

## EXHIBIT B

### ENERGYAXIS MANAGEMENT SYSTEM (EA\_MS)

#### SYSTEM LICENSE AGREEMENT

This System License Agreement (this "Agreement") is made and entered into effective this 24<sup>th</sup> day of June, 2014 ("Effective Date") by and between Elster Solutions, LLC, a Delaware limited liability company, with offices at 208 S. Rogers Lane, Raleigh, NC 27610, USA, ("Elster" or "Licensor"), and City of Santa Clara California, a chartered California municipal corporation, with offices at 1500 Warburton Avenue, Santa Clara, CA 95050 ("City" or "Licensee").

In consideration of their mutual promises, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### 1 DEFINITIONS

<b>Authorized User</b>	The number of operators authorized to use the Software, as more particularly described in Appendices C-1 and C-2 attached hereto and incorporated herein by this reference.
<b>Release(s)</b>	Modification or enhancement to the Software that provides additional value and utility, or adds functions, together with all corresponding Documentation, and typically identified by a change in the first or second decimal of the application version number (i.e., 2.2.0.0 to 2.3.0.0).
<b>Documentation</b>	All printed or electronic documentation which Licensor customarily provides or makes available to the Licensee with the Software, including the Specifications and all Updates and Releases of such Documentation, all in the English language.
<b>Integrated System</b>	The commercially available product, which may be hardware, software, or a combination thereof, into which the Software has been integrated in accordance with the license granted to the Licensee hereunder.
<b>Network Device</b>	An individual appliance, component or peripheral from which Licensee collects and analyzes data using the Software.
<b>Route Manager</b>	The Software required to install and configure EA_Water and EA_Gas modules, create marriage files, setup and maintain data collection routes
<b>Software</b>	The binary code version of all software applications, updates, and releases furnished by Elster for a Client's AMI System, including media, user manuals, or other instructional materials and documentation, and any modified, updated or enhanced versions of such applications
<b>Specifications</b>	The functionality, operating characteristics and performance criteria of the Software as set out in the Documentation.

**Third Party Software** Computer software and any documentation distributed by Licensor under this Agreement, but owned or licensed by other parties (other than Licensor affiliates), and either embedded in the Licensor's Software or distributed separately by Licensor. Third Party Software and related documentation may include source code as well as binary code, all of which shall be governed by the terms hereof and the applicable license agreement between such Third Party Software Licensor and Elster.

**Update(s)** Any change, addition or correction to the Software, including the Documentation that primarily includes bug fixes and maintenance modifications that improve or upgrade functions, add new functions, or improves performance by changes in software design, and are typically identified by a change in the third or fourth decimal of the application version number (i.e., 2.0.2.0 to 2.0.0.2).

**Use** To load, execute, employ, utilize, store or display the Software.

## 2 TERM

The term of this Agreement is one (1) year beginning on the Effective Date with automatic renewals for successive one (1) year periods unless terminated earlier by either Party in accordance with the provisions set forth herein.

## 3 LICENSE GRANT

Licensor hereby grants to Licensee a nonexclusive, nontransferable license for EnergyAxis 8.0, subject to the terms and conditions set forth in this Agreement, to Use the Software (in binary code only), Third Party Software and the applicable Documentation during the term of this Agreement.

As a provider of electricity, water or gas or any combination thereof to the general public, the software license granted herein authorizes the Licensee use of the Software for reading and managing devices owned by the Licensee, provided such devices are within the Licensee's existing network. The software license does not support Licensee's current or planned expansion to other utilities.

Licensee is authorized as follows:

- a) To Use the Software and Third Party Software, in binary code only, solely in connection with Licensee's business purposes as set forth above and for internal business operations;
- b) To make one copy of the Software and Third Party Software for backup purposes only as long as that copy is not running on a server;
- c) To run a non-production backup of the Software and Third Party Software for purposes of testing or as a backup for the operational system subject to payment of the incremental license fee in [Appendix B-2](#).

Licensor further grants to Licensee a nonexclusive, nontransferable license, subject to the terms and conditions of this Agreement and the restrictions on use of Third Party Software stated herein, to operate the EA\_MS Software and Third Party Software in a virtual environment. Under this arrangement the Licensee is responsible for notifying the Licensor in writing within ten (10) days of each new application of the Software, and the Licensee will incur additional license fees for each new application in accordance with the fee schedule and terms set forth in this Agreement and attached appendices.



