

EXACTPARK™ TERMS AND CONDITIONS

BY ACCEPTING THESE TERMS AND CONDITIONS, EITHER BY: A) ACCEPTING THESE TERMS AND CONDITIONS ONLINE, B) SIGNING THE QUOTE (AS DEFINED BELOW) WHICH REFERENCES THESE TERMS AND CONDITIONS, OR C) USING OR ACCESSING EXACTPARK™ (AS DEFINED HEREIN) AFTER BEING MADE AWARE OF THESE TERMS AND CONDITIONS, CUSTOMER ACKNOWLEDGES THAT IT HAS READ AND UNDERSTOOD ALL OF THE PROVISIONS, AND HAS THE AUTHORITY TO AGREE TO, AND IS CONFIRMING THAT IT IS AGREEING TO, COMPLY WITH AND BE BOUND BY, ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN, TOGETHER WITH THE TERMS CONTAINED IN A QUOTE. IF, AFTER READING THESE TERMS AND CONDITIONS CUSTOMER DOES NOT ACCEPT OR AGREE TO ALL OF THE TERMS AND CONDITIONS CONTAINED HEREIN, CUSTOMER SHALL NOT ACCESS OR USE EXACTPARK.

IF YOU ARE AN AGENT OR EMPLOYEE OF THE CUSTOMER THEN YOU HEREBY REPRESENT AND WARRANT THAT: (I) THE INDIVIDUAL ACCEPTING THESE TERMS AND CONDITIONS IS DULY AUTHORIZED TO DO SO ON CUSTOMER'S BEHALF AND TO BIND THE CUSTOMER, AND (II) THE CUSTOMER HAS FULL POWER, CORPORATE OR OTHERWISE, TO ACCEPT AND AGREE TO THESE TERMS AND CONDITIONS AND PERFORM ITS OBLIGATIONS HEREUNDER.

1. INTERPRETATION

1.1 Definitions. Unless otherwise defined in the Quote, the terms listed below shall have the following meanings when used in these Terms and Conditions:

- (a) “**Account**” is defined in Section 2.7 below.
- (b) “**Agreement**” means the Quote together with these Terms and Conditions.
- (c) “**Confidential Information**” means all confidential and proprietary information, in any form, furnished or made available directly or indirectly by one party to another party, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement (including pricing and other terms reflected in all orders hereunder), business and marketing plans, technology and technical information, product designs, financial information, business processes and correspondence.
- (d) “**Customer**” means the customer identified on the applicable Quote.
- (e) “**Customer Data**” means the data or information submitted by or for Customer to eXactpark or collected and Processed by or for Customer using eXactpark.
- (f) “**Data Protection Laws**” means all laws and regulations, including laws and regulations of Canada (including the *Personal Information Protection and Electronic Documents Act* (Canada) and the Canadian Anti-Spam Legislation), the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom, including the GDPR, applicable to the Processing of Personal Information under the Agreement.

- (g) “**Device**” means a device, computer or sensor that: (a) complies with all applicable regulatory requirements; (b) has been approved by Eleven-X to operate on the Network; and (c) has been activated by Eleven-X on the Network.
- (h) “**Documentation**” means the user manual, data sheets, and other documentation as prepared and supplied by Eleven-X for use in association with eXactpark.
- (i) “**Eleven-X**” means Eleven-X Incorporated.
- (j) “**Eleven-X Device**” means a Device manufactured by or for Eleven-X and supplied to the Customer by Eleven-X hereunder and specified in the applicable Quote.
- (k) “**End User**” means an end user of the eXactnav App to access and use Customer’s instance of eXactpark.
- (l) “**Evaluation Term**” if applicable, means the evaluation period, if any, specified in a Quote.
- (m) “**eXactnav App**” means Eleven-X’s proprietary mobile application known as “eXactnav™” which Customer’s end users download onto their mobile devices to connect to and use eXactpark.
- (n) “**eXactnav App EULA**” means the end user license agreement for the eXactnav App which is available at <https://eleven-x.com/legal/exactnaveula>.
- (o) “**eXactpark**” means Eleven-X’s proprietary smart parking solution known as “eXactpark™” which is comprised of the Network, Network Services, one or more Software Services (including the eXactnav App) Eleven-X Devices and Third Party Products.
- (p) “**Gateway**” means a router equipped with a LoRa concentrator that has been approved by Eleven-X for use on the Network.
- (q) “**Intellectual Property Rights**” means any and all (by whatever name or term known or designated) tangible and intangible and now known or hereafter existing (i) rights associated with works of authorship throughout the universe, including but not limited to copyrights, moral rights, and mask works, (ii) trademark and trade name rights and similar rights, (iii) rights relating to know-how or trade secrets, confidential information, including ideas, concepts, methods, techniques, inventions (whether or not developed or reduced to practice); (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property and proprietary rights (of every kind and nature throughout the universe and however designated), whether arising by operation of law, contract, license or otherwise, and (vi) all registrations, applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force throughout the universe (including without limitation rights in any of the foregoing).
- (r) “**Malicious Code**” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.
- (s) “**Network**” means the Eleven-X LoRaWAN network described in the applicable Quote.
- (t) “**Network Services**” means the data and services provided by Eleven-X that allow Devices operating on the Network to transport data over the Network.

