

AMENDMENT ONE TO THE SYSTEM MAINTENANCE AGREEMENT
BETWEEN ELSTER SOLUTIONS, LLC AND CITY OF SANTA CLARA

This AMENDMENT ONE ("Amendment One") to that certain EnergyAxis SYSTEM MAINTENANCE AGREEMENT dated as of June 30, 2014 ("SMA" or "Agreement") between ELSTER SOLUTIONS, LLC, a Honeywell company and a Delaware limited liability company, with offices at 208 S. Rogers Lane, Raleigh, NC 27610, USA, ("Elster" or "Licensor") on the one hand; and CITY OF SANTA CLARA CALIFORNIA, a chartered California municipal corporation, with offices at 1500 Warburton Avenue, Santa Clara, CA 95050 ("City" or "Licensee") on the other hand, is effective as of July 15, 2025 ("Effective Date"). Elster and City are sometimes individually referred to herein as "Party" and collectively as "Parties."

WHEREAS, the Parties entered into a certain Master Agreement for EnergyAxis Management System ("Master Agreement") which was executed on or around December 8, 2010 and amended on April 24, 2012 (Amendment No. 1), October 16, 2012 (Amendment No. 2), November 13, 2013 (Amendment No 3), and June 24, 2014 (Amendment Four);

WHEREAS, the Parties entered into the SMA and a certain Elster Software License Agreement ("SLA") on December 7, 2010 and last amended on June 30, 2014, which last amended versions are attached hereto as Exhibit A to Amendment One (SMA) and Exhibit B to Amendment One (SLA) for reference, which the Parties now wish to amend;

WHEREAS, the Master Agreement terminated as of December 31, 2015 but, pursuant to their terms, both the SLA and the SMA survived said termination and remain in effect;

WHEREAS, the City now desires to upgrade EnergyAxis Management System (also known as CONNEXO NETSENSE) to CONNEXO NETSENSE 12X, and Elster has agreed to such upgrade; and

WHEREAS, the above system upgrade requires new System Maintenance Fees to be incorporated and for certain terms of the SMA to be updated.

NOW THEREFORE, in consideration of the foregoing recitals, the covenants and obligations set forth herein, and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. Appendix C-1 (Yearly System Maintenance Agreement Fees) of the SMA is deleted and replaced with the attached Appendix C-1 (Yearly System Maintenance Agreement Fees), which is hereby incorporated into the SMA.
2. Appendix C-2 (Professional Services Request Form) of the SMA is deleted.
3. Appendix C-4 (System Maintenance Fees Summary) of the SMA is hereby deleted and superseded by Appendix C-1 (Yearly System Maintenance Agreement Fees).
4. Appendix C-5 (Insurance Requirements) is hereby added to the SMA, attached hereto and incorporated herein by reference.
5. Section 3.6 (On-Site Support Services) of the SMA is deleted and replaced with the following:

"3.6. On-Site Support Services

Prior to furnishing on-site support (On-Site Services), the Licensee must present the Licensors with a written request for on-site support services, and the terms and nature of the services to be provided must be defined in a written Scope of Work and authorized by the City by issuing a purchase order. Any purchase orders referencing this Agreement shall be incorporated into the Agreement by reference. For purposes of this Agreement, "On Site Support" shall occur when:

- a) Licensors are requested by Licensee to arrive at a Licensee location to provide support and/or consultation services;
- b) Licensors are contacted outside of contracted support hours and must, following written approval from the Licensee, travel to another location (including Licensors' site) to complete the required services; and
- c) Licensors are contacted during normal contracted support hours and must, following written approval from the Licensee, travel to a separate location to complete the required services.

Any travel to Licensee's site requires prior approval of Licensors management. Unless approved in writing (e-mail acceptable) in advance, meals, lodging, and related per diem shall not exceed the rates outlined by United States General Services Administration (GSA). <https://www.gsa.gov/travel-resources>. Airfare or rental car, where applicable shall be at economy rates.

Any On-Site Support provided at the request or approval of Licensee shall be billed in accordance with the approved scope of work and purchase order.

Licensors shall provide and maintain in full force and effect, at no cost to the City, insurance policies as set forth in Appendix C-5.