Licensee's use of the Software and Third Party Software is limited to use in connection with the maximum number of Authorized Users and Network Devices contracted through the Agreement. Licensee may increase the number of servers or computers upon written request and payment of additional fees. Agents, consultants, and contractors of Licensee may be authorized to Use the Software and Third Party Software subject, in all cases, to the terms of this Agreement. Licensee acknowledges and agrees that Licensee shall be fully responsible and liable for the compliance of any agents, consultants and contractors with this Agreement, including the confidentiality and intellectual property ownership provisions hereof.

Licensee shall Use the Software on the Integrated System only. Use of any Third Party Software is limited to the Licensee legal entity signing this Agreement.

Licensee may not Use the Software (including any Third Party Software) except as expressly provided for in this Agreement, nor cause or permit reverse engineering, disassembly, or decompilation of the Software or any Third Party Software.

Third Party Software and technology are necessary components of the Software and subject to restricted third party licenses. Unless separately licensed by the applicable third party to Licensee, Third Party Software can only be configured, installed and used by the Licensee in conjunction with the authorized use of the Software, and with execution of this Agreement is licensed to the Licensee only for such purpose.

Licensee shall not navigate the underlying data schema, nor configure, use or install embedded Third Party Software separately or independently of the Software.

Trademarks, trade names or logos included or embedded in the Software and Third Party Software shall remain with the Software and Third Party Software and may not be removed or altered by Licensee.

Additional third party technology included with the Third Party Software is included solely for use with the application package and under the terms of any third party license agreement included with the application package. If no such third party license agreement is included, all third party technology included in the application package with the Third Party Software shall be licensed under the terms of this Agreement, including any additional license terms applicable to the Third Party Software.

The license granted in Section 3 above shall be effective as of the "Effective Date" first written above, and shall continue in effect unless terminated in accordance with Section 15 of this Agreement.

Licensee shall procure the Integrated System required to operate the Software, as specified in [Appendix B-1](#), either from Licensor or a third party.

#### **4 OWNERSHIP AND INTELLECTUAL PROPERTY RIGHTS**

Licensee hereby acknowledges and agrees that the Software, the applicable Documentation and all patents, copyrights, trade secrets and trademarks related thereto are the exclusive property and Confidential Information of Licensor or its affiliates and their Third Party Software licensors and that Licensor or its affiliates and their respective Third Party Software licensors, as applicable, own all rights, title and interest, including, without limitation, all worldwide patent, copyright, trade secret and trademark rights and all goodwill associated therewith, in and to the Software and Third Party Software.

Except for the license granted by Licensor to Licensee pursuant to Section 3 of this Agreement, Licensee shall acquire no right, title or interest of any kind or nature whatsoever in or to the Software or any Third Party Software or any patent, copyright, trade secret or trademark of Licensor, Licensor's affiliates or Licensor's licensors.

The Software is protected under United States and international copyright, trade secret and other intellectual property laws. Without limiting the generality of the foregoing, the parties acknowledge and agree that the source code, binary code and all visual, printed and other outputs of the Software are trade

secrets of Licensor and its affiliates and licensors. Except as otherwise expressly permitted under this Agreement, Licensee may not copy, translate, modify, display, patch, alter or otherwise change or make derivative works of the Software, Third Party Software, the applicable Documentation or any individual part thereof. Licensee shall not alter or remove any copyright notice or any propriety legend contained in or located on any part of the Software, Third Party Software, or the applicable Documentation and shall reproduce and maintain all such copyright notices or proprietary legends in and on any copy of the Software, Third Party Software, or Documentation that Licensee makes as permitted by this Agreement.

## **5 RESTRICTIONS ON USE, TRANSFER AND PROVISION OF SERVICES**

Licensee shall not derive or attempt to derive the source code or structure of all or any portion of the Software or Third Party Software by reverse engineering (except as required by law for interoperability), disassembly, decompilation or any other means. Licensee shall not give, sell, rent, lease, pledge, encumber, hypothecate, timeshare, provide subscription services for, sublicense, disclose, publish, assign, market, transfer or distribute any portion of the Software, Third Party Software or the applicable Documentation or other rights to any third party, including but not limited to Licensee's subsidiaries and affiliates. Licensee shall not publish the results of any benchmark tests run on the Software or Third Party Software and shall treat such results as Confidential Information of Licensor.

## **6 CONFIDENTIALITY**

Each Party (the "Receiving Party") shall maintain in strict confidence any and all proprietary and confidential information about the business, operations or customers of the other Party or any of their affiliates which it acquires in any form from the other Party (the "Disclosing Party"), including without limitation the terms of this Agreement, or any other information disclosed by the Disclosing Party and identified by Disclosing Party as confidential ("Confidential Information"). The Receiving Party will not disclose such Confidential Information with any third parties without the Disclosing Party's prior written consent. The Receiving Party further agrees to use its best efforts and to take all reasonable precautions to maintain strict confidentiality with respect to the Confidential Information and to prevent disclosure thereof to persons other than its employees, accountants, affiliates, attorneys, bankers, consultants, insurance advisors and carriers, and agents who need access to such information to carry out a Party's obligations under this Agreement, and the Receiving Party shall be liable for the compliance by such third parties with the confidentiality obligations hereof.