- (u) **“Personal Information”** means any information relating to an identified or identifiable natural person as defined under applicable Data Protection Laws.
- (v) **“Processing”** means any operation or set of operations which is performed upon Personal Information, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- (w) **“Professional Services”** means the customization, integration, implementation, set-up, training and other professional services described in a Quote.
- (x) **“Quote”** means the Eleven-X quote for eXactpark Subscriptions, Eleven-X Devices, Third Party Products and Professional Services to which these Terms and Conditions are attached or incorporated by reference.
- (y) **“Software Service(s)”** means one or more of Eleven-X’s proprietary cloud-based software-as-a-service modules (as specified and described in the Quote) for which Customer is granted rights of access and use in accordance with this Agreement, including any ancillary mobile applications and other services available in connection therewith, as such Software Service may be updated from time to time by Eleven-X in its sole discretion.
- (z) **“Subscription”** means the right granted by Eleven-X to Customer to access and use eXactpark in accordance with this Agreement, for the Subscription Term specified in the applicable Quote.
- (aa) **“Subscription Fee”** means the fee payable by Customer for a Subscription as set out in the Quote.
- (bb) **“Subscription Term”** means the period of time that Customer is authorized by Eleven-X to access and use eXactpark (including the Documentation) as specified in the applicable Quote.
- (cc) **“Support Services”** means the support services for eXactpark provided by Eleven-X as described in Section 4 hereof.
- (dd) **“Third Party Product”** means (a) any hardware product, including without limitation a Device, that is not manufactured by or on behalf of Eleven-X; and/or (b) stand-alone software applications that are proprietary to a third party.
- (ee) **“User”** means an employee or contractor of Customer to whom Customer (or Eleven-X at Customer’s request) has supplied a user identification and password.

1.2 Sections and Headings. The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and do not affect the construction or interpretation of this Agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles, Sections and Schedules are to Articles and Sections of and Schedules to this Agreement.

1.3 Governing Law; Attornment. This Agreement is construed, interpreted and enforced in accordance with, and the rights of the parties are governed by, the laws of the Province of Ontario and the federal laws of Canada applicable therein (excluding any conflict of law rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). Each party irrevocably submits to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder or relating hereto. The *United Nations Convention on Contracts for the International Sale of Goods* shall not apply to this Agreement or to any dispute arising therefrom.

2. EXACTPARK ACCESS AND USE

2.1 Right to Access.

- (a) *eXactpark Generally.* Once Eleven-X has implemented the Customer's instance of eXactpark and created an Account for Customer, Eleven-X will provide eXactpark to Customer and Customer is hereby authorized to access and use eXactpark on the terms and conditions contained herein, until the earliest of the end of the Subscription Term or the Evaluation Period, as applicable, or the Agreement being terminated in accordance with the terms hereof.
- (b) *Software Services.* Subject to the terms and conditions of this Agreement (including the applicable Quote) and payment of the applicable Subscription Fees, Eleven-X hereby grants to Customer a non-exclusive, worldwide, non-transferable, non-sublicensable, internal right to (a) access and use (and to permit Users to access and use) the Software Services, solely during the Subscription Term; and (b) access and use, and to permit Users to access and use, the Documentation as reasonably necessary to support the Customer's permitted use of the Software Service during the Subscription Term.
- (c) *eXactnav App.* Eleven-X hereby grants to Customer the right to provide End Users with access to and use of the eXactnav App to enable End Users to access and use eXactpark; *provided that* each End User agrees to and complies with the eXactnav App EULA.

2.2 Reservation of Rights. Eleven-X and its licensors own and shall retain all right, title and interest (including without limitation all patent rights, copyrights, trademark rights, trade secret rights and all other Intellectual Property Rights), in and to eXactpark (other than Devices and Third Party Products) and Documentation and any copies, corrections, bug fixes, enhancements, modifications or new versions thereof, all of which shall be deemed part of eXactpark and subject to all of the provisions of this Agreement. Customer shall keep eXactpark (other than Devices and Third Party Products) free and clear of all liens, encumbrances and/or security interests. Subject to the limited rights expressly granted in this Agreement, Eleven-X reserves all rights, title and interest in and to the Software Services, Network, Network Services and Documentation. No rights are granted to Customer pursuant to this Agreement other than as expressly set forth in this Agreement and all rights not expressly granted under this Agreement are reserved.

2.3 Restrictions and Limitations.

- (a) *Networks.* Customer acknowledges and agrees that: (a) eXactpark Networks have a limited operational range and this range may change depending on environmental conditions and location of Devices; and (b) the Network may be temporarily down or limited due to atmospheric, environmental, capacity constraints, or other events beyond Eleven-X's control. eXactpark performance may also be temporarily interrupted due to changes or maintenance performed by

Eleven-X. Eleven-X shall use reasonable commercial efforts to provide prior notice where Network interruptions are planned and have a material impact on the Customer. If eXactpark fails to operate in accordance with its Documentation and Customer has confirmed that the issue is not with its infrastructure, Customer shall provide notice of the issue to Eleven-X using the support contact information provided by Eleven-X, and Eleven-X shall use commercially reasonable efforts to resolve the issue within 48 business hours from delivery of the notice.

- (b) *Software Services*. Customer shall not (and shall not allow Users or any third party to): (i) possess, download or copy the Software Services or any part of the Software Services, including but not limited any component which comprises the Software Service, but not including any output from the Software Services; (ii) knowingly interfere with service to any of Eleven-X's users, host or network, including by means of intentionally submitting a virus, overloading, flooding, spamming, mail bombing or crashing; (iii) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Software Services and/or Documentation, except to the extent that enforcement is prohibited by applicable law; (iv) circumvent any timing restrictions that are built into the Software Services; (v) sell, rent, lend, transfer, distribute, license, or grant any rights in the Software Services or Documentation in any form to any person without the written consent of Eleven-X; (vi) remove any proprietary notices, labels, or marks from the Software Services or Documentation; or (vii) create any "links" to or "frame" or "mirror" of the Software Services or any portion thereof.