6. Section 3.7 (Other Available Services) of the SMA is deleted and replaced with the following:

“3.7. Other Available Services

The following services are not provided under this System Maintenance Agreement but are available for an additional fee (Additional Services). The Licensee must present the Licensors with a written request for other available services, and the terms and nature of the services to be provided must be defined in a written Scope of Work and authorized by the City by issuing a purchase order. Any purchase orders referencing this Agreement shall be incorporated into the Agreement by reference.

- a) Distribution or maintenance of Program Modules not listed in Appendix B-1 of the System License Agreement.
- b) Interpretation of Program results.
- c) Supply of typical or representative data.
- d) Assistance with computer hardware and peripheral questions not related to Program use.
- e) Data debugging and/or correcting.

- f) Services necessitated as a result of any cause other than ordinary and proper use of the Program by Licensee, including but not limited to neglect, abuse, unauthorized maintenance, or electrical, fire, water, or other damage.
- g) Services resulting from the failure of Licensee to provide a suitable environment for the Program or associated equipment.
- h) Services relating to problems caused by modifications in any version of the Program not made or authorized by Licensor.
- i) Services resulting from the combination of the Program with other programming or equipment, and to the extent such combination has not been approved in writing by Licensor.
- j) Optional system retraining

Any Additional Services provided pursuant to a purchase order shall be billed in accordance with the approved scope of work and purchase order.

7. Section 4 (FEES) of the SMA is deleted and replaced with the following:

“4. SYSTEM MAINTENANCE FEES

- 4.1 Fees: Upon the effective date of Amendment One, Licensor shall invoice the annual System Maintenance Fees in accordance with Appendix C-1. Such fees shall be prorated for the period ending December 31 and Licensor shall credit Licensee for any fees already paid for the same period. Thereafter, the annual System Maintenance Fees will be invoiced in October of each year, with payment for the next year’s System Maintenance Fees due no later than December 31 of the current year.
- 4.2 Fees for modules licensed separately by Licensee, fees for onsite support services, and fees for any other additional services shall be subject to the process in Section 3.6 and 3.7 or a separate agreement between the Parties.
- 4.3 Except as specifically set forth in this System Maintenance Agreement, all invoices are due net thirty (30) days from the date of invoice. Licensor will assess a late payment charge on any amount which remains unpaid after the due date, computed at the rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum amount permitted by law on the unpaid amount for each month that such amount remains unpaid. This late payment charge shall be in addition to any other remedies Licensor may have at law or in equity. All System Maintenance Fees are in US dollars.”

8. Section 10 of the SMA (CONFIDENTIALITY) is deleted and replace with the following:

- “10.1 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"), any other information disclosed by the Disclosing Party and identified by Disclosing Party as confidential ("Confidential Information") except that pricing information shall not be deemed 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.

- 10.2 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.
- 10.3 If the Receiving Party becomes legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand, or similar process) to disclose any Confidential Information of the Disclosing Party or is requested Confidential Information pursuant to the California Public Records Act or similar law, the Receiving Party will provide the Disclosing Party with written notice of such an occurrence (if so permitted) as soon as possible. Thereafter, at its sole costs and expense, the Disclosing Party may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. So long as it is consistent with applicable law, the Receiving Party will not oppose action by, and the Receiving Party will cooperate with, the Disclosing Party, at the Disclosing Party's sole cost and expense, to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information. If the Disclosing Party fails to obtain such protective order or other remedy, or if the Disclosing Party waives compliance with the requirements of the preceding sentence, the Receiving Party will disclose only that Confidential Information that it is legally required to disclose, and will exercise commercially reasonable efforts, at Disclosing Party's expense, to obtain reliable assurance that confidential treatment will be accorded the Confidential Information so disclosed.
- 10.4 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.
- 10.5 Data Rights: Licensee retains all rights (including without limitation intellectual property rights) that Licensee already holds in data and other information that Licensee or persons acting on Licensee's behalf input, upload, transfer or make accessible in