The Receiving Party shall not use, or permit the use of, the Confidential Information for any purpose other than performing this Agreement and exercising the rights granted under this Agreement. The Receiving Party acknowledges that the rights of the Disclosing Party in the Confidential Information are unique, and accordingly the Disclosing Party shall, in addition to such other remedies as may be available to it at law or in equity, have the right to enforce its rights hereunder by an action for injunctive relief and specific performance to the full extent permitted by law. Upon termination of this Agreement and the written request of the Disclosing Party, the Receiving Party shall return or destroy all copies of all Confidential Information to the Disclosing Party. To the extent it would be unreasonably costly or cumbersome, neither Party shall be required to delete intangible copies of Confidential Information that are made as part of such Party's routine systems back-up procedures.

Notwithstanding the foregoing, Licensor shall be entitled to disclose to a third party licensor of any Third Party Software (a) the fact of this Agreement (including the identity of Licensee) and (b) audit results with respect to Licensee's compliance with the Third Party Software terms of this Agreement. The provisions of this Article shall survive any termination of this Agreement or of any license granted hereunder.

## **7 DELIVERY**

Licensor shall deliver one copy of the Software.



## 8 LICENSE FEES AND PAYMENT

Licensee shall pay Licensor the System License Fees set forth in [Appendix B-4](#) upon execution of this Agreement and completion of EA\_MS installation and training at the site. Licensee shall pay Licensor interest on any late payments at the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by law.

License fees do not include shipping charges, or any sales, use, withholding, excise or other taxes now or hereafter imposed on the production, storage, transportation, import, export, licensing or use of the products or services provided under this Agreement. Such expenses and taxes shall be paid by Licensee. Licensee shall indemnify Licensor for any such expenses or taxes which Licensor is required to pay.

This System License Agreement defines the understandings, obligations and responsibilities of the parties, and will function in place of a separate purchase order for the same.

## 9 SOFTWARE WARRANTY

Licensor warrants that the media on which the Software is recorded is free from defects in materials and workmanship. Licensor warrants that the Software will perform substantially in accordance with the Documentation during the Warranty Period (as defined below). Third Party Software is provided as-is, and without warranty of any kind.

The Warranty Period is limited to 90 days from the date of Software delivery (the "Warranty Period"). If within the Warranty Period, it's discovered that the Software does not conform to the foregoing warranty and written notice of such nonconformity is promptly provided to Licensor, Licensor will provide an exclusive remedy as follows:

- a) With respect to any defect in the media, Licensor will replace such media.
- b) With respect to any portion of the Software that does not perform in accordance with the Documentation, Licensor will, at its option, repair or replace the Software.
- c) With respect to any descriptive error in the Documentation, Licensor will correct such error by providing addenda or substitute pages.
- d) The foregoing remedies shall constitute Licensee's exclusive remedies and Licensor's sole liability for any failure of the Software to conform to any warranty.

Any Software nonconformities reported to the Licensor by the Licensee within the Warranty Period are subject to the remedies defined herein. Application of such remedies will not extend the Software warranty beyond the stated 90 day Warranty Period. Nonconformities reported following expiration of the warranty will be subject to remedies available through a separate System Maintenance Agreement executed between the parties.

Except as specifically set forth herein, Licensor and its Licensors make no representations, warranties or conditions (express, implied, statutory or otherwise), other than as expressly set forth in this Agreement. Licensor and its Licensors disclaim all other warranties, including, without limitation, any implied warranties of merchantability, accuracy, performance, effort, fitness for a particular purpose under the laws of any jurisdiction. Licensor and its Licensors make no warranty against interference with Licensee's enjoyment of the Software. Licensor and its Licensors do not warrant that Licensee's use of the Software will be uninterrupted or error-free, that the Software will interoperate with third-party Software not provided by or through Licensor except as set forth in the Documentation. Licensor and its respective licensors of Third Party Software do not warrant as to any results that may be obtained by Licensee's use of the Software or Third Party Software. Third Party Software licensors shall not be required to perform any obligations or incur any liability except as specifically stated herein. Licensor and its Licensors do not warrant that every feature or error in the Software will be corrected, or that the Software will meet Licensee's requirements.

