

Honeywell Process Solutions – Smart Energy – Elster Solutions, LLC
HPS Software Maintenance Agreement – Standard
(United States of America – English)



Honeywell will provide system maintenance services (“System Maintenance Services” or “SMA”) for the Software licensed to Buyer pursuant to that certain HPS End User License Agreement (“License”) between the parties. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to such terms in the applicable agreements between the parties.

1. DEFINITIONS

- 1.1 “**Error**” means either: (a) a material nonconformity to the then-current applicable specifications; or a defect which materially impairs use; or (b) a defect which materially impairs use.
- 1.2 “**Casual Consulting**” means telephone and email system support that does not require access to the production, test or backup system, and is limited to information readily accessible to tech support personnel, such as operation manuals and similar documentation including: (a) general support regarding proper utilization of the applicable Software (b) assistance with Buyer’s user documentation and technical manuals provided with the Program, and (c) guidance on the Program’s intended, normal use.
- 1.3 “**Firmware Functional Upgrades**” means a Firmware Functional Upgrade that includes significant functional changes. Functional upgrades are typically identified by a change in the first number of the firmware version number (e.g., 2.0 to 3.0). Firmware Functional Upgrades may incur an upgrade fee and/or hardware change as determined by Honeywell.
- 1.4 “**Firmware Maintenance Updates**” means the Firmware Maintenance Updates that are primarily bug fixes. Minor functionality changes may also be included. Maintenance Updates are typically identified by a change in the second decimal of the firmware version number (e.g., 2.0 to 2.1).
- 1.5 “**Firmware Updates**” include gatekeeper and endpoint node updates (REX, A3 NIC, water module, gas module, etc.) for application firmware and/or radio firmware, and will be applied by Honeywell as required. Firmware Updates are categorized as Firmware Functional Upgrades and Firmware Maintenance Updates.
- 1.6 “**Maintenance Release**” is a Software Update that includes fixes for known issues or operational problems which cause the application not to perform as designed. Maintenance Upgrades are typically identified by a change in the second decimal of the Application version number (i.e., 2.2.2.0 to 2.2.3.0). Maintenance Upgrades are released as needed, typically 3 to 6 months apart.
- 1.7 “**Major Release**” is a software upgrade that includes significant functional changes. Major Releases are identified by a change in the whole number of the Application version number (i.e., 2.0.0 to 3.0.0). Software upgrade fees apply to Major Releases at a rate of up to twenty percent (20%) of Major Releases list price.
- 1.8 “**Minor Release**” means a Software Update that includes small functional changes. Minor releases are identified by a change in the first of the Application version number (i.e., 2.2.0.0 to 2.3.0.0) releases occur as needed to meet individual product market needs.
- 1.9 “**Patch**” means software patches that include fixes for a known issue or operational problem which cause the application not to perform as designed. Patches are identified by a change in the third decimal of the Application version number (i.e., 2.2.2.2 to 2.2.2.3). Patches are released as needed. Patches target only portions of the software files, and do not require a full software upgrade.
- 1.10 “**Route Manager Updates**” include one software update per year per instance of Route Manager. Support services include upgrade for one instance of Route Manager. If Honeywell is required to update multiple instances of Route Manager, additional service fees will apply.
- 1.11 “**Software Updates**” means the Major Releases, Minor Releases, Maintenance Releases and Patches included in the Support Services under this Agreement.
- 1.12 “**Technical Support**” means support that may require more experienced technical support personnel, system analysis, and access to the production, test or backup system including: (a) Technical assistance specific to the operation of the Program, (b) Diagnosis and troubleshooting (c) Attempted replication of errors reported by Buyer. Honeywell shall use commercially reasonable efforts to resolve replicated errors by providing: (1) a reasonable work-around; (2) a change to the Program code; or (3) an action plan for resolving the error., (d) Remote installation of the applicable Program and Software/Firmware Upgrades, and (e) Over the Air (OTA) upgrades of Connexo network devices, meters and nodes, or upgradeable devices.

2. SUPPORT SERVICES

- 2.1 Support Services shall consist of Software Updates, Route Manager Updates, Firmware Updates, including Firmware Functional Upgrades and Firmware Maintenance Updates, as defined herein in Section 1.
- 2.2 Software Updates include distribution of one (1) copy of any corresponding standard documentation updates on CD or DVD. Updates apply to the Software and modules originally licensed. Honeywell will specify any third party Software that Buyer is required to have for each Software Upgrade. To the extent Software Updates contain new third party Software, Buyer agrees to comply with all license terms associated with such software. Honeywell shall notify Buyer of new third Party Software when Software Updates are distributed, and Buyer’s installation and use of Software Updates shall be deemed Buyer’s acceptance of Third Party Software license terms, and Buyer’s agreement to be bound by such license terms. To the extent Third Party Software

license terms are inconsistent with the terms of the License, third Party Software license terms shall control with respect to the third Party Software.