relation to, or which is collected from Licensee or third-party devices or equipment as a result of, the System Maintenance (“Input Data”). Any personal data of Licensee contained within Input Data shall only be used or processed in accordance with the data privacy terms of this Agreement and applicable law. All information, analysis, insights, inventions and algorithms derived from Input Data by Licenser and/or its Affiliates (but excluding Input Data itself) and any intellectual property rights related thereto, are owned exclusively and solely by Licenser and are Licenser’s Confidential Information. This section survives termination of this Agreement. Notwithstanding anything to the contrary herein, Input Data shall be deemed not to include Licensee’s name, nicknames, logos, colors, artwork, trademarks, trade names, service marks, trade dress, and/or other identifying features and/or any of Licensee’s Confidential Information. Licenser and its Affiliates may also use Input Data for any other purpose provided it is in an anonymized form that does not identify Licensee. Any personal data of Licensee contained within Input Data shall only be used or processed in accordance with the data privacy terms of this Agreement and applicable law. All information, analysis, insights, inventions and algorithms derived from Input Data by Licenser and/or its Affiliates (but excluding Input Data itself) and any intellectual property rights related thereto, are owned exclusively and solely by Licenser and are Licenser’s Confidential Information. This section survives termination of this Agreement.”

9. Section 13 of the SMA is hereby amended by replacing the contact information contained therein with the following:

If to City:
City of Santa Clara, California
Attn: City Manager
1500 Warburton Avenue
Santa Clara, California 95050
manager@santaclaraca.gov with
copy to svpcontracts@santaclaraca.gov

If to Elster:
Elster Solutions, LLC
Attn: Dionne Hamilton
General Counsel, Smart Energy & Thermal
Solutions
2101 City West Blvd. Houston, TX 77042

10. Section 18 (SANCTIONS LAWS) is added to the SMA to read as follows:

“As applicable, each party is responsible for compliance with all import, export, and re-export control laws and regulations and will mutually cooperate as reasonably needed. Relating to the entry into and performance pursuant to this Agreement, Licensee will comply with all sanctions laws, including regulations administered by the United States of America, the European Union and its Member States, the United Kingdom, and the United Nations (“**Sanctions Laws**”). Licensee will not sell, export, re-export, divert, use or otherwise transfer, any Licenser products, technology, software, or proprietary information: (i) to or for any Sanctioned Persons or Sanctioned Jurisdictions; or (ii) for purposes prohibited by any Sanctions Laws. Licensee agrees that Licenser may take any and all actions relating to this transaction or Agreement that are required to ensure full compliance with all Sanctions Laws without Licenser incurring any liability. For the purpose of this paragraph, “Sanctioned Persons” are defined as any individual or entity: (1) named on a governmental denied party or restricted list, including but not limited to: the Office of Foreign Assets Control (“**OFAC**”) list of Specially Designated Nationals and Blocked Persons (“**SDN List**”), the OFAC Sectoral

Sanctions Identifications List (“**SSI List**”), and the sanctions lists under any other Sanctions Laws; (2) organized under the laws of, ordinarily a resident in, or physically located in a jurisdiction subject to comprehensive sanctions administered by OFAC (“**Sanctioned Jurisdictions**”); and/or (3) owned or controlled, directly or indirectly, 50% or more in the aggregate by one or more of any of the foregoing.”

11. Section 19 (ADDITIONAL PROVISIONS) is added to the SMA to read as follows:

- 19.1 If for any reason this SMA should lapse, the Licensee may reinstate lapsed support and maintenance upon payment of 150% of the support and maintenance fees in arrears, and all costs invoiced by Licensor on a time and materials basis for updating Connexo NetSense Buyer’s Program to the then-current version.
- 19.2 Licensee may request a change in Support Level in writing no later than October 1st of the then-current year. Licensor will approve or reject the request in writing no later than December 1st. If approved, Licensor will invoice Licensee for the new level of support, payable by December 31st of the then current year, and all approved changes will be effective as of January 1st of the next calendar year.

All remaining terms of the Agreement (including without limitation its appendices/attachments attached thereto), as may have been previously amended, are unchanged and shall remain in full force and effect. In the event of any conflict between this Amendment One and the rest of the Agreement, this Amendment One shall prevail.

Any capitalized terms used but not defined herein shall have the meaning ascribed to them in the Agreement (and shall be interpreted according to any such definition).

IN WITNESS WHEREOF, the Parties intending to be legally bound have authorized their representatives to execute this Amendment One on the date(s) indicated below.