## 10 INFRINGEMENT REMEDY

Licensor shall, at its expense, defend any suit which may be brought against Licensee by a third party claiming that the Software infringes upon such third party's United States patent or copyright, and Licensor shall pay all judgments and costs recovered against Licensee in any such suit and shall reimburse Licensee for costs or expenses incurred by Licensee in the defense of any such suit, provided that Licensee gives Licensor prompt notice of such suit no later than ten (10) days after Licensee receives notice of such suit, or sooner if required by applicable law; reasonable assistance in the defense thereof; and full opportunity to control all aspects of the defense thereof, including settlement. In the event the Software is held to be infringing, and the use of the Software is enjoined, Licensor shall, at its option, procure for Licensee the right to continue using the Software; replace it with non-infringing software; modify it so it becomes non-infringing; or remove the Software or the infringing portion thereof and refund the license fees applicable thereto.

Licensor's obligations under this Section do not apply with respect to a claim of infringement if and to the extent such claim arises out of: (i) compliance with Licensee's specifications, (ii) the use by Licensee or any of its customers of any third-party software or equipment that infringes any patent, copyright, trademark or trade secret of any third party, (iii) any modification or alteration of the Software (other than by or on behalf of Licensor), (iv) use of a version of the Software that has been superseded or (v) use of the Software after notice of the claimed infringement has been received by Licensee. The foregoing states the exclusive remedy of Licensee and the sole liability of Licensor for infringement.

## 11 LIMITATION OF LIABILITY

The Licensor's total liability relating to this Agreement, the Software or to the license granted hereunder, shall not exceed the license fees paid by Licensee to Licensor under this Agreement. Licensor and its Licensors (including Licensors of Third Party Software) will not be liable in any event for loss or inaccuracy of data, loss of use of systems, cost of replacement software or systems, loss of profits, loss of revenue or any other indirect, special, incidental or consequential damages, whether or not foreseeable and even if Licensor has been advised of the possibility of such damages. In no event shall Licensor be liable for any damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees) arising from any improper installation or improper use by Licensee, its customers, end users or anyone other than Licensor of the software or any goods supplied by Licensor, or arising from any failure by Licensee, its customers, end users or anyone other than Licensor to follow their own safety procedures in connection with the installation or use of the software or any other goods supplied by Licensor.

## 12 FORCE MAJEURE

Neither party shall be liable for loss, damage, or delay nor be in default for failure to perform (other than payment obligations) due to causes beyond its reasonable control, including but not limited to acts of God, acts of war or terrorism, fire, flood, strike, labor disputes, acts or omissions of any governmental authority or of the other party, compliance with government regulations, embargos, fuel or energy shortage, delays in transportation, inability to obtain necessary labor, materials, or services from usual sources, or from defects or delays in performance of a party's suppliers or subcontractors due to such causes. In the event of a delay by either party due to the foregoing, the date of delivery or time for completion shall be extended by a period of time reasonably necessary to overcome the delay.

## 13 AUDIT

Licensor and its licensors shall have the right, upon notice to Licensee, to enter onto Licensee's premises to perform an audit to ensure that Licensee is in compliance with this Agreement. Licensee shall keep, and shall allow Licensor to access, accurate records of each computer on which the Software, portions of the Software, and/or any Third Party Software are installed, the locations of such computers, the number



of Network Devices for which the Software is used and the number of Authorized Users using the Software. Licensor shall have the right to disclose the results of any audits to its respective licensors.

#### 14 ASSIGNMENT

Neither this Agreement nor any interest under this Agreement shall be assigned by Licensee without the prior written consent of Elster, except that either Party may assign this Agreement without prior consent in connection with a sale of controlling interest in the capital stock or other equity interest of such Party, a sale of all or substantially all of the assets of such Party, or pursuant to a merger or consolidation. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and permitted assigns.

#### 15 TERMINATION

Either party may upon written notice to the other party, terminate this Agreement and any license granted hereunder at any time and for any reason, including nonpayment or other material breach that is not cured within thirty (30) days following written notice thereof.

Within ten (10) days after the date of termination, Licensee will cease use of the Software and Third Party Software and return, or at Elster's direction, destroy all originals and copies, in whole or in part and in any form, of any Software or other Elster furnished documentation in the Licensee's possession, and will certify to the foregoing to Elster in writing.

#### 16 GOVERNMENT REGULATIONS

The Software and Third Party Software is provided with RESTRICTED RIGHTS. Use, duplication, or disclosure of the Software, Third Party Software or Documentation by any department or agency of the federal government is subject to restriction as set forth in subparagraph (b)(3) of the Right in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(1) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. For purposes thereof, "Contractor" is Elster Solutions, LLC, 208 S. Rogers Lane, Raleigh, NC 27610.

