



# ELDO Customer Interface Portal and Website Application Terms and Conditions

## License User Terms

USE OF THE ELDO PORTAL AND WEB APPLICATION IS SUBJECT TO THE TERMS AND CONDITIONS SET OUT HEREUNDER INCLUDING BUT NOT LIMITED TO FEES, TERMS OF AGREEMENT, SOFTWARE LICENSE TERMS, TERMS OF USE, CUSTOMER REPRESENTATIONS AND WARRANTY STATEMENT.

### 1. DEFINITIONS

- a. "Agreement" means this entire User Terms.
- b. "Customer" means who uses and has rights to the Software as per the user terms outlined here within.
- c. "ELDO" means ELDO Group Holdings (K2019/559363/07), with a registered office address of 29 Wessel Road, Rivonia, Sandton, 2191, Gauteng, South Africa.
- d. "License" means the Software license grant and general license terms set out herein.
- e. "Product" means the physical Meter Data Management System (MDMS) portal code and product and its documentation that is cloud-hosted for the Customer.
- f. "Proprietary Information" means (a) information relating to technical specifications, including without limitation developments, pricing and financial information, designs, patents, inventions, improvements, writings and other works of authorship, trade secrets, drawings, models, software (including source code and object code), algorithms, and flow charts and other

documentation, and (b) any compilation or summary of information or data that is itself Proprietary Information. Notwithstanding the above, "Proprietary Information" does not include Non-public personal information.

- g. "Reissue" means a product similar to the original Product downloaded, but updated to include those features and fixes that are included in the current release.
- h. "Software" means ELDO's Meter Data Management System (MDMS) platform or portal with the current functionality provided by ELDO. It also includes any accompanying instructions, documentation, technical data, images, and other related materials.
- i. "Terms of Use" means any and all prohibitions and restrictions on Use, including any activities engaged in, by way of ELDO's cloud servers.
- j. "Term of Agreement" means the period from the date a subscription is purchased to the date of termination by either the user or ELDO.
- k. "Upgrade" means a new release of the Product that includes a substantial new facility or capability.
- l. "Use" means storing, loading, installing, executing, or displaying the Software on a single device, and use of the Software by way of the deployed cloud server/s.

## 2. LICENSE

## TERMS

- a. As part of this license, the Customer receives a License as described below. ELDO will provide updates to the Software, such as correction of "bugs" and certain limited improvements to existing functionality of the Software as ELDO may choose to provide. The subscription does not automatically include the right to receive any Upgrades, Reissues or new product releases by ELDO. ELDO will in its own discretion determine whether and on what terms any Upgrade, Reissue or new product release will be made available to existing Subscribers.
- b. The License terms conform to the terms outlined and signed as per the Service Level Agreement (SLA).

## 3. LICENSE

## GRANT

- a. During the Term of Agreement, subject to continuing payment of monthly fees as set forth herein and to compliance with Terms of Use and the Software License, Subscriber will have a license that entitles users nominated by the Subscriber to have profiles set-up and Use the Software. If the Subscriber allows another individual or entity to install or Use the Software, the Subscriber will be in breach of this Agreement, and will be liable for any violations by that user of the Terms of Use or Software License.
- b. The Software is owned, patented and copyrighted by ELDO. The Software License confers no title or ownership and is not a sale of any rights in the Software. The Customer is granted only the right to Use the Software without right of sublicense.

- c. The Customer must retain all patent, copyright notices and other proprietary information in or on the original Software. Customers may not remove from the Software, or alter, any of the ELDO trademarks, trade names, logos, patent or copyright notices or markings, or add any other notices or markings to the Software. Customers may not copy the Software onto any public or distributed network.
- d. The Customer may not modify, reverse engineer, disassemble, decompile or otherwise attempt to access or determine the source code of the Software, copy, reproduce or distribute the Software in any way in whole or in part or create any derivative work based on the Software. Any use of these materials on any other website or networked computer environment for any purpose is prohibited. The Software is copyrighted and any unauthorized use of it is prohibited. If Customer breaches breach any of these terms, the License to Use the Software automatically terminates and Customer must immediately destroy any downloaded or printed materials
- e. The Customer may not export or re-export this software or any copy or adaptation in violation of any applicable laws or regulations.
- f. The Customer agrees that Software contains proprietary information including trade secrets, know-how and confidential information that is the exclusive property of ELDO During the period this Agreement is in effect and at all times after its termination, the Customer and its employees and agents shall maintain the confidentiality of this information and not sell, license, publish, display, distribute, disclose or otherwise make available this information to any third party nor use such proprietary information concerning the Software, including any flow charts, logic diagrams, user manuals and screens, to persons not an employee of the Customer without the prior written consent of ELDO.

#### 4. DISCLAIMERS AND LIMITATIONS

- a. To the extent allowed by law, this software and the access to the ELDO server are provided to the Customer "as is" without warranties or conditions of any kind, whether oral or written, express or implied. ELDO specifically disclaims any implied warranties or conditions of merchantability, satisfactory quality, non-infringement, title, accuracy of informational content, and fitness for a particular purpose. No oral or written information or advice given by ELDO or ELDO authorised representatives shall create a warranty. ELDO does not represent that its servers will be available at all times or will be functioning properly when the Customer wishes to access the functionality of the software. ELDO servers may be unavailable at times for maintenance or for a variety of other reasons. ELDO shall not be liable to the Customer for any periods of unavailability and the Customer will not be entitled to any refunds for those periods when the server is not available or is not functioning properly.
- b. Except to the extent prohibited by law, in no event will ELDO or its subsidiaries, affiliates, directors, officers, employees, agents, contractors or suppliers be

liable for direct, indirect, special, incidental, consequential, punitive, or other damages (including lost profit, lost data, or downtime costs), arising out of the use, inability to use, or the results of use of the software, whether based in warranty, contract, delict or other legal theory, and whether or not ELDO was advised of the possibility of such damages. ELDO's entire liability and the Customer's exclusive remedy shall be, at ELDO's option from time to time exercised subject to applicable law, (a) return of the proportion of the fee paid (if any) for the Product, or (b) repair or replacement of the Product.