- 2.4 Third Party Content. Eleven-X is not a publisher of third party content that can be accessed through eXactpark. Eleven-X is not responsible for any content, including information, opinions, advice, statements, or services that are provided by third parties and accessible through eXactpark or any damages resulting therefrom. Eleven-X does not guarantee the accuracy, completeness, or usefulness of information that is obtained through eXactpark. Eleven-X makes no representations or warranties regarding the provider, scope or nature of the content, or services that will be available through eXactpark.
- 2.5 No Reverse Engineering. Customer shall not alter, modify, adapt, create derivative works, deface, disassemble, or Reverse Engineer eXactpark, any component thereof or any other Eleven-X supplied product or service, nor attempt to do so, nor permit, acquiesce, authorize or encourage any other person to do so. For the purposes of this Agreement, "**Reverse Engineer**" means any act of reverse engineering, translating, disassembling, decompiling, decrypting, or deconstructing (including any aspect of "dumping of RAM/ROM or persistent storage", "cable or wireless link sniffing", "protocol analysis" or "black box" reverse engineering) data, software (including backend APIs, interfaces and any other data included in or used in conjunction with programs that may or may not technically be considered software code) or hardware or any method of obtaining or converting any information, data or software from one form into human-readable form.
- 2.6 Limitations on Eleven-X's Responsibility. Unless Eleven-X expressly agrees otherwise, its sole responsibility is the provision of eXactpark, including, if applicable, any Third Party Products. Customer shall be responsible for providing all other aspects of its system, including without limitation any Devices not provided by Eleven-X. In no event shall Eleven-X be responsible for the functioning or functionality of any Device not provided by Eleven-X or any other portion of Customer's system.
- 2.7 Account Activation. Customer is required to open an account with Eleven-X (an "**Account**") in order to use the Software Services. Customer shall ensure that such account activation information is accurate and complete and that such information remains current throughout the Subscription Term. Customer is fully

responsible for all activity that occurs in Customer's Account, including for any actions taken by its Users. Customer is responsible for keeping all Account passwords secure. Eleven-X will not be liable for any loss or damage caused by or arising from a failure by Customer or its Users to maintain the security of the Customer's Account and password.

3. PROFESSIONAL SERVICES

- 3.1 Professional Services and Fees. If agreed to in a Quote, Eleven-X, or its authorized services partner, will provide the Professional Services described in the Quote for the fee specified therein. Such Professional Services may include installation, setup, and start-up testing of the Eleven-X Devices on the Network to ensure the hardware complies with the specifications set forth in the Documentation. Customer will provide Eleven-X with reasonable access to Customer's facility for delivery, setup, installation, inspection and servicing.
- 3.2 Proprietary Rights. All software, appliances, methodologies, code, improvements, designs, templates, tools, policies, records, work papers, knowledge, data, know-how, ideas, interfaces, utilities, architectures, concepts, techniques, works of authorship or other intellectual property, written or otherwise, that is (i) pre-existing property of Eleven-X; (ii) developed at any time by Eleven-X independently of this Agreement or the Professional Services; or (iii) developed by Eleven-X alone or jointly with Customer, whether independently of this Agreement or in relation to this Agreement, that relates to the Professional Services (including any updates, modifications, improvements, and derivative works of the same whether or not created or developed during the course of performance of the Professional Services), including all Intellectual Property Rights therein, shall be the exclusive property of Eleven-X.

4. SUPPORT AND SERVICE LEVEL AGREEMENT

- 4.1 Support. Eleven-X will use reasonable efforts to provide Support Services to Customer for eXactpark from 9:00 am to 5:00 pm ET, on Eleven-X business days. Customer acknowledges and agrees that notwithstanding the obligation to use reasonable efforts to provide support on business days, there may be times when Eleven-X support personnel are not available. Eleven-X reserves the right to charge its then-current professional services fees for certain support requests, with the prior approval of the Customer. Eleven-X shall not be required to provide Support Services if Customer is in default of any of Customer's obligations under this Agreement.
- 4.2 Service Level Agreement. Eleven-X will use commercially reasonable efforts to ensure that the Software Services will achieve Service Availability (as defined below) of at least 99.9% during each calendar month. In the event that the Software Services cease to function substantially in accordance with the Documentation, Eleven-X will use commercially reasonable efforts to have the Software Services operating and functioning substantially in accordance with the Documentation within forty-eight (48) hours. "**Service Availability**" means the number of minutes in a month that the key components of the Software Services are operational as a percentage of the total number of minutes in such month, excluding downtime resulting from (a) scheduled maintenance, (b) force majeure events (as defined in Section 16.2), (c) malicious attacks on eXactpark, (d) issues associated with Gateways or Devices, or (e) acts or omissions of Customer. Eleven-X reserves the right to take eXactpark offline for scheduled maintenance for which Customer has been provided reasonable notice and Eleven-X reserves the right to change its maintenance window upon prior notice to Customer.

5. **DEVICES**

- 5.1 **Sale of Devices.** Eleven-x shall sell to Customer, and Customer shall purchase from Eleven-X, the Eleven-X Devices and Third Party Products set forth in the Quote in the quantities and at the price specified in the Quote and upon the terms and conditions set forth in this Agreement.
- 5.2 **Delivery.** Eleven-X shall deliver the number of Eleven-X Devices and Third Party Products specified in the Quote to the address specified by Customer in the Quote (the “**Delivery Point**”) using Eleven-X’s standard methods for packaging and shipping Devices, EXW (Incoterms 2020), Eleven-X’s warehouse. Devices will be delivered by or within a reasonable time after the delivery date stated on the Quote, subject to availability. Unless otherwise agreed by the Parties in this Agreement, Eleven-X shall determine the carrier and all matters related to shipping and delivery.
- 5.3 **Title.** Title in and to the Devices will pass to Customer upon delivery of the Devices to the Delivery Point.