Licensee shall not export or transmit the Software, Third Party Software, or any part thereof, directly or indirectly, to any restricted countries or in any manner that would violate the Export Administration Act of 1979, as amended, or any other United States laws and regulations as shall from time to time govern the license and delivery of technology abroad by persons subject to United States law.

#### 17 NOTICES

Any notice required or permitted hereunder shall be in writing and shall be deemed to have been delivered on the date evidenced by receipt obtained upon transmission by fax, upon delivery by commercial delivery service, or upon delivery by certified or registered mail to a party's address or facsimile number shown below:

If to Licensee

City of Santa Clara  
Silicon Valley Power  
Director of Electric Utility  
1500 Warburton Avenue  
Santa Clara, CA 95050

If to Elster

Elster Solutions, LLC  
208 S Rogers Lane  
Raleigh, NC 27610  
ATTN: Contracts Department  
ContractsDept@us.elster.com



Either Party may at any time change its respective address or point of contact by sending written notice of the change to the other Party.

## 18 MISCELLANEOUS

This Agreement, including the Appendices attached hereto, contains the entire understanding of the parties with respect to the matters contained herein. This Agreement may not be modified except by writing, executed by authorized representatives of Licensor and Licensee.

The headings and captions contained herein shall not be considered to be a part hereof for purposes of interpretation or application hereof, but are for convenience only.

Either party's failure to exercise any right under this Agreement shall not constitute a waiver of any other terms or conditions of this Agreement with respect to any other or subsequent breach, nor a waiver by such party of its right at any time thereafter to require exact and strict compliance with the terms hereof.

Third Party Software providers are third party beneficiaries to this Agreement with respect to provisions applicable to Third Party Software. Licensee will be bound by the terms and conditions of use of any Third Party Software provider.

The provisions of Sections 1, 3, 4, 5, 6, 9, 10, 11, 13, 14, 16, and 17 shall survive the cancellation, termination or expiration of this Agreement.

If any provision of this Agreement is held to be illegal, invalid or unenforceable in any respect, the remaining provisions of this Agreement shall remain in full force and effect to the maximum extent possible.

This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to the choice of law or conflicts of law rules of any jurisdiction. The parties agree that the Uniform Computer Information Transactions Act shall not apply to the terms or interpretation of this Agreement. The parties further agree that all causes of action against either party under this Agreement shall be brought solely and exclusively in the State Courts of the State of California, or the U.S. District Court of California.

Licensee acknowledges that this Agreement constitutes a legal agreement that obligates certain payments as noted herein. Should Licensee's business processes require that one or more purchase orders be issued to provide for payments obligated by this Agreement, Licensee acknowledges that such purchase orders will be issued.

**INTENDING TO BE LEGALLY BOUND, THE PARTIES HAVE AUTHORIZED THEIR REPRESENTATIVES TO EXECUTE THIS AGREEMENT AS OF THE "EFFECTIVE DATE" FIRST WRITTEN ABOVE.**

**ATTEST**

**CITY OF SANTA CLARA**

Printed name Julio J. Fuentes

Title City Manager

Date 6/30/14

**ELSTER SOLUTIONS, LLC**

By [Signature]

Printed name Robert Hens

Title VP contracts and proposals

Date 6/2/2014

**APPROVED AS TO FORM:  
SANTA CLARA CITY ATTORNEY'S OFFICE**

[Signature]  
**LINDSAY BEAVERS, DEPUTY CITY ATTORNEY**  
Exhibit B - System License Agreement

## **APPENDIX B-1**

### **SOFTWARE / LICENSE TERMS**

The EnergyAxis system is an Integrated System and a comprehensive smart grid solution which includes network management software, network communications technology (excluding WAN), field network devices, field management tools and value-added smart grid applications and consumer devices.

It is the Licensee's responsibility to acquire and maintain the Integrated System. Licensor will specify the third party software and versions thereof (operating system, software products, etc.) required for each Software release. Specific hardware requirements must be agreed to with Licensor based on the size of the AMI network deployment.

The EnergyAxis system configuration depends on the size and needs of the Licensee

The EnergyAxis system uses an embedded database. The Licensee is not granted direct access to the database except per the documented public interfaces specified in the Documentation.

Future changes in the Software or the Third-Party Software or running of other Third-Party Software Programs not tested or provided by Licensor may impact system performance for an Integrated System.

The potential number of authorized users is unlimited with each instance of the EA\_MS Software subject to the Elster fee schedule.