- c. Note, except to the extent allowed by law, these warranty terms do not exclude, restrict or modify, and are in addition to, the mandatory statutory rights applicable to the license of the software to you; provided, however, that the convention on contracts for the international sale of goods is specifically disclaimed and shall not govern or apply to the software provided in connection with this warranty statement.

## 5. TERMS OF USE

- a. As a condition of Use of the Software, the Customer may not Use the Software for any purpose that is unlawful or prohibited by these Terms of Use. We reserve the right to suspend or terminate this Subscription if the Software is used for an unauthorized purpose.
- b. Customer agrees not to use the Software or the Subscription to interfere with or disrupt servers or networks connected to the Software.

## 6. CONFIDENTIALITY OF PROPRIETARY INFORMATION

- a. Protection:

For purposes of this Section, all Proprietary Information such as customer information, electricity usage and associated account data disclosed by one party to the other in the course of performing under the Agreement or to which the other gains access in connection with the Agreement shall be deemed to be the property of the disclosing party, or the appropriate Third-Party Licensor (or other third-party owner), as the case may be.

The receiving party agrees to (i) receive such Proprietary Information in confidence, (ii) use reasonable efforts to maintain the confidentiality of such Proprietary Information and not disclose such Proprietary Information to third parties (except for: (a) the receiving party's representatives, agents and contractors who have a need to know, are under a duty of non-disclosure with respect to such information, and are acting for the sole benefit of the receiving party and (b) the receiving party's regulator, upon request by such regulator and subject to the receiving party's formal request that such information be treated in confidence, which efforts shall accord such Proprietary Information at least the same level of protection against unauthorised use and disclosure that the receiving party customarily accords to its own information of a similar

nature, but in no event less than a commercially reasonable level of protection, (iii) use or permit the use of such Proprietary Information solely in accordance with the Agreement, and (iv) promptly notify the disclosing party in writing of any actual or suspected loss or unauthorized use, disclosure or access of the disclosing party's Proprietary Information of which it becomes aware.

The Agreement (as well as all information regarding the negotiation of the Agreement) shall be deemed to be the Proprietary Information of both parties. For purposes of the Agreement, information shall be deemed to be disclosed by a party if such information is disclosed by any of its officers, employees, directors, contractors, agents or representatives. Each party agrees that it shall abide by and reproduce and include any restrictive legend or proprietary rights notice that appears in or on any Proprietary Information of the other party or any Third-Party Licensor (or other third-party owner) that it is authorised to reproduce.

b. Exclusions:

The restrictions on use and disclosure set forth above shall not apply when, and to the extent that the Proprietary Information (i) is or becomes generally available to the public through no fault of the receiving party (or anyone acting on its behalf); (ii) was previously rightfully known to the receiving party free of any obligation to keep it confidential; (iii) is subsequently disclosed to the receiving party by a third party who may rightfully transfer and disclose such information without restriction and free of any obligation to keep it confidential; (iv) is independently developed by the receiving party or a third party without reference to the disclosing party's Proprietary Information, or (v) is required to be disclosed by the receiving party as a matter of law, provided that the receiving party uses all reasonable efforts to provide the disclosing party with at least ten (10) days' prior notice of such disclosure and the receiving party discloses only that portion of the Proprietary Information that is legally required to be furnished pursuant to the opinion of legal counsel of the receiving party.

Notwithstanding the foregoing, neither party shall disclose, or permit the disclosure of, the Agreement without the prior written consent of the other party, except (a) as provided in Section b(v) above, (ii) to the extent necessary to permit the exercise of its rights or the performance of its obligations under the Agreement, or (iii) to seek advice from its attorneys, accountants or other professional advisors.

## 7. GENERAL

## PROVISIONS

- a. This Agreement shall be governed by and construed and enforced in accordance with the Laws of the Republic of South Africa.

- b. Any dispute between ELDO and the Customer, which cannot be settled amicably, shall be subject to arbitration in accordance with the Rules of the Arbitration Foundation of Southern Africa and the Parties agree that any arbitral award shall be final and binding on both parties hereto.
- c. If any term or provision herein is determined to be illegal or unenforceable, the validity or enforceability of the remainder of the terms or provisions herein will remain in full force and effect. Failure or delay in enforcing any right or provision of this Agreement shall not be deemed a waiver of such right or provision with respect to any subsequent breach. Provisions herein which by their nature extend beyond the termination of any license of Software will remain in effect until fulfilled.
- d. This Agreement is the final, complete and exclusive agreement between the parties relating to the subject matter hereof, and supersedes any previous communications, representations or agreements between the parties, whether oral or written, regarding transactions hereunder. The Customer's additional or different terms and conditions will not apply. This Agreement may not be changed except by an amendment signed by an authorized representative of each party.