6. **FEES AND PAYMENT TERMS**

- 6.1 **Subscription Fees.** Customer shall pay to Eleven-X the Subscription Fees specified in the Quote. Unless otherwise agreed and specified in the applicable Quote, Subscription Fees are payable annually, in advance. All Subscription Fees are quoted and payable in the currency specified in the Quote. Except as otherwise specified herein or in a Quote, Subscription Fees are non-cancellable and non-refundable.
- 6.2 **Taxes and Other Charges.** Subscription Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, HST, GST, sales, value-added, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, “**Taxes**”). Customer shall be responsible for all Taxes, as well as shipping, insurance and other costs, including, but not limited to, any import duties associated with the supply of products and services under this Agreement. If Eleven-X has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Eleven-X will invoice Customer and Customer will pay that amount unless Customer provides Eleven-X with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Eleven-X is solely responsible for taxes assessable against it based on its income, property and employees.
- 6.3 **Invoicing and Payment.** Subscription Fees will be invoiced annually in advance and otherwise in accordance with the relevant Quote. Customer expressly acknowledges that some charges incurred in a billing cycle may not appear on the invoice for that billing cycle and that those charges may appear on subsequent invoices. Unless otherwise stated in the Quote, charges are due net thirty (30) days from the invoice date. Customer is responsible for maintaining complete and accurate billing and contact information with Eleven-X.
- 6.4 **Purchase Orders.** Customer may issue a purchase order or purchase orders to Eleven-X for a Subscription to eXactpark with the number of Eleven-X Devices and, if applicable, Third Party Products set forth in the applicable Quote, and Eleven-X’s invoices submitted thereafter with respect to such fees will include references to the applicable purchase order(s). Except as otherwise expressly provided in this Agreement, the Customer’s purchase order(s) with respect to eXactpark shall serve as authorization from Customer for Eleven-X to proceed with the activation of the Customer on the Network and/or provisioning of eXactpark for the number of Devices specified therein.

- 6.5 Purchase Order Terms. Unless otherwise agreed to in writing by Customer and Eleven-X, the acceptance of any purchase order placed by Customer for a Subscription to eXactpark is expressly made conditional upon Customer's acceptance of and agreement to the terms and conditions contained in this Agreement and Eleven-X agrees to furnish eXactpark only upon the terms and conditions of this Agreement and not on the terms and conditions contained in Customer's purchase order (other than the information required in Section 6.4 hereof). The terms and conditions on the reverse side of a Customer purchase order are of no force and effect.
- 6.6 Disputed Invoice. If Customer disputes an invoice in good faith, Customer must (a) notify Eleven-X in writing within thirty (30) days of any such invoice, specifying the nature of the dispute or inaccuracy; and (b) pay any undisputed amounts as provided herein. Both parties will in good faith investigate and attempt to promptly resolve any disputed invoices. Eleven-X will not exercise its rights under Sections 6.7 or 6.8 hereof if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.
- 6.7 Interest on Overdue Amounts. Eleven-X reserves the right to charge interest at 1.0% per month on any undisputed amounts past due. All computations of interest shall be made on the basis of a 360 day year and the actual days elapsed.
- 6.8 Suspension for Non-Payment. Eleven-X reserves the right to suspend Customer's access to eXactpark if Customer is past due in making payment to Eleven-X under this Agreement or any other agreement between Eleven-X and Customer; provided that Eleven-X has delivered to Customer written notice that payment is past due and Customer has failed to cure such default within ten (10) business days of receipt of such notice. The foregoing right to suspend shall not arise from non-payment of amounts for which Customer has provided Eleven-X with written notice in Section 6.6 above disputing the accuracy of the applicable invoice, so long as Customer has complied with Section 6.6 and such dispute remains unresolved.

7. CUSTOMER DATA

- 7.1 Ownership. As between Eleven-X and Customer, Customer exclusively owns all rights, title and interest in and to all Customer Data. Eleven-X does not acquire any rights, title or ownership interest of any kind whatsoever, express or implied, in any of the Customer Data.
- 7.2 No Access to Customer Data. Customer acknowledges that Eleven-X does not need, require or have any access to any Customer Data or any Personal Information. If Customer desires Eleven-X to receive and access any Customer Data, Customer shall first obtain the written approval of an executive officer of Eleven-X which may be withheld by Eleven-X in its sole discretion.
- 7.3 Use of Aggregated and Anonymized Data. Customer agrees that Eleven-X may collect, use, and disclose quantitative data derived from the use of eXactpark for its business purposes, including providing and supporting eXactpark, to improve eXactpark, develop new products and services, to understand usage, industry analysis, benchmarking, analytics, and marketing. All data collected, used, and disclosed will be in aggregate and anonymized form only and will not identify Customer, its end users, Customer Data, Personal Information, or any third parties utilizing eXactpark.