Required system configurations for various EnergyAxis system tiers are available at the EnergyAxis Community website at <http://energyaxis.ipbhost.com> under Downloads > Elster Solution Updates > Hardware Recommendations - EnergyAxis Management System

Licensor nor any provider of Third Party Software embedded in the Software will be liable for any damages, whether direct, indirect, incidental, or consequential arising from Licensee's use of the Software.

Third Party Software providers are third party beneficiaries to this Agreement with respect to provisions applicable to Third Party Software. Licensee will be bound by the terms and conditions of use of any Third Party Software provider

## APPENDIX B-2

### SYSTEM LICENSE STRUCTURE

#### 1 LICENSE FEE STRUCTURE

License fees are determined in part by the EnergyAxis system tier. The base license fee includes the cost of firmware, middleware, database, EAMS troubleshooting tools and other third party application software built into the EAMS application. License allows Licensee to install EAMS application in a virtual environment if desired at no additional license fee. Virtual environment maintenance fees may apply. Consult the EnergyAxis System Maintenance Agreement.

Customer requested additions to the standard configuration, optional modules, and add on services are available for additional fees. Overall fee structure and corresponding fees are detailed in [Appendix B-3](#). The licensee's specific application and associated fees are defined in [Appendix B-4](#).

##### 1.1 Standard Configuration

Includes the EnergyAxis EA\_MS software with support for the following AMI / AMR measurement, sensing, or control devices:

- a) EnergyAxis residential electric endpoints
- b) EnergyAxis commercial or industrial electric endpoints
- c) EnergyAxis Gatekeeper devices that act as concentrators within the EnergyAxis networks
- d) EnergyAxis repeater devices
- e) EnergyAxis AGI nodes

##### 1.2 EnergyAxis License Tiers

Three license tiers are available based on the size of deployment.

###### a) Premier

The total number of AMI / AMR measurement sensing or control devices shall not exceed 200,000. Licensors recommends that Licensee at a minimum purchase and configure a backup system and a test system. The test system will enable integration testing without compromising the integrity of the production system.

###### b) Advanced

The total number of AMI / AMR measurement, sensing, or control devices shall not exceed 1,000,000. Base licensee fee for this tier includes 1 production, 1 backup and 1 test system.

###### c) Enterprise

The total number of AMI / AMR measurement, sensing, or control devices exceed 1,000,000. Base license fee for this tier includes 1 production, 1 backup and 3 test systems

A onetime license fee applies to all AMI / AMR measurement, sensing, or control devices in each operational EA\_MS System beyond 20,000 based on bundle pricing in [Appendix B-3](#). Per device license fees do not apply to non-operational Backup or Test systems. Backup and Test license fees are included in the listed license fees for each tier for the contracted number of AMI / AMR measurement, sensing, or control devices. Subsequent purchases of device licenses are available in 2,500 device bundles in the Premier tier and 10,000 device bundles in Advanced/Enterprise tiers.

#### 2 ADDITIONAL FEES

##### 2.1 Water Support

A onetime license fee applies for configuration of water functionality for use within the Licensee's operational infrastructure. Fees do not apply to non-operational Backup or Test systems. This fee includes site license for one instance of Route Manager. If Elster is required to install multiple



instances of Route Manager, additional license, installation service and support fees will apply. An upgrade fee for Water support applies when upgrading to a higher license tier.

## **2.2 Gas Support**

A onetime license fee applies for configuration of gas functionality for use within the Licensee's operational infrastructure. Fees do not apply to non-operational Backup or Test systems. This fee includes site license for one instance of Route Manager. If Elster is required to install multiple instances of Route Manager, additional license, installation service and support fees will apply. An upgrade fee for Gas support applies when upgrading to a higher license tier.

## **2.3 Third Party Meter Support**

A onetime license fee applies for configuration of approved third party meters for use within the Licensee's operational infrastructure. Fees do not apply to non-operational Backup or Test systems

## **2.4 Backup or Test System License Fee**

Additional backup and test systems desired by the Licensee will incur incremental license fees, and the Licensor requires each back up or test system to be an identical replica of the production system. An upgrade fee for each backup/test system applies when upgrading to a higher license tier.

## **2.5 Optional Functionality**

The base license fee covers usage of the system for acquisition of metering data and two way metering operations such as on demand reads, service connects, disconnects to residential electric meters. Additional fees apply for optional modules and add on- services listed below.

