



TIME & ATTENDANCE

HARDWARE TERMS AND CONDITIONS

This Time & Attendance Hardware Addendum (the “**Addendum**”) forms part of the Agreement (as defined in Viventium’s Master Terms and Conditions) between Viventium and User that governs User’s use of Viventium’s products and services.

Capitalized terms not defined herein have the meanings set forth in the Agreement.

- 1) Freight. User shall pay (a) all freight Viventium FOB (with User retaining risk of loss of shipping), and (b) all sales, use, withholding, excise, value added, ad valorem taxes, tariffs, duties or the like incurred by User or imposed on Viventium or Viventium’s suppliers in the performance of this Addendum or otherwise due as a result of this Addendum.
- 2) Third Party Intellectual Property. As part of the hardware, Viventium may provide third party goods or services where such goods or services contemplate the use of third party Intellectual Property (“Third Party Intellectual Property”). All Third Party Intellectual Property shall be licensed or provided to User via terms and conditions provided by such third party, and such terms and conditions (as to such Third Party Intellectual Property) shall govern over any terms set forth in this Agreement or any Ordering Document. As an illustration, when Viventium or its supplier procures devices for User, the mobile device supplier provides the terms and conditions which govern the firmware on the device and any license to the firmware shall be in accordance with the terms and conditions provided by the supplier.
- 3) Third Party Warranties. Viventium shall pass on any third party warranties related to goods (including third party software) or services related to the hardware, to the extent allowed by the supplier of such goods or services. User hereby holds Viventium and its officers, directors, and personnel harmless from any third party representations or warranties, the acts or omissions of third parties providing goods or services, and from any issues arising out of or related to such third party goods or services.
- 4) Third Party Products. All rights and licenses to any embedded software in the hardware are governed by the EULA, if any, provided with such embedded software. User may return Third Party Products only to the extent that Viventium or its suppliers have the right to return any such product granted to it by the applicable manufacturer or supplier. In any case, the ability to return, restocking fees and other terms and conditions will apply and may differ by manufacturer or supplier. User acknowledges that all hardware sales are final except as expressly set forth herein.
- 5) Return of Hardware. To the extent any return of hardware is permitted under this Addendum, the Agreement, or the applicable manufacturer’s or supplier’s terms, User must return such hardware in accordance with Viventium’s instructions within twenty-one (21) days after the date such return is



requested or otherwise required. If User fails to timely return the hardware, User shall pay Viventium, upon invoice, the replacement cost of such hardware and any related shipping, handling, restocking, or other charges incurred by Viventium.

6) Limited Warranties

- a) **Warranty – Hardware.** From the date of purchase by User and continuing for twelve (12) months, Viventium warrants that if used in accordance with the supplied documentation, the hardware will substantially conform to the documentation thereof under normal use. User's sole and exclusive remedy for a breach of the above warranty will be, at Viventium's option and at no charge to User (excluding freight and handling), to (i) repair the non-conforming hardware, (ii) replace the hardware, or (iii) if Viventium determines that neither of the foregoing is commercially reasonable, accept a return of the hardware for a full refund. This limited warranty applies only if the hardware is used for the purpose and in the environment intended and in accordance with this Addendum and the Agreement and are not subject to accidental damage, misuse, or abuse. Replacement hardware carries the remainder of the original warranty period. If Viventium or Viventium's supplier investigates a hardware malfunction pursuant to User's request and such malfunction is found to be caused by operator error or erroneous system configuration (such as improper hardware, software, peripheral equipment, cabling, operating environment, improper data supplied by User, misuse, or any other cause not inherent in the hardware), Viventium reserves the right to charge for its or its suppliers services at its then current time and materials rates.
- b) **Pass-Through of Warranties and Indemnifications Third Party Products and Embedded Software.** User acknowledges that the third-party products and embedded software are developed and manufactured by third parties. Accordingly, all warranties and indemnification obligations related to Third Party Products and embedded software offered by the manufacturers and vendors thereof, if any, shall be passed through by Viventium to User to the extent practicable and/or shall be provided directly to User from the manufacturer of the Third Party Products and/or embedded software. Notwithstanding anything in this Agreement to the contrary, User agrees that Viventium shall have no warranty or indemnification obligations, express or implied, with respect to Third Party Products or embedded software.
- c) **OTHER THAN AS STATED HEREIN AND SUBJECT TO THE AGREEMENT'S LIMITATION OF LIABILITY, VIVENTIUM MAKES NO REPRESENTATIONS, WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, WITH RESPECT TO THE HARDWARE OR ANY OTHER GOOD OR SERVICE OR THIRD PARTY GOOD OR SERVICE PROVIDED OR TO BE PROVIDED PURSUANT TO THIS ADDENDUM, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

- 7) **No Refunds for Hardware.** EXCEPT AS EXPRESSLY PROVIDED IN THE AGREEMENT (INCLUDING ANY LIMITED WARRANTY RIGHTS SET FORTH IN THE APPLICABLE HARDWARE ADDENDUM), ALL PURCHASES OF HARDWARE ARE FINAL. USER ACKNOWLEDGES AND AGREES THAT IT SHALL HAVE NO RIGHT TO CANCEL ANY ORDER FOR HARDWARE OR RECEIVE ANY REFUND, CREDIT, OR OTHER



COMPENSATION FOR ANY HARDWARE DELIVERED OR ORDERED, REGARDLESS OF WHETHER SUCH HARDWARE HAS BEEN USED, INSTALLED, CONFIGURED, OR OTHERWISE PUT INTO SERVICE.