8. PROTECTION OF PERSONAL INFORMATION

- 8.1 Eleven-X's Processing of Personal Information. Eleven-X shall only process Personal Information on behalf of and in accordance with Customer's documented instructions and Data Protection Laws for the following purposes: (i) Processing in accordance with the Agreement; (ii) Processing initiated by Customer's Users or customers in their use of eXactpark; and (iii) Processing to comply with other documented reasonable instructions provided by Customer where such instructions are consistent with the terms of the Agreement.
- 8.2 Technical and Organizational Safeguards. In connection with the provision of eXactpark, Eleven-X will maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Personal Information and shall secure Personal Information with safeguards appropriate to the level of sensitivity of the Personal Information. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Personal Information by Eleven-X personnel except (a) to provide eXactpark and prevent or address service or technical problems, (b) as compelled by law and upon identification of lawful authority, or (c) as expressly permitted in writing by Customer. Eleven-X shall, in connection with the provision of eXactpark, comply with Data Protection Laws, as well as Eleven-X's [Privacy Policy](#). Eleven-X shall ensure that its personnel engaged in the Processing of Personal Information are informed of the confidential nature of the Personal Information and have received appropriate training on their responsibilities and Eleven-X shall take commercially reasonable steps to ensure the reliability of any Eleven-X personnel engaged in the Processing of Personal Information.
- 8.3 Data Breach. Upon becoming aware of any unlawful access to any Personal Information, any unauthorized access to such facilities or equipment resulting in loss, disclosure or alteration of any Personal Information, or any actual loss of or suspected threats to the security of Personal Information (including any physical trespass on a secure facility, computing systems intrusion/hacking, loss/theft of a computing device, storage media or printed materials, or other unauthorized access) (each a "**Security Incident**"), Eleven-X will promptly notify Customer of the Security Incident (and in all circumstances at least as soon as it reports to similarly situated customers of Customer, but in any event as soon as reasonably possible in the circumstances), and will investigate or perform required assistance in the investigation of the Security Incident and provide Customer with detailed information about the Security Incident. Eleven-X will take all commercially reasonable steps to mitigate the effects of the Security Incident, or assist Customer in doing so; and will provide prior notice to Customer of, and will not undertake any, proposed communications to third parties related to a Security Incident involving Personal Information without Customer's prior written approval, not to be unreasonably withheld, conditioned or delayed. Eleven-X will work with and coordinate with Customer on any such notices in any event. Eleven-X will comply with this Section 8.3 at Eleven-X's cost unless the Security Incident arose from Customer's negligent or willful acts or Eleven-X's compliance with Customer's express written instructions.
- 8.4 Subcontracting. Eleven-X may engage third party subcontractors to assist in the provision of eXactpark under this Agreement. Customer authorizes Eleven-X to subcontract the Processing of Personal Information under this Agreement provided that (i) Eleven-X shall maintain a list of such subcontractors and will provide a copy of that list to Customer upon request; and (ii) all subcontractors will be contractually required by Eleven-X to abide by substantially the same obligations as Eleven-X under this Agreement to protect Personal Information, such that the data processing terms of the subcontract will be no less onerous than the data processing terms set out in this Agreement.

9. CUSTOMER OBLIGATIONS

- 9.1 Users. Customer is responsible for all activities that occur in User Accounts and for its and its Users' compliance with this Agreement. Customer shall: (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all data, if any, uploaded to eXactpark and the means by which Customer acquired data; (b) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Software Service, and notify Eleven-X promptly of any such unauthorized access or use; and (c) use the Software Service only in accordance with the Documentation and applicable laws and government regulations.
- 9.2 Trouble Reporting. Customer will report any trouble with respect to eXactpark to Eleven-X only upon reasonable verification that the trouble is due directly to issues with eXactpark and not to elements or conditions within the reasonable control of Customer.
- 9.3 Feedback. Customer may provide reasonable feedback to Eleven-X including, but not limited to, suitability, problem reports, suggestions and other information with respect to eXactpark ("**Feedback**"). Customer hereby grants to Eleven-X a fully paid-up, royalty-free, worldwide, assignable, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into eXactpark and any other Eleven-X products or services, or for any other purposes, any Feedback provided by Customer or its Users.
- 9.4 Interference. Customer's agents, employees, and representatives may not interfere with eXactpark in a way as to impair the quality of service provided by Eleven-X to its customers. Notwithstanding this prohibition, upon discovery of interference by either Eleven-X or Customer, the party discovering the interference will promptly notify the other party, and Customer will promptly order the agent, employee, or representative to cease the act(s) constituting the interference. Eleven-X, upon notice to Customer, may suspend or terminate eXactpark to Customer and require Customer to take appropriate action to eliminate the use or interference by Customer, the agent, employee or representative.
- 9.5 Restrictions on Use. Customer will not knowingly, after making such inquiries as a reasonable person in Customer's position would undertake, use or permit others to use eXactpark or backend API's or any portion thereof in isolation or with any other software, digital product, or data in a manner that in Eleven-X's judgment, acting reasonably, interferes with, degrades or adversely affects any software, system, network or data used by any person including Eleven-X or its partners or otherwise has a detrimental effect upon eXactpark, Eleven-X or any of their respective customers or products or services, and Customer will immediately cease any such activity upon Eleven-X delivering notice of same to Customer. Further, Customer will not use or permit others to use eXactpark to: (a) commit a crime, or for any tortious purpose; and (b) will not resell or otherwise make or attempt to make available to third parties the right(s) to access eXactpark granted under this Agreement.
- 9.6 Modifications to Devices. Customer shall not make any modification to a Device that could reasonably be expected to impact eXactpark or other Devices on the Network. In the event that the Customer does modify a Device, Customer shall immediately notify Eleven-X of the modifications made to such Device in sufficient detail to enable Eleven-X to determine if it must terminate access to the Network by that Device to avoid potential damage or any other adverse impact on the Network or other Devices on the Network, or otherwise have an adverse impact on Eleven-X, its partners, customers or the public.
- 9.7 Personal Information. Customer (a) is fully responsible for any unauthorized collection, disclosure, disposal or use of, or access to, personal data in Customer's possession or under Customer's control that relates to a User's use of eXactpark including, without limitation, location information; (b) will implement administrative, physical, and technical safeguards to protect the same; (c) will maintain an up-to-date

privacy policy that fully explains (i) what information it collects about its employees, (ii) how it uses that information, (iii) how it secures that information, and (iv) to whom it discloses that information; and (d) will comply with all applicable laws, including without limitation data security, privacy, marketing, and consumer protection laws as applicable within Canada, as well as with applicable data protection and privacy laws and regulations. Customer hereby represents and warrants to, and covenants with Eleven-X that Customer Data will only contain Personal Information in respect of which Customer has provided all notices and disclosures, obtained all applicable third party consents and permissions and otherwise has all authority, in each case as required by applicable laws, to enable Eleven-X to provide eXactpark, including with respect to the collection, storage, access, use, disclosure and transmission of Personal Information, including by or to Eleven-X and to or from all applicable third parties.