- a) Home Area Network (HAN): A onetime license fee applies for configuration of HAN functionality for use within the Licensee's operational infrastructure. Fees do not apply to non-operational Backup or Test systems.
- b) Home Area Network / Demand Response Per Device Fee: A onetime fee applies to home area network / demand response devices in each operational EA\_MS system based on the sliding scale in [Appendix B-3](#). The per device fee includes any Licensor-manufactured or third party device approved by Licensor for use in a Home Area Network / Demand Response scenario within the EnergyAxis network. The per device fee does not apply to non-operational Backup or Test systems.
- c) Distribution System / Distribution Automation: A onetime fee applies for configuration of distribution system / distribution automation functionality for use within the Licensee's operational infrastructure. Fees do not apply to non-operational Backup or Test systems.
- d) Distribution System / Distribution Automation Per Device Fee: A onetime fee applies to distribution system / distribution automation devices in each operational EA\_MS system based on the sliding scale in [Appendix B-3](#). The per device fee includes any Licensor-manufactured or third party device approved by Licensor for use in a distribution system / distribution automation scenario within the EnergyAxis networks. The per device fee does not apply to non-operational Backup or Test systems.
- e) Standalone Devices / Direct Wide Area Network (WAN) connection: A onetime fee applies for configuration of standalone devices / direct WAN connection for use within the Licensee's operational infrastructure. Fees do not apply to non-operational Backup or Test systems.
- f) Optional Features and Interfaces: Licensor reserves the right to commercialize new features, endpoints and interfaces as optional add-ons to the base system features. Additional license fees may apply unless the feature or interface was part of the contractual scope jointly agreed between Licensor and the Licensee.

- g) AxisDetect: EnergyAxis provides application components that provide new features as an optional add-on to the base system. A onetime fee applies for configuration and activation of the AxisDetect application. AxisDetect presents the geospatial topology of an AMI network and provides graphical network management functions to client end-users. An upgrade fee applies when Licensee moves across tiers. License fees include GoogleMaps license.
- h) Secure Tunnel Server: The IP Axis Link Secure Tunnel Server is a software application which provides communication services used by distribution automation applications (i.e. SCADA) to manage distribution automation field devices.
- i) VM support

## 2.6 Upgrades

An additional license fee applies to an upgrade to a higher tier, which is mandatory when the total number of AMI / AMR measurement, sensing, or control devices exceeds the limit associated with the current tier.

## 2.7 Additional System Expansions and Optional Project Implementation Services

System expansions and project implementation services to deploy the EnergyAxis system can be provided on time and material (T & M) basis. Current rates and additional terms that apply are listed in [Appendix C-2](#) of the System Maintenance Agreement.

### Notes:

- a) All software license fees are in US Dollars.
- b) Licensor reserves the right to periodically audit the user's EA\_MS System to determine the current number and types of meters or control points deployed for the purposes of billing an additional per point license fees. No refund is allowed for a reduced number of points determined by a given audit.
- c) Licensor does not limit the number of users of its EA\_MS software. If Licensor provides the server hardware, the Licensee is limited by the defaults set by the OS vendor. If Licensee provides the hardware or desires system accessibility for more users, the Licensee is responsible for obtaining the Microsoft server license or license expansion, including any additional fees for the desired number of CALs (Client access licenses).
- d) The Licensor provides as a software option, a pre-installed virtual machine image (VM) of the EnergyAxis Management System (EAMS) application. If the Licensee selects this option, then the Licensor will not be responsible for any of the licensing costs, the support services and/or the maintenance services associated with the vendor host operating system contained in the virtual machine image(s) provided by the Licensor. In addition, the Licensor will not be responsible for any of the licensing costs, the support services, and/or the maintenance services associated with Licensee's virtual machine hosting platform.
- e) Licensor reserves the right to modify fees and/or terms associated with GoogleMaps if Google modifies similar fees and/or terms conveyed to Licensor.

### APPENDIX B-3

#### PREMIER CONFIGURATION LIST LICENSE FEE SUMMARY

License Fees	Qty	List Price
<b>Base System</b>		
Base License Fee: Energy Axis Premier Includes 20,000 AMI/AMR devices and site license for one instance of EA Inspector Manager and EA Inspector. Additional license fees will apply for AMI/AMR devices exceeding 20,000		\$75,000
Incremental AMI/AMR device license fees (per 2,500 device bundle)		\$5,500
Backup or Test System License Fee	each	\$27,000
Axis Detect License fee		\$15,000
Stand-alone device / Direct Wide Area Network (WAN) connection		\$5,000
Third Party Meter Inclusion (per meter type)		\$5,000
<b>Water</b>		
Water Module Includes site license for one instance of Route Manager		\$10,000
Site license for additional instance of Route Manager	each	\$2,400
<b>Gas</b>		
Gas Module Includes site license for one instance of Route Manager		\$10,000
Site license for additional instance of Route Manager	each	\$2,400
<b>DR/HAN</b>		
Home Area Network (HAN) Base License		\$10,000
DR/HAN Per device fee (qty 1 - 500,000)		\$1.00
DR/HAN Per device fee (qty 500,000+)		\$0.75
<b>DA</b>		
Distribution Automation (DA) Base License		\$10,000
DA Per device fee (qty 1 - 50,000)		\$2.00
DA Per device fee (qty 50,000+)		\$1.50
<b>Secure Tunnel Server (License depends on # of IP Axis Link Gateways)</b>		
0-50 IP Axis Link Gateways	each	\$25,000
51-200 IP Axis Link Gateways	each	\$35,000
201-500 IP Axis Link Gateways	each	\$50,000