- 2.3 Support Services are available for the latest commercially released version of the Program (N), and for the previous commercially released version of the program (N-1) with limited support for N-2 versions and older. With each new release of the Program, the version purchased by the Buyer will age by (-1). Versions N and N-1 are fully supported. Version N-2 signifies the Program has reached end of life, and system support is limited to emergency recovery for Severity 1 issues. Honeywell will not provide security or functional updates for commercially released versions of N-2 and older. If Buyer continues to use an N-2 or older version of software, Buyer is responsible for taking measures to reduce the security risk, including but not limited to limiting network access and physical access to the system. N-2 systems are subject to standard SMA fees plus a 30% adder. Version N-3 and older signify the Program has reached end of life and system support is limited to emergency recovery for Severity 1 issues if possible. If recovery is not possible, Buyer must upgrade its Program to continue operation. N-3 and older systems are subject to standard SMA fees, plus a 30% adder, plus a per-call hourly support fee of \$500.
- 2.4 The goal of Support is to identify and remedy defects or malfunctions in the Software causing them to fail to perform in accordance with the agreed specifications and documentation (“**Problems**”). Honeywell may make new versions of the Software available containing material upgrades, updates, or enhancements or new features and functionality, as well as any interim combination of incremental or cumulative patches or fixes (“**Updates**”) concurrently for all customers.

3. LEVEL OF SUPPORT

Honeywell offers the following levels of Support:

- 3.1 **9X5 Support**- Includes Casual Consulting and Technical Support Monday through Friday from 8:00 AM to 5:00 PM, per customer specific time zone, including US Eastern, US Central, US Mountain and US Pacific time zones as applicable except for Honeywell holidays.

4. SEVERITY OF BUYER CASES AND RESOLUTION TIMES

4.1 Severity

Honeywell will assign to each Problem properly reported (a “**Reported Problem**”) a tracking ID and will prioritize, manage and respond to it based upon severity as described below.

| Level | Definition |
|------------|---|
| Severity 1 | The entire Software system is unusable, operational use has been suspended, and no workarounds have yet been identified. |
| Severity 2 | The Software system is usable, however, a serious problem exists that is repeatedly adversely impacting usage without an acceptable workaround |
| Severity 3 | The Software system has a problem that does not have a significant impact on the function or business process. An alternative solution or acceptable workaround exists. |
| Severity 4 | Product feature inquiry or minor problem that has minimal or no impact to operations. |

4.3

4.4 **Response.** Measurement of response time begins when we log a Reported Problem. Problems received outside Support Hours may be answered by an answering service and we may log them at the beginning of the next business day. We provide limited coverage outside of Support Hours but will work towards resolution of Severity 1 cases to the extent resources are available. For Severity 1 & Severity 2 issues, you must initiate a Reported Problem by phone and remain available by phone until the Reported Problem is resolved (otherwise we may in our option use Severity 3). Response time ends when we commence triage, diagnosis and/or resolution efforts:

- a. **Triage** – working with your technical contacts, we will try to replicate the Reported Problem. If Honeywell cannot do so, or determine it was not caused by products or services provided by us, or is due in whole or in part due to an excluded cause in Section 5, our obligations end there, except for Reported Problems of third party components provided by us, which we escalate to the original licensor;
- b. **Diagnosis** – after Triage, we will investigate to identify the cause and develop a resolution plan; and
- c. **Resolution** – after Diagnosis, we will use commercially reasonable efforts to repair, patch, or replace the diagnosed defect either with a permanent fix or reasonable workaround with resolution, to be included in a future Update.

4.5 **Service Levels.** Honeywell will work toward resolution of reproducible Reported Problems as follows (the "Service Levels"):

| Level | Response Time | Resolution Time |
|------------|-----------------|---|
| Severity 1 | Within 2 hours | We will use commercially reasonable efforts to either resolve or downgrade to a Severity 3 or Severity 4 Problem within three business days of completing Triage. |
| Severity 2 | Within 6 hours | We will use commercially reasonable efforts to either resolve or a downgrade to a Severity 3 or Severity 4 Problem within five business days of completing Triage. |
| Severity 3 | Within 24 hours | We will use commercially reasonable efforts to resolve in a timely manner upon completion of Triage. Depending on the Diagnosis, a Resolution may be scheduled for a future Update. |
| Severity 4 | Within 48 hours | We will use commercially reasonable efforts to resolve or provide clarification in a timely manner upon completion of Triage. |

Resolution of Helpdesk Issues: Honeywell's Technical Support will contact Buyer to ensure that a problem or issue has been resolved to Buyer's satisfaction before closing the problem report. In instances where Honeywell has resolved the problem to Honeywell's satisfaction but has been unable to confirm that the supplied solution is satisfactory to Buyer, Honeywell will assume such solution to have been satisfactory and close the case after thirty (30) working days unless Buyer notifies Honeywell to the contrary.