9.8 Other Obligations. In addition to its other obligations contained herein, Customer shall:

- (a) provide commercially reasonable information and assistance to Eleven-X to enable Eleven-X to deliver eXactpark;
- (b) be responsible for procuring, installing, operating, supporting and maintaining Customer's systems, including computer hardware and software, including browsers, necessary for Customer to access and use eXactpark (the minimum requirements of which are as stipulated in the Documentation);
- (c) use eXactpark for the purposes set forth in and in accordance with the terms of the Agreement and the Documentation, and for no other purposes;
- (d) comply, at all times, with all applicable legal and regulatory requirements in respect of the use of eXactpark; and
- (e) maintain the Devices in accordance with the Documentation.

10. CONFIDENTIAL INFORMATION

10.1 Confidentiality Obligations. The receiving party undertakes not to disclose any Confidential Information disclosed to it by the other party to any third party other than its responsible employees and contractors who require such disclosure for the proper performance of their duties hereunder, nor use Confidential Information received hereunder for any purpose other than in connection with the activities contemplated by this Agreement. The receiving party undertakes to take all reasonable steps to minimize the risk of disclosure of such Confidential Information by employees and others, including without limitation, ensuring that its employees and contractors are bound by obligations regarding the use and protection of Confidential Information that are no less restrictive than the terms of this Section 10.

10.2 Exclusions. Confidential Information does not include any information or materials which the receiving party can demonstrate: (i) is or becomes available to the public through no breach of the receiving party or its employees or contractors of this Agreement; (ii) before its disclosure hereunder, was known to the receiving party without any obligation or duty to hold it in confidence; (iii) is received from a third party who is not bound by an obligation or duty to maintain such information or materials in confidence; (iv) is independently developed by the receiving party without the use or reference to Confidential Information received from the disclosing party; (v) is approved for release by written authorization of the disclosing party, but only to the extent of such authorization and without any disassembly, reverse engineering, or similar undertaking by the receiving party.

- 10.3 Required Disclosure. If the receiving party is required by law or regulation to disclose Confidential Information of the disclosing party, the receiving party may do so, but only to the extent and for the purposes of such required disclosure, and only if the receiving party first promptly notifies in writing the disclosing party of the requirement for such disclosure and cooperates with the disclosing party, at the disclosing party's expense, in any efforts by the disclosing party to seek a protective order regarding such proposed disclosure.
- 10.4 Confidentiality Period. These restrictions shall apply for three years following the expiry or termination of this Agreement, and in the case of trade secrets shall apply for so long as the Confidential Information in question remains a trade secret.

11. TERM AND TERMINATION

- 11.1 Initial Subscription Term and Renewals. This Agreement shall come into effect on the Subscription Commencement Date specified in the Quote. Except in the case of a Quote for an evaluation of eXactpark only, which shall terminate upon the expiry of the Evaluation Term, this Agreement shall remain in effect for the period specified in the Quote as the Initial Subscription Term (the "**Initial Subscription Term**"). The Initial Subscription Term will be automatically renewed for the period specified in the Quote as the Renewal Subscription Term (the "**Renewal Subscription Term**") on the same terms and conditions as those contained herein, unless either party gives to the other party written notice of termination at least thirty (30) days prior to the end of the Initial Subscription Term or a Renewal Subscription Term. The Initial Subscription Term together with any Renewal Subscription Terms are collectively referred to as the "**Subscription Term**".
- 11.2 Termination for Cause. Either party may terminate this Agreement for cause (i) by delivering written notice of termination to the other party if the other party is in material breach of this Agreement and has not cured such breach within thirty (30) days of receipt of written notice of the 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 purposes hereof, a material breach by the Customer shall include a breach of Section 2.5 and a failure to pay any amounts payable hereunder when due.
- 11.3 Effect of Termination. Upon the termination of this Agreement, Customer shall remain liable for all Subscription Fees up to the effective date of termination.
- 11.4 Survival. Notwithstanding the termination or expiration of this Agreement, those provisions that by their nature are intended to survive after the Agreement expires or terminates, including without limitation, Sections 1, 2.3(b), 2.6, 6.6, 10, 12, 14 and 16 shall survive.
- 11.5 Suspension of Access to eXactpark. In addition to any other suspension or termination rights of Eleven-X pursuant to this Agreement, extraordinary circumstances may require Eleven-X to suspend or terminate (where appropriate), as determined in Eleven-X's reasonable discretion, Customer's access to and/or use of, or otherwise modify, eXactpark to: (a) prevent material damages to, or material degradation of the integrity of the Network; or (b) comply with any law, regulation, court order, or other governmental order. Eleven-X will notify Customer of such suspension or termination action as far in advance of such suspension or termination as reasonably possible, and if such advance notice is not possible, then as soon as possible after such suspension or termination. In the event of a suspension, Eleven-X will limit such suspension to that which is minimally required and will promptly restore Customer's access to eXactpark

as soon as the event giving rise to the suspension has been addressed (including by Customer agreeing to accept the risks associated with such suspension) or resolved. Unless caused by a breach of this Agreement by Customer: (i) all fees related to the use of eXactpark, or other suspended services shall be waived for the duration of the suspension and any such waived fees which have been pre-paid shall be refunded to Customer; and (ii) in the event of a termination in connection with this Section 11.5, Customer shall receive a refund of any and all prepaid fees applicable to the remainder of the then-current Subscription Term.

12. CUSTOMER INDEMNITIES

Customer will defend Eleven-X against any claim, demand, suit or proceeding made or brought against Eleven-X by a third party (a) to the extent caused by the negligent or wilful acts or omissions of Customer, its employees, contractors, subcontractors or agents, arising in connection with this Agreement, except to the extent caused by the negligent or wilful acts or omissions of Eleven-X; or (b) alleging that Customer Data, or Customer's use of eXactpark (or any component thereof) in breach of this Agreement, infringes or misappropriates such third party's Intellectual Property Rights or violates applicable law (a "**Claim Against Eleven-X**"), and will indemnify Eleven-X for any damages, legal fees and costs finally awarded against Eleven-X as a result of, or for any amounts paid by Eleven-X under a court-approved settlement of, a Claim Against Eleven-X, *provided that* Eleven-X (a) promptly gives Customer written notice of the Claim Against Eleven-X, (b) gives Customer sole control of the defense and settlement of the Claim Against Eleven-X (except that Customer may not settle any Claim Against Eleven-X unless it unconditionally releases Eleven-X of all liability), and (c) gives Customer all reasonable information and assistance, at Customer's expense.