## APPENDIX B-4

### SYSTEM LICENSE FEES SUMMARY

This appendix summarizes the software, endpoints, additional modules and functionality Licensor provides to the Licensee at the time of the original purchase; and/or as amended to reflect any changes to the License configuration after the initial purchase.

#### EnergyAxis Premiere License and Maintenance Fee Calculation

EnergyAxis System License Fees		Qty	List Price	Total	Discount Price	Ext. Price
<b>Base System</b>						
EnergyAxis Premier		1	\$75,000.00	\$75,000.00	\$35,000.00	\$35,000.00
Additional Backup / Test System		2	\$27,000.00	\$54,000.00	\$15,000.00	\$30,000.00
Visualization		1	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
Incremental AMI/AMR endpoint license fees (per 2,500 unit bundle)		1	\$5,500.00	\$5,500.00	\$906.00	\$906.00
Axis Detect			\$15,000.00	\$0.00	\$15,000.00	\$0.00
Direct Wide Area Network (WAN) connection support		1	\$5,000.00	\$5,000.00	\$5,000.00	\$5,000.00
Third Party Meter Support			\$5,000.00	\$0.00	\$5,000.00	\$0.00
<b>Water</b>						
Water Module Support (includes Site License for Route Manager)		1	\$10,000.00	\$10,000.00	\$6,000.00	\$6,000.00
<b>Gas</b>						
Gas Module Support (includes Site License for Route Manager)			\$10,000.00	\$0.00	\$10,000.00	\$0.00
<b>Demand Response (DR) / Home Area Network (HAN)</b>						
Base License Fee: Home Area Network (HAN) Support		1	\$10,000.00	\$10,000.00	\$5,000.00	\$5,000.00
DR Element / Device Fee (1 - 500,000)			\$1.00	\$0.00	\$0.75	\$0.00
DR Element / Device Fee (500,000+)			\$0.75	\$0.00	\$0.75	\$0.00
<b>Distribution Automation (DA)</b>						
Base License Fee: Distribution Automation (DA) Support		1	\$10,000.00	\$10,000.00	\$5,000.00	\$5,000.00
DA Element / Device Fee (1 - 50,000)			\$2.00	\$0.00	\$1.50	\$0.00
DA Element / Device Fee (50,000+)			\$1.50	\$0.00	\$1.50	\$0.00
Secure Tunnel Server Gateways (0 - 50)			\$25,000.00	\$0.00	\$25,000.00	\$0.00
Secure Tunnel Server Gateways (51 - 200)			\$35,000.00	\$0.00	\$35,000.00	\$0.00
Secure Tunnel Server Gateways (200+)			\$50,000.00	\$0.00	\$50,000.00	\$0.00
<b>Custom SW Development / Modules / Interfaces / Stand Alone</b>						
Route Manager		1	\$0.00	\$0.00	\$1,100.00	\$1,100.00
EA Inspector Manager		1	\$0.00	\$0.00	\$1,100.00	\$1,100.00
Subtotal - AMI Software License Fees (SLA)				\$179,500.00		\$99,106.00
Credit for previously paid license fees						(\$99,106.00)
Total - AMI Software License Fees (SLA)						\$0.00

EnergyAxis System Maintenance Fees		Qty	List Price	Total		
<b>Base System</b>						
Standard Support: 9x5	20%	1	\$35,900.00	\$35,900.00		
Standard Support: 12x7	27%		\$48,466.00	\$0.00		
Standard Support: 24x7	34%		\$61,030.00	\$0.00		
Optional On-Call Emergency Support	5%		\$8,975.00	\$0.00		
Equipment Maintenance Fee: EA_Inspector / EA_Installer Handheld		6	\$895.00	\$5,370.00		
Annual Increase Provision	4%	1	\$41,270.00	\$1,650.80		
Total - EnergyAxis System Maintenance (SMA)				\$42,920.80		