CITY OF SANTA CLARA

ELSTER SOLUTIONS, LLC

By: _____
Name: JÖVAND D. GROGAN
Title: City Manager
Date: _____

By: _____
Name: HAMED HEYHAT
Title: V.P and General Manager, SETS Americas
Date: _____

Approved as to Form

By: _____
Name: GLEN R. GOOGINS
Title: City Attorney
Date: _____

APPENDIX C-1

YEARLY SYSTEM MAINTENANCE AGREEMENT FEES JULY 15, 2025

1 *SYSTEM MAINTENANCE STRUCTURE:*

The System Maintenance Fees (as provided for in Exhibit A) is structured based on the level of support desired by Licensee, the total system size and optional services purchased by Licensee. The table below describes the structure for annual System Maintenance Fees applicable to the EnergyAxis Management System. “License List Fees” (as used in the table below) includes total licenses for all applicable programs, system, modules, endpoints, interfaces and custom integrations purchased by Licensee. As provided for in the table below, the percent used to calculate such System Maintenance Fees is determined by the desired support level. The pricing in Exhibit A (SMA) is based on the language in this section (including without limitation the table below).

Support Level	Support Fees	Optional Emergency On-call Support
9 × 5	20% of License List Fees per annum	Additional 5% of License List Fees per annum, and per call fee of \$1000 for first hour and \$500/hr. for each subsequent hour or part thereof.
12 × 7	27% of License List Fees per annum	
24 × 7	34% of License List Fees per annum	

It is recommended that customers with DA support have 24 X 7 support level.

2 *ANNUAL INCREASE PROVISION:*

For the calendar year after December 31, 2023, annual System Maintenance Fees applicable to the EnergyAxis Management System may be increased (based upon the annual System Maintenance Fees applicable to the EnergyAxis Management System for the immediately prior calendar year) by Licensor by the greater of four percent (4%) or, when comparing the most recent year’s data, the annual percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, U.S. City Average (as published at <https://www.bls.gov/cpi/>); provided, however, that (a) any such percentage increase will be applied to the amount equal to the amount of the annual System Maintenance Fees applicable to the EnergyAxis Management System for the immediately prior calendar year minus the amount(s) of any such prior increase(s) and (b) Licensor shall provide written notice of any such increase to Licensee at least ninety (90) days prior to the start of such calendar year.

APPENDIX C-5

INSURANCE REQUIREMENTS

Prior to commencing any of the services required under this Agreement, the Licensor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

\$1,000,000 each occurrence
\$1,000,000 general aggregate
\$1,000,000 products/completed operations aggregate
\$1,000,000 personal injury

2. Exact structure and layering of the coverage shall be left to the discretion of Licensor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01, with minimum policy limits of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with the following limits: at least one million dollars (\$1,000,000) policy limit Illness/Injury by disease, and one million dollars (\$1,000,000) for each Accident/Bodily Injury.
2. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.


1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Licensor's work for City, using Insurance

Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.

2. Primary and non-contributing. Each insurance policy provided by Licensor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the another party may possess, including any self-insurance or self-insured retention they may have. Any other insurance another party may possess shall be considered excess insurance only and shall not be called upon to contribute with Licensor's insurance.
3. Cancellation. Licensor will provide adequate notice if policy cancellation, modification or non-renewal occurs.
4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through D of this Exhibit C, above.

E. ADDITIONAL INSURANCE RELATED PROVISIONS

Licensor and Licensee agree as follows:

1.  Licensor agrees to ensure that its subcontractors, who are brought onto or involved in the performance of the Services by Licensor, provide the same minimum insurance coverage required of Licensor. Licensor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Licensor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Licensor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Licensor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.

F. EVIDENCE OF COVERAGE

Prior to commencement of any services under this Agreement, Licensor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Licensor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

G. EVIDENCE OF COMPLIANCE

Licensors or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Licensor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.

City of Santa Clara

P.O. Box 100085 – S2

Duluth, GA 30096

or

Silicon Valley Power

1 Ebix Way

John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

Email address: ctsantaclara@ebix.com

H. QUALIFYING INSURERS

All of the insurance companies providing insurance for Licensor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.