



# elev8

## Standard Terms and Conditions

These Standard Terms and Conditions (T&C's) (together with any Proposal and Elev8's Privacy Policy (hereinafter referred to collectively as the "Agreement") constitutes a binding contract on the person or entity identified in a Proposal ("Customer") and govern the use of and access to the Services by Customer and any individual authorized by the Customer to use the Services.

By accepting the Agreement, by using any services offered by the Elev8 entity stated in the Proposal ("**Elev8**") or by executing a Proposal, the Customer agrees to be bound by the Agreement. Customer and Elev8 hereby agree as follows:

### 1. SERVICES

1.1 Engagement of Services. Elev8 agrees to provide certain services to the Customer as described in the Proposal (the "**Services**") during the Term (as defined below), as the parties may agree to in writing from time to time in one or more proposals (each, a "**Proposal**"), each of which shall be deemed to constitute an integral part of this Agreement and each of which incorporates the terms of this Agreement by reference. In the event of a conflict between any Proposal and these T&C's, the Proposal will prevail. Capitalized but undefined terms used in any Proposal will have the meaning first ascribed to them in these T&C's.

### 2. CHARGES AND PAYMENT

2.1 Fees. In consideration for the performance of the Services during the Term, Customer shall provide to Elev8 the consideration as described in the applicable Proposal (the "**Fees**").

2.2 Payment Terms. Upon the issuance and presentation of an invoice by Elev8, the Customer shall pay each invoice due and submitted to it, within 30 days of receipt, to the bank account indicated on the issued invoice, unless otherwise stated in the Proposal. All amounts due under the Agreement from the Customer to Elev8 shall be paid by in full without any set-off, counterclaim,

deduction or withholding (other than any deduction or withholding of tax as required by law).

2.3 Delinquent Payments. **Fees are due and payable as stated in clause 2.2 above unless otherwise set forth in the Proposal.** If Fees remain unpaid beyond the due date for payment, the Customer shall pay interest on the overdue sum from the due date until payment of the overdue sum. Outstanding invoices shall accrue interest of 2.5% monthly rate and in any event Elev8 may suspend all Services until payment is made in full or at its discretion decide

to terminate the Agreement as per the provisions of clause 3.2 below.

2.4 Termination Charges. If the Customer decides to terminate the Agreement at any time during the Term, the following charges will be applied according to the notice period: (i) up to 10 (ten) days' notice, the Customer shall pay 30% of the Fees; (ii) up to 21 (twenty-one) days' notice, the Customer shall pay 15% of the Fees and (iii) up to 30 (thirty) days' notice the Customer shall not pay any percentage charge on the Fees. For the avoidance of doubt, all other costs and expenses incurred by Elev8 for the provision of the Services which cannot be averted as a cause of termination, including but not limited to, any Fees accrued up to the date of termination, shall be paid by the Customer regardless of the notice period for termination.

### 3. TERM AND TERMINATION

3.1 Term. This Agreement will commence on the date set forth in the Proposal (the "**Services Start Date**"), and unless terminated according to -clause 3.2 below, shall remain in effect until the end of the Term set forth in any current Proposal (the "**Term**").

3.2 Termination. Either party may terminate this Agreement at any time with immediate effect (i) upon the other party's breach of any material provision of this Agreement that remains uncured for thirty (30) days after receiving written notice of such breach; or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors. For the avoidance of doubt, Customer's failure to pay any Fees when due shall be deemed a breach of a material provision of this Agreement.

3.3 Effect of Termination of the Agreement. Subject to clause 2.4 the Customer shall within 30 days from the date of termination pay to Elev8 all of Elev8's outstanding unpaid

invoices and interest and, in respect of Services supplied but for which no invoice has been submitted, Elev8 may issue and submit an invoice, which shall be payable within 30 days from receipt. The termination of a certain Proposal shall not affect the validity and operation of any other Agreement in place between the Customer and Elev8, unless otherwise agreed by the parties.

3.4 Survival. All sections of the Agreement which by their nature should survive termination will survive, including without limitation, accrued rights to payment, use restrictions and indemnity obligations, confidentiality obligations, warranty disclaimers, and limitations of liability.

3.5 Return of Materials. Upon the termination or expiration of this Agreement and upon a Disclosing Party's written request, each Recipient will return to the Disclosing Party or destroy all copies of all Confidential Information that are in the Recipient's possession or control within a reasonable timeframe to be agreed between the parties.