13. WARRANTIES AND DISCLAIMERS

13.1 eXactpark Warranty. Eleven-X warrants that during the Subscription Term: (a) the Network, Network Services and the Software Services will operate substantially in accordance with, and have the functions set out in, the Documentation; and (b) the Software Services will not contain any Malicious Code. Eleven-X does not warrant that eXactpark is free from defects or that the operation of eXactpark will be uninterrupted or error-free.

13.2 Hardware Warranty.

(a) *Eleven-X Devices.* Eleven-X hereby warrants that the Eleven-X Devices will operate in accordance with the Documentation for twelve (12) months from the date of delivery to Customer (the "**Warranty Period**"). During the Warranty Period, Eleven-X shall repair or replace, at its option, any Eleven-X Device that fails to operate in accordance with the Documentation. In order to obtain the benefit of this warranty, Customer must provide notice to Eleven-X using the support contact information provided by Eleven-X. If Eleven-x determines that the defect is the result of something for which Eleven-X excludes responsibility under the Documentation, then Eleven-X will notify Customer of this determination and Customer may request Eleven-X to repair the Eleven-X Device(s) on a time and materials basis. This section sets out Customer's sole remedy, and Eleven-X's sole obligations and liabilities for a breach of the warranty.

(b) *Third Party Products Warranty Pass-Through.* Eleven-X will use commercially reasonable efforts to make available for the benefit of Customer any warranties provided by third party suppliers of the Third Party Products. Eleven-X shall manage third party warranty claims, under the above process for the Customer at no cost and use commercially reasonable efforts to transfer all right

and interest in any warranties on Third Party Products to Customer. In the event the supplier of the Third Party Product declines the warranty claim by Customer, Eleven-X will provide a quote to Customer for the repair or replacement of the Third Party Product.

- 13.3 Warranty Disclaimer. EXCEPT AS EXPRESSLY SET OUT HEREIN, ELEVEN-X DOES NOT MAKE OR PROVIDE ANY WARRANTIES, CONDITIONS, ENDORSEMENTS, REPRESENTATIONS OR GUARANTEES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY CONDITIONS, ENDORSEMENTS, GUARANTEES, REPRESENTATIONS OR WARRANTIES OF DURABILITY, MERCHANTABILITY, MERCHANTABLE QUALITY, SATISFACTORY QUALITY, ACCURACY, TITLE, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE OR USE, OR ARISING FROM A STATUTE OR CUSTOM OR A COURSE OF DEALING OR USAGE OF TRADE.
- 13.4 Internet Connectivity Disclaimer. Eleven-X makes eXactpark available for access in part via the Internet. Customer shall provide, at Customer's own expense, all necessary hardware, applications and Internet connectivity necessary to access eXactpark over the Internet. Customer is responsible for and shall ensure that Customer's computer equipment and an internet connection meets the minimum specifications published by Eleven-X in the Documentation and updated from time to time on Eleven-X's website, and Customer shall periodically update Customer's computer equipment and/or Internet connection to meet such minimum specifications. Customer hereby acknowledges that eXactpark may be interrupted due to (a) website downtime for scheduled maintenance at Eleven-X's sole discretion, or (b) interruptions in Internet connectivity or other website downtime caused by circumstances beyond Eleven-X's control, including, without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, computer or telecommunications failures, or delays involving hardware or software not within Eleven-X's control or network intrusions. Customer hereby acknowledges and agrees that Eleven-X shall not, in any way, be liable for, or have responsibility with respect to, any such service interruptions and releases Eleven-X from any claims relating thereto.

14. LIMITATION ON LIABILITY

- 14.1 Exclusion of Certain Types of Damages. SUBJECT TO SECTION 14.4 BELOW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL OR PUNITIVE DAMAGES (INCLUDING FOR LOSS OF USE, DATA, BUSINESS, LOSS OF GOODWILL, REPUTATION, CREDIT OR PUBLICITY, LOSS OF REVENUE AND INTEREST, PROFITS, OR ANTICIPATED PROFITS AND CLAIMS FOR SUCH DAMAGES BY A THIRD PARTY) RELATED TO OR ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR SUCH DAMAGE WAS REASONABLY FORESEEABLE.
- 14.2 Limitation on Liability. SUBJECT TO SECTION 14.4 BELOW, ELEVEN-X'S TOTAL AGGREGATE LIABILITY FOR ANY CLAIM FOR DAMAGES OR ANY OTHER LIABILITY RELATED TO OR ARISING OUT OF THIS AGREEMENT, HOWEVER CAUSED, ON ANY THEORY OF LIABILITY, WHETHER IN AN ACTION IN CONTRACT (INCLUDING FUNDAMENTAL BREACH), STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, AND WHETHER OR NOT THE PARTY MAKING THE CLAIM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR SUCH DAMAGES WERE REASONABLY FORESEEABLE, SHALL NOT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO

ELEVEN-X HEREUNDER IN THE TWELVE (12) MONTHS PRECEDING THE DATE ON WHICH THE INCIDENT GIVING RISE TO THE CLAIM OR LIABILITY OCCURRED.

