Hardware Addendum (“**Equipment Addendum**”) is part of, subject to and governed by the terms and conditions of the EcoFit Master Agreement between Customer and EcoFit that references this Equipment Addendum.

1. **Definitions.** Capitalized terms used but not defined in this Equipment Addendum have the meanings set forth elsewhere in the Agreement.
2. **Equipment.** This Equipment Addendum sets forth the terms and conditions upon which EcoFit will make available to Customer the relays, gateways and other hardware and equipment identified in an Order (the “**Hardware**”) and license the software embedded in the Hardware (the “**Software**”) and related documentation (the “**Documentation**”), and together with the Software and Hardware, the “**Equipment**”).

### **3. Hardware.**

3.1 **Shipment and Delivery.** Unless expressly agreed to by the parties in writing, EcoFit will select the method of shipment of, and the carrier for, the Hardware. EcoFit may, in its sole discretion, without liability or penalty, make partial shipments of Hardware. Each shipment will constitute a separate sale, and Customer will pay for the units shipped whether such shipment is in whole or partial fulfilment of an Order. EcoFit will deliver the Hardware to the delivery location specified in the Order, using EcoFit’s standard methods for packaging and shipping such Hardware. Any time quoted by EcoFit for delivery is an estimate only. EcoFit is not liable for or in respect of any loss or damage arising from any delay in filling any Order, failure to deliver or delay in delivery. EcoFit will properly pack, mark and ship the Hardware to Customer or End Customer (as indicated in at Order) and provide Customer with shipment documentation showing the Order number, EcoFit’s identification number for the subject Hardware, the quantity of pieces in shipment, the number of cartons or containers in shipment and EcoFit’s name. Customer has no right to return Hardware purchased under this Agreement to EcoFit. Notwithstanding any provision of the Order Form or under a separate Addendum that may require EcoFit to perform certain installation or configuration services, EcoFit’s delivery pursuant to this Section 3.1 will be deemed complete, and Customer will be deemed to have accepted the Equipment, upon delivery.

3.2 **End Customers.** Customer will ensure that all customers to whom EcoFit resells the Hardware (“**End Customers**”), are bound by enforceable agreements containing terms that are no less restrictive or protective of EcoFit and its licensors’ rights than those set forth in this Agreement.

4. **Software License.** Subject to the terms and conditions of the Agreement, EcoFit grants Customer a non-exclusive, non-transferable, non-sublicenseable, and limited license (“**License**”) to execute one copy of the Software, in executable object code form only, solely in each unit of Hardware and solely for use with each such unit of Hardware. Subject to Section 6 herein, the terms and conditions of this Equipment Addendum applies to Customer’s use of the Software notwithstanding any electronic software license agreement that may be included as part of the downloading, installation, or use of the Software.

5. **Uploads; Internet.** The Equipment may automatically upload information to the Cloud Services on a regular or periodic basis to accommodate the proper operation and provisioning of the Cloud Services. Customer agrees not to tamper or otherwise interfere with the collection by or transmission to

the Cloud Services of any such information, and to work with EcoFit to facilitate such uploads. If such uploads are not available for any reason, Customer will promptly notify EcoFit and reasonably cooperate with EcoFit in correcting the problem. Customer acknowledges and agrees that its use of the Equipment and Cloud Services will require an Internet connection available on a continuous basis, which connection and associated costs are Customer's sole responsibility.

**6. Third Party Materials.** The Equipment may include hardware, software, content, data or other materials, including related documentation, that are owned by third parties and that are provided to EcoFit on terms that are in addition to or different from those contained in this Equipment Addendum ("Third-Party Terms"). A list of all such materials, if any, included in the Equipment and provided under Third-Party Terms will be provided by EcoFit upon written request from Customer. Customer is bound by and will comply with all Third-Party Terms. Any breach by Customer of any Third-Party Terms is also a breach of this Equipment Addendum.

**7. Support; Maintenance; Updates.**

**7.1 Support.** Unless otherwise agreed between the parties in a separate Addendum or in a separate written agreement, EcoFit will have no obligation to provide support services for the Equipment.

**7.2 Maintenance Services.** Customer will operate and maintain the Equipment in good working order, repair and condition, and in accordance with: (a) applicable laws; (b) EcoFit's specifications and recommendations; and (c) and Third Party Terms. EcoFit may, in its sole discretion, include the provision of such updates, upgrades, bug fixes, patches and other error corrections (collectively, "Updates") as EcoFit makes generally available to other licensees of the Software. All Updates will be deemed Software subject to all terms and conditions of this Agreement. Unless otherwise agreed to in writing, maintenance services do not include any new version or new release of the Software that EcoFit may issue as a separate or new product, and EcoFit may determine whether any issuance qualifies as a new version, new release or Update in its sole discretion.

**7.3 Automatic Updates.** The Software may automatically communicate with EcoFit's Cloud Services to receive Updates. The Updates may be automatically installed without providing any additional notice or receiving any additional consent. Customer consents to these automatic Updates. If Customer does not want the Updates, it should not use the Software. EcoFit may require Software to contain Updates as a condition to the License.

**8. Price; Payment.**

8.1 **Price.** The prices payable by Customer for Hardware ordered are as indicated in the Cover Page, each Order or as otherwise agreed to by the parties in writing.

8.2 **Payment.** Payment from Customer may be accepted by methods made available by EcoFit from time to time, including credit card. Customer agrees to pay EcoFit for the price of all Hardware ordered. Customer must pay in advance for all Hardware purchases, unless otherwise agreed to in writing by EcoFit. If Customer fails to make timely payment Customer agrees that EcoFit may, in addition to all other rights and remedies provided to EcoFit hereunder or at law, cease fulfilling accepted Orders or otherwise making Hardware available to Customer for purchase. Customer is responsible for billing and collecting any payments for Hardware from its customers including End Customers.

**9. Term and Termination.** This Equipment Addendum is effective beginning on the earlier of: (a) the date Customer first uses the Software or Hardware; or (b) the date Customer agrees to be bound by

this Equipment Addendum; and will continue for as long as Customer owns or uses the Hardware, unless terminated earlier in accordance with the Agreement or this Equipment Addendum. EcoFit may terminate this Equipment Addendum and the License upon providing written notice to Customer if Customer fails to comply with the terms and conditions of the Agreement or this Equipment Addendum. The provisions of Sections 4 and 6 will survive termination or expiration of this Equipment Addendum together with such other provisions of this Equipment Addendum which expressly or by their nature survive termination or expiration.