#### 4. NON-DISCLOSURE AND CONFIDENTIALITY

4.1 Definition. "**Confidential Information**" means any non-public information that relates to the actual or anticipated business, research or development of a party and any proprietary information, trade secrets, and know-how of a party that are disclosed by one party (the "**Disclosing Party**") to another party (the "**Recipient**") directly or indirectly, in writing, orally or by inspection or observation of tangible items. Confidential Information includes but is not limited to (a) trade secrets, inventions, ideas, processes, formulas, source and object codes, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques (hereinafter collectively referred to as "**Inventions**"); (b) information regarding plans for research, development, new products, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers and customers; and (c) information regarding the skills and compensation of employees of the other party. Confidential Information also includes information that is defined as "Confidential Information" under any other agreement between the parties, as well as confidential information of third parties that has been provided to the Recipient hereto. Confidential Information is the sole property of the Disclosing Party.

4.2 Confidentiality. Each party undertakes that it shall not at any time and for a period of five (5) years after termination or expiry of the Agreement, or until the information is no longer considered a trade secret under applicable law, disclose to any person any confidential information, including, without limitation any technical, financial or other data, knowledge, or documents, concerning the business, affairs, customers, clients or suppliers of the other party or any of its Affiliates. For the purposes of this

clause "Affiliate" means, in relation to a party, any legal entity which controls, is controlled by, or is under common control with a party, where "control" means the direct or indirect ownership of more than fifty percent (50%) of the voting securities of that entity, or if the entity has no voting securities, the ability to direct or cause the direction of the management of that entity.. Each party may disclose the other party's confidential information: (i) to its employees, officers, representatives, contractors, subcontractors, or advisers, including those of its Affiliates, who need to know such information for the purposes of carrying out the party's obligations under the Agreement. Each party shall ensure that its employees, officers, representatives, contractors, subcontractors, or advisers, including those of its Affiliates, to whom it discloses the other party's confidential information comply with this clause; and (ii) as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority. In case the parties have signed between them a non-disclosure agreement, such agreement shall prevail over this clause.

#### 5. INTELLECTUAL PROPERTY RIGHTS

5.1 Intellectual Property Ownership. Elev8 owns all patents, rights to inventions, copyright and related rights, trade marks, trade names, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights either directly or through the benefit of a license whether expressed or implied from a third-party (including any subcontractor), in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world (the "**Intellectual Property Rights**"), including for the avoidance of doubt any Intellectual Property Rights in the Materials and the Deliverables. Customer acknowledges that the Services are based on Elev8's idea. Except as permitted hereunder, Customer may not claim any right, including Intellectual Property Rights or industrial property rights, trading rights, licenses or computer applications (indicatively methodology, algorithms) relating in any way whatsoever to the Services.

5.2 Customer Materials. The Customer grants Elev8 a worldwide, non-exclusive, royalty-free, non-transferable and revocable license to copy, use and modify all information, materials, equipment and tools, branding, drawings, specifications and data that pre-exist this Agreement and which are owned by and supplied by the Customer to Elev8 (the "**Customer Materials**") for the Term of the Agreement for the sole purpose of enabling Elev8 to provide the Services to and developing the Deliverables for the Customer in accordance with the Agreement.

5.3 Elev8 Materials. Elev8 may use data, software, designs, models, systems and other

methodologies and know-how ("**Materials**") that it owns in performing the Services. Notwithstanding the delivery of any of the Deliverables, Elev8 retains all intellectual property rights in the Materials (including any improvements or knowledge developed while performing the Services), and in any documents and/or papers compiled in connection with the Services (but not Customer Materials information reflected in them). Upon full payment for the Services, the Customer may use any Materials included in the training provided by Elev8, including but not limited to, reports, presentations, or other communications (the "**Deliverables**"), themselves as permitted by this Agreement, subject to clause 5.4 below.

5.4 Deliverables. Elev8 grants Customer a non-exclusive, royalty -free, non- transferable and revocable license to use and disclose any part or whole of the Deliverables, for the Customer's benefit only, in a manner consistent with the purpose of a particular Service provided by Elev8. Any disclosure of any part or whole of the Deliverables, other than as abovementioned, to other persons is prohibited unless there is prior written consent by Elev8. If the Customer is permitted to disclose the Deliverables (or a portion thereof) under these T&Cs, the Customer shall not alter, edit or modify it from the form the Deliverables were provided by Elev8.

## 6. WARRANTIES

6.1 Elev8 Warranties. Elev8 represents and warrants that in providing the Services it shall: (i) perform the Services with reasonable care and skill; (ii) ensure that the results through the Services, the Deliverables, and all goods, materials, standards and techniques used in providing the Services are in accordance with industry standards. Other than the above warranties Elev8 provides the Services "AS IS" without any additional representation and warranty of any kind.