- 14.3 Application of Limitations, Exclusions and Disclaimers. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SET OUT IN THIS AGREEMENT SHALL APPLY: (A) WHETHER AN ACTION, CLAIM OR DEMAND ARISES FROM A BREACH OF WARRANTY OR CONDITION, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER KIND OF CIVIL OR STATUTORY LIABILITY CONNECTED WITH OR ARISING OUT OF THIS AGREEMENT; AND (B) TO EACH PARTY AND TO EACH PARTY'S AFFILIATES.
- 14.4 EXCLUSIONS FROM LIMITATIONS. NOTWITHSTANDING ANY OTHER PROVISION, THE LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SET FORTH IN THIS AGREEMENT SHALL NOT APPLY TO: (A) ANY BREACH OF SECTIONS 2.1, 2.2 OR 2.3(b) HEREOF; (B) ANY BREACH OF THE CONFIDENTIALITY OBLIGATIONS CONTAINED HEREIN; (C) ANY VIOLATION OR INFRINGEMENT OF THE INTELLECTUAL PROPERTY RIGHTS OF ONE PARTY BY THE OTHER PARTY; (D) THE PAYMENT OF AMOUNTS DUE TO ELEVEN-X UNDER THIS AGREEMENT; (E) CLAIMS RELATING OR BASED ON FRAUD OR GROSS NEGLIGENCE OF A PARTY; (F) A PARTY'S INDEMNIFICATION OBLIGATIONS HEREUNDER, OR (G) IF AND TO THE EXTENT THAT THE LAWS OF A COMPETENT JURISDICTION REQUIRE LIABILITIES BEYOND AND DESPITE THESE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS.

15. ASSIGNMENT

Customer may not assign any of its obligations or rights hereunder to any party without the prior written consent of Eleven-X. For clarity, (a) Eleven-X may assign its right to receive payment of payments hereunder upon notice to the Customer, and (b) Eleven-X shall have the right to assign this Agreement in conjunction with: (i) the transfer or sale of a substantial portion of its business or an entire business unit to which this Agreement relates; or (ii) the sale or transfer of the voting stock or shares of such party pursuant to a purchase, merger, amalgamation, consolidation or other reorganization resulting in a change in its effective control, without any requirement to provide notice to or to obtain the consent of the Customer. Upon the completion of a permitted assignment of rights and/or delegation of duties, obligations or liabilities under this Agreement by Eleven-X the assignee is deemed to be substituted for Eleven-X as a party to this Agreement and Eleven-X is released by Customer from all of its obligations and duties to perform under this Agreement.

16. GENERAL

- 16.1 Publicity. Eleven-X reserves the right to make announcements, press releases, publications, presentations and other public statements that reference Customer as a customer of Eleven-X, without Customer's prior written approval, provided that Eleven-X does not disclose Customer's Confidential Information in the course of such publicity or misrepresent Customer's relationship with Eleven-X. Customer agrees that, upon request by Eleven-X, it will provide Eleven-X with a testimonial that Eleven-X may use for the purposes of marketing its products and services.
- 16.2 Export Restrictions; US Government Licenses. Customer hereby represents and warrants that Customer is not located in, under the control of, and is not a national or resident of, any country to which the export of the Software Service or related information would be prohibited by the laws and/or regulations of Canada and/or the United States. Customer shall comply with the export laws and regulations of Canada and the

United States that are applicable to the Software Service and related information and Customer shall comply with any local laws and/or regulations in Customer's jurisdiction that may impact Customer's right to export, import, or use the Software Service or related information, and Customer represents and warrants that Customer has complied with any such applicable laws and/or regulations. Notwithstanding any agreement with a third-party or any provision of law, regulation or policy, if Customer is an agency of the government of the United States of America, then Customer's rights in respect of the Software Service and Documentation shall not exceed the rights provided under this Agreement, unless expressly agreed upon by Eleven-X in a written agreement between Customer and Eleven-X.

- 16.3 Force Majeure. Either party's performance of its obligations hereunder (except for the Customer's obligation to pay any amount due and payable hereunder at the time of the occurrence of the force majeure event) may be impeded by events outside of such party's reasonable control (a "force majeure event"), including acts of God, floods, fires, hurricanes, earthquakes, acts of war or terrorism, epidemics and pandemics, or labour actions (other than strikes or other labour actions by the party's own employees), or for any of the foregoing which affect any of Eleven-X's suppliers or contractors and for which no alternate source of supply is available to Eleven-X on commercially reasonable terms. Failure to perform such obligations due to a force majeure event will be excused, provided that the affected party promptly notifies the other party and resumes performance as soon as practicable. In the event Eleven-X is unable to deliver eXactpark as a result of a force majeure event, Customer shall not be obligated to pay Eleven-X for eXactpark for so long as Eleven-X is unable to deliver eXactpark. Notwithstanding the foregoing, if due to a force majeure event the performance of Eleven-X's obligations under this Agreement is delayed or interrupted for longer than sixty (60) days, Customer may terminate this Agreement or any outstanding purchase order then in effect upon written notice to Eleven-X.
- 16.4 Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter thereof. It supersedes all requests for quotes, discussions, correspondence or communication of any nature relating to the subject of this Agreement, all of which shall no longer be of any force or effect.
- 16.5 Amendments. Except as expressly permitted herein, this Agreement may not be amended except in a written amendment signed by Eleven-X and Customer.
- 16.6 Severability. If any provision or part thereof is determined by a court of competent jurisdiction to be unenforceable, such provision, or part thereof, shall be deemed to be severed from this Agreement and the remaining provisions of this Agreement shall continue in full force and effect and shall be binding upon the parties hereto as though such severed provision had not formed part of this Agreement.
- 16.7 No Waiver. No waiver by either party of any breach of any term or condition of the terms and conditions set out herein by the other party shall be deemed to constitute a waiver of any other breach, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy hereunder operate as a waiver thereof. No waiver given by a party hereunder shall be binding upon such party unless expressed in writing and signed by such party.

END OF TERMS AND CONDITIONS

Last update: July 16, 2024