5. SUPPORT CONTACT INFORMATION

- 5.1 Casual Consulting and Technical Support are available via:
 - 5.1.1 **Toll-Free Number with Buyer Specific PIN** - The Connexo Software Support line 866-554-9007 or +919-250-5717, is available 24 hours a day 7 days a week. If a call is received during Buyer's support hours and a support engineer is not available to take the call, the call will be routed to a voice mailbox. The next available support engineer will return voice messages. Calls received outside of Buyer support hours will be automatically routed to a voice mailbox. Messages received outside support hours will be returned the following support day.
 - 5.1.2 **Email** may be sent to Connexo.Support@us.Honeywell.com Emails sent to this address are automatically routed to support engineers who will respond during Buyer's support hours. Emails received outside of Buyer support hours will be returned the following support day.
 - 5.1.3 **Web Portal**-The Honeywell Support System (ESS) User Portal (<http://honeywellprocess-community.force.com>) can be accessed using individual login IDs provided by Technical Support. The User Portal is available 24 hours a day, 7 days a week.

6. INTENTIONALLY OMITTED.

7. TERM AND RENEWAL

- 7.1 The term of this SMA shall be effective upon entering into the HPS End User License Agreement ("Effective Date") and shall continue until December 31st of the then current calendar year (the "Initial Term"). Thereafter, this SMA shall automatically renew for successive one-year terms (each a "Renewal Term") unless the SMA is terminated by either Party by written notice to the other Party sixty (60) days prior to the end of the then-current term with such termination to be effective upon completion of such term.
- 7.2. To ensure that the SMA meets the needs and expectations of Honeywell and Buyer, the parties agree in good faith to review this SMA not less than annually and if warranted and mutually agreed upon, to make adjustments in the SMA, including prices, to be consistent with evolving industry practices and the needs of the parties.
- 7.3 If for any reason this SMA should lapse, the Buyer may reinstate lapsed support and maintenance upon payment of 150% of the support and maintenance fees in arrears, and all costs invoiced by Honeywell on a time and materials basis for updating Buyer's Program to the then-current version.
- 7.4 Buyer may request a change in Support Level in writing no later than October 1st of the then-current year. Honeywell will approve or reject the request in writing no later than December 1st. If approved, Honeywell will invoice Buyer 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.

8. SYSTEM MAINTENANCE FEES

- 8.1 **Fees:** Upon the Effective Date of this SMA or on a date as specified in an associated system contract, Buyer shall pay the then-current annual System Maintenance Fee, pro-rated based on the number of months remaining in the calendar year from the Effective Date of this SMA. Thereafter, annual System Maintenance Fees will be invoiced in October of each year, with payment for the next year's System Maintenance due no later than December 31 of the current year. On Site Support services and any other Additional Services will be billed at the end of the month in which the services are provided. Fees for Modules licensed separately by Buyer shall be charged at purchase. Except as specifically set forth in this System Maintenance Agreement, all invoices are due net thirty (30) days from the date of invoice. Honeywell 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 Honeywell may have at law or in equity. All System Maintenance Fees are in US dollars.

- 8.2 **System Maintenance Structure:** The system maintenance fee is structured based on the level of support desired by the Buyer, total system size and optional services purchased by the Buyer. The table below describes the structure for system maintenance fees for the Connexo System. Total list license Fee includes licenses for all programs, system, modules, endpoints, interfaces and custom integrations purchased by the Buyer as defined in the latest amendment to the End User License Agreement or Buyer statement of work. The percent of license fees is determined by the desired support level.

| Support Level | Support Fees |
|---------------|--------------------------|
| 9 x 5 | 20% of License List Fees |

To the extent applicable, a support level of 12 x 7 or 24 x 7 is mandatory for Buyers with over 200,000 endpoints and 24 X 7 for Buyers with over 1 million endpoints.

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

- 8.3 **Annual Increase Provision:** After the first complete year of system maintenance support, annual system maintenance fees may be adjusted by the greater of four percent (4%) or, when comparing the most recent years' data, the percentage change in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, U.S. City Average.
- 9. **GENERAL**
 - 9.1 The maximum liability of Honeywell for any damages sustained by the Buyer under this System Maintenance Agreement shall in no circumstance exceed the amount of the annual maintenance fee payable by the Buyer to the Honeywell for the then-current year. Neither Honeywell nor its licensors of third party Software shall in any event be liable to Buyer for loss of revenue, profit, anticipated profit or indirect, incidental special or consequential damages, including but not limited to, any losses to Buyer resulting from lost computer time or the destruction or damage of records, or any claims or demands made against the Buyer by a third party.
 - 9.2 Except as expressly provided herein, the Honeywell does not make any representations or warranties under this System Maintenance Agreement whatsoever whether statutory, expressed or implied, including but not limited to warranties of merchantability and fitness for a particular purpose, and any warranties arising from course of dealing or usage of trade. No action, regardless of form, arising out of the transactions under this System Maintenance Agreement may be brought by Buyer more than two (2) years after the cause of action has accrued.
 - 9.3 Honeywell may engage subcontractors to provide or assist in providing System Maintenance Services, in which case Honeywell remains responsible for the fulfillment of its obligations under this SMA and for the performance of the System Maintenance Services.
 - 9.4 The provisions intended to survive the cancellation, expiration or termination of this SMA, shall survive.