6.2 Customer Warranties. The Customer represents that it is duly authorized and licensed to enter into this Agreement and shall: (i) cooperate with Elev8 in all matters relating to the Services; (ii) provide, for Elev8, its agents, subcontractors, consultants and employees, in a timely manner and at no charge, access to the Customer's premises, office accommodation, data and other facilities as reasonably required by Elev8 for the sole purpose of enabling Elev8 to deliver the Services; (iii) provide, in a timely manner, such information as Elev8 may reasonably require, and ensure that it is accurate and complete in all material respects; (iv) observe all reasonable health and safety rules and regulations and security requirements that apply at any of Elev8's Premises and/or other facilities; (v) effect all due payments to Elev8 in a timely manner as per the terms of the Agreement; and (vii) agrees not to dispute or contest Elev8's exclusive rights in or to the Materials and Deliverables at any time during or after the term of this Agreement and shall not attempt to copy, use, modify, reverse engineer

(as applicable) and/or create derivative works of the Materials and the Deliverables and any other products or services developed by Elev8.

## 7. INDEMNITIES

7.1 Force Majeure. Neither party shall be liable for delay or default in the performance of its obligations under this Agreement, if such delay or default is caused by conditions beyond its reasonable control, including but not limited to fire, flood, strikes, accident, epidemic or pandemic declared by WHO, freight embargoes, earthquakes, electrical outages, internet interruptions or outages, computer or communications failures, terrorist acts or any acts of God ("**Force Majeure**"), provided that such party notifies the other party within five (5) business days of such event occurring. All performance obligations under this Agreement shall resume when the Force Majeure Event ceases to exist. The performance of the obligations of sections 4 and 5 under these T&Cs remain unaffected during a Force Majeure event.

7.2 Indemnities. Each party ("**Indemnifying Party**") shall indemnify, defend and hold the other party and its directors, officers, and employees ("**Indemnified Party**") harmless against all losses, costs, damages, expenses claims, suits and actions including attorneys' fees and other legal expenses, of any nature ("**Claims**") that the Indemnified Party may suffer, sustain or become subject to, directly or indirectly by reason of a breach, inaccuracy or incompleteness of any of the warranties or representations set forth in Clauses 4,5 and 6 that is due to the Indemnifying Party's willful misconduct or gross negligence, other than to the extent that such Claim is made against the Indemnified Party as a result of such party's breach of the Agreement. The parties acknowledge and agree that they have entered into this Agreement relying on such warranties and representations and the other warranties, representations, terms and conditions set out in this Agreement.

7.3 Liability. Except for damages or losses arising from the indemnity provisions of clause 7.2, each party's total, cumulative liability to the other party for any damages or loss arising from or relating to this Agreement will be the total amount of the lesser of the Proposal value or the last twelve (12) months of the invoiced Services preceding a claim. The limitations set forth in this clause 7.3 shall not apply to the extent either party can be shown to have engaged in the death of a person, personal injury, damage to property, misappropriation of a party's intellectual property and breach of confidentiality, whilst performing under this Agreement. Notwithstanding the above no party shall be liable for any incidental, indirect, special, consequential, punitive, or exemplary damages, or for any lost profits, lost savings, lost revenues, lost data or business interruption) arising out of or related to the performance of this Agreement, even if such party have been advised of the possibility of such

damages.

## **8. MISCELLANEOUS**

8.1 Notices. Any notice required or permitted under the terms of this Agreement or required by law must be in English, in writing and must be: delivered in person, sent by overnight air courier, in each case properly posted and fully prepaid to the appropriate address, or sent via email or facsimile as may be indicated in the Proposal. Either party may change its address for notices by notice to the other party given in accordance with this clause. Notices will be deemed to be given at the time of actual delivery in person or by email (with proof delivery receipt) or facsimile (with proof of delivery receipt), or one (1) day after delivery to an overnight air courier service.

8.2 Waiver. A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy.

8.3 Assignment. None of the Parties may at any time assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights under the Agreement without the other party's prior written consent, with the exception that Elev8 may assign and transfer any rights under the Agreement towards any Affiliate.

8.4 Severability. If any provision or part-provision of the Agreement is or becomes invalid,

illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of the Agreement.

8.5 Variation. These T&C's may be updated and /or supplemented by Elev8 at its discretion from time to time without any prior notice. The Customer is advised to regularly monitor the T&C's on Elev8's website at <https://www.elev8me.com/legal>

8.6 No Partnership. Except as explicitly stated, nothing in this Agreement shall be deemed to establish a legal relationship of partnership, joint venture, or principal and agent between the Parties.

8.7 Precedence of documents. In the event of any conflict between these T&C's and the Proposal, the terms of the Proposal shall prevail.

8.8 Governing Law and Jurisdiction. The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation, shall be governed by, and construed in accordance with the laws of the territory in which the Elev8 entity signing the Proposal is duly registered (the "**Territory**"). Each party irrevocably agrees that the courts of the Territory shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation.