

**AIR-WEIGH  
END USER LICENSE AGREEMENT**

**YOU MUST READ AND ACCEPT THE TERMS OF THIS END USER LICENSE AGREEMENT ("AGREEMENT") BEFORE ACCESSING AND/OR USING THE SERVICE (AS DEFINED BELOW). BY CLICKING "I ACCEPT" AND/OR BY ACCESSING AND USING THE SERVICE, YOU AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT ACCESS OR USE THE SERVICE.**

This Agreement is between you ("Subscriber") and Hi-Tech Transport Electronics, Inc. dba Air-Weigh, an Oregon corporation ("Air-Weigh"), and describes Subscriber's rights and obligations to access and use the Service (as defined below) owned and provided by Air-Weigh. The following will apply to Subscriber's use of the Service:

- 1. Definitions.** In this Agreement the following expressions will have the following meanings:
  - 1.1** "Air-Weigh Information" means all materials, data, and other information collected, summarized, produced, licensed, owned and delivered to Subscriber by Air-Weigh as part of the Service.
  - 1.2** "Authorized User" means Subscriber, or the employees and contractors of Subscriber who are authorized by Subscriber to use the Service.
  - 1.3** "Commencement Date" means the date Subscriber's user account is activated, for the commencement of access of the Service by Subscriber.
  - 1.4** "Service" means Air-Weigh's cloud-based software-as-a-service product further described as:  
SmartWeight provides real-time weight data to accurately optimize loads, maximize profitability, and improve road safety.
  - 1.5** "Subscriber Data" means all of Subscriber's documents, files, materials, data, or other content stored, shared, managed or hosted using the Service, or collected by the Service.
  - 1.6** "Term" means the period of time during which this Agreement is in effect, as described in Section 12 below.
- 2. License to Use Service.** Subject at all times to Subscriber's compliance with the terms and conditions of this Agreement, and Subscriber's payment of all applicable fees, Air-Weigh hereby grants to Subscriber a non-exclusive, non-transferable, non-sublicensable, royalty-free, limited license for the Authorized Users to access and use the Service during the Term only for its intended purpose, and only for the benefit of Subscriber. On the Commencement Date, Subscriber will be permitted access to the Service.
- 3. Subscriber Obligations.** In addition to Subscriber's other obligations and responsibilities set forth in this Agreement, Subscriber agrees: (a) that it is responsible for all acts and omissions of Authorized Users in connection with their use of the Service; and (b) to notify Air-Weigh immediately in the event Subscriber becomes aware of any unauthorized use of or access to the Service. In addition, Subscriber is solely responsible for obtaining and maintaining all computer hardware, software and other equipment needed to access or use the Service, and all related charges.
- 4. Use Restrictions.** Subscriber agrees that it will not: (a) rent, lease, distribute, sell, sublicense, or transfer to any third party all or any part of your right to access and use the Service; (b) reverse engineer, disassemble or decompile the Service or any applications associated with the Service; (c) access or use the Service for unlawful purposes, or with any software or technology not provided or authorized by Air-Weigh; or (d) permit anyone else to do any of the preceding.
- 5. Intellectual Property.** Subscriber acknowledges that, solely as between Subscriber and Air-Weigh, all right, title and interest ownership in and to the Service, the Air-Weigh Information and all intellectual property rights therein are owned by, and will remain the sole and exclusive property of, Air-Weigh. Except for the limited license expressly granted herein, this Agreement does not grant Subscriber any rights to any intellectual property rights in or to the Service or Air-Weigh Information. Any modifications or improvements, or suggested modifications or improvements, to the Service submitted to Air-Weigh by Subscriber become Air-Weigh's exclusive property to exploit or to not exploit as Air-Weigh solely deems appropriate, without necessity for remuneration or attribution to Subscriber.
- 6. Subscriber Data.** Air-Weigh does not claim ownership of, and does not control, verify, or endorse any Subscriber Data that is transmitted, stored, or processed through Subscriber's use of the Service. Subscriber

hereby grants Air-Weigh and its contractors a perpetual license to use, modify, adapt, reproduce, distribute, display and disclose Subscriber Data hosted on the Service solely to the extent necessary to provide the Service or as otherwise permitted by this Agreement. Subscriber represents and warrants that: (a) it has all the rights in the Subscriber Data necessary for Subscriber to use the Service and to grant the rights in this Section; and (b) the storage, use or transmission of the Subscriber Data does not violate any law or this Agreement. Subscriber will: (i) be solely responsible for the nature, quality and accuracy of the Subscriber Data; (ii) be solely responsible for creating and maintaining adequate backup copies for all Subscriber Data in permanent or alternative storage; (iii) ensure that the Subscriber Data (including the storage or transmission thereof) complies with this Agreement and all applicable laws, and regulations; and (iv) maintain appropriate security and protection of the Subscriber Data, which may include Subscriber's use of additional encryption technology to protect the Subscriber Data from unauthorized access. Air-Weigh will have no liability of any kind as a result of the deletion of, correction of, destruction of, damage to, loss of, or failure to store or encrypt any Subscriber Data. Without limiting the foregoing, Air-Weigh will have the right to use, store, create derivative works of, share, distribute and otherwise process anonymized and/or aggregated usage data derived from Subscriber Data, provided that Air-Weigh will not disclose or make available any usage data in a manner that permits the recipient of such information to determine that such usage data pertained to Subscriber.

**7. Third Party Content.** The Service may contain features and functionalities linking Subscriber to, or providing Subscriber with, certain functionality and access to third party content, including web sites, directories, servers, networks, systems, information and databases, applications, software, programs, products, or services, and the Internet as a whole. Subscriber acknowledges that Air-Weigh is not responsible for such third party content or services. Air-Weigh is not responsible for any third party content Subscriber may access with the Services, and Subscriber irrevocably waives any claim against Air-Weigh with respect to such sites and third party content. Air-Weigh will have no liability, obligation or responsibility for any correspondence, purchase or promotion between Subscriber and any third party. Subscriber is solely responsible for its dealings with any third party related to the Services.

**8. Support; Maintenance.** Air-Weigh will use commercially reasonable efforts to maintain the performance of the Service. However, unless otherwise agreed, Air-Weigh has no obligation to provide updates, upgrades, or modifications to the Service.

**9. Disclaimers.**

**9.1** SUBSCRIBER ACKNOWLEDGES THAT THE SERVICE MAY CONTAIN ERRORS AND PROBLEMS. EXCEPT AS SET FORTH IN SECTION 8, AIR-WEIGH GIVES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND WHATSOEVER RELATING TO THE SERVICE, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, NONINFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, TITLE, OWNERSHIP, RESULTS, OR THE QUALITY, SUITABILITY, ADEQUACY, GENUINENESS, ACCURACY OR COMPLETENESS OF THE SERVICE. SUBSCRIBER UNDERSTANDS AND AGREES THAT AIR-WEIGH ASSUMES NO RESPONSIBILITY FOR THE TIMELINESS OF OR FAILURE TO CONTINUALLY PROVIDE THE SERVICE, OR FOR ANY LEVEL OF UPTIME. WITHOUT LIMITING ANY OF THE FOREGOING, SUBSCRIBER AGREES AND ACKNOWLEDGES THAT AIR-WEIGH PROVIDES THE SERVICE "AS IS" AND WITH ALL FAULTS.

**9.2** SUBSCRIBER ASSUMES FULL RESPONSIBILITY FOR: (A) SELECTING THE SERVICE; (B) VERIFYING THE RESULTS OBTAINED FROM USING THE SERVICE; AND (C) TAKING APPROPRIATE STEPS TO PREVENT LOSS OF DATA. WITHOUT LIMITING THE EFFECT OF THE FOREGOING, AIR-WEIGH DOES NOT WARRANT THAT THE SERVICE WILL MEET SUBSCRIBER'S REQUIREMENTS OR THAT THE OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. AIR-WEIGH IS NOT RESPONSIBLE FOR PROBLEMS CAUSED BY SUBSCRIBER'S HARDWARE OR SOFTWARE, OR FOR PROBLEMS IN THE INTERACTION OF THE SERVICE WITH ANY OTHER SOFTWARE. SUBSCRIBER WILL BE SOLELY RESPONSIBLE FOR TAKING ALL PRECAUTIONS, SUCH AS DATA BACKUP, TESTING AND ERROR DETECTION PROCEDURES, WHICH ARE NECESSARY IN ORDER TO ENSURE THAT ERRORS IN THE SERVICE AND THE APPLICATIONS USING THE SERVICE DO NOT CAUSE ADVERSE CONSEQUENCES. THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE SERVICE IS WITH SUBSCRIBER.

**10. Limitations of Liability and Damages.** UNDER NO CIRCUMSTANCES WILL AIR-WEIGH BE LIABLE UNDER ANY CONTRACT, STRICT LIABILITY, TORT (INCLUDING NEGLIGENCE) OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, INDIRECT, OR CONSEQUENTIAL COSTS OR DAMAGES, INCLUDING LOST PROFITS, LITIGATION COSTS, LOSS OF DATA, PRODUCTION OR PROFIT, ARISING OUT OF OR RELATING IN ANY WAY TO THE SUBJECT

MATTER OF THIS AGREEMENT, SUBSCRIBER'S USE OF THE SERVICE, OR THE RESULTS OF SUBSCRIBER'S USE, EVEN IF INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED HEREIN.

**11. Indemnification.** To the extent permitted by applicable law, Subscriber agrees to defend Air-Weigh and its affiliates, directors, shareholders, officers, agents, representatives and employees, in any action or suit brought or threatened by any third party due to or arising out of Subscriber's use of the Service, or Subscriber's violation of this Agreement or applicable law. Subscriber will pay all damages awarded therein against Air-Weigh or settlement agreed upon by the parties. Air-Weigh will promptly notify Subscriber of such action and give Subscriber authority, information, and assistance (at Subscriber's expense) for the defense of such suit or proceeding.

**12. Term and Termination.** This Agreement is effective on the Commencement Date, and will continue for the period applicable to Subscriber's subscription, unless earlier terminated in accordance with the terms of this Agreement. Air-Weigh may, without liability, suspend access and/or terminate this Agreement (a) immediately at any time if Subscriber is in breach of any term, condition or covenant of this Agreement, or (b) without cause upon prior written notice.

**13. Miscellaneous.**

**13.1** This Agreement (including any amendments or revisions) constitutes the entire agreement between the parties and supersedes any previous understandings, commitments, or agreements, oral or written regarding the subject matter hereof.

**13.2** Failure, neglect, or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time, will not be construed as a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.

**13.3** This Agreement is governed by Oregon law without reference to its choice of law provisions. If Subscriber initiates any legal action against Air-Weigh under this Agreement or related in any way to the Service, whether in contract, tort or otherwise, Subscriber agree to initiate that action only in a state or federal court located in Portland, Oregon.

**13.4** The parties hereby agree that the party who is not the substantially prevailing party with respect to any dispute, claim or controversy related to or arising under this Agreement will pay the reasonable costs actually incurred by the substantially prevailing party in relation to the dispute, claim or controversy, and any appeal thereof, and any enforcement of an award, including reasonable attorneys' fees.

**13.5** Neither this Agreement, nor the rights granted hereunder, is assignable or transferable by Subscriber without the prior written consent of Air-Weigh. Air-Weigh may assign or transfer its rights and/or duties under this Agreement without requirement for Subscriber's permission or approval.

**13.6** Air-Weigh's remedies set forth herein are not exclusive and are in addition to any and all other remedies available at law or in equity, none of which will be deemed as waived by virtue of Air-Weigh's exercise of any other remedy.

**13.7** Air-Weigh will not be responsible for delay or failure in performance or any interruption of the Service resulting directly or indirectly from any cause or circumstance beyond its reasonable control including by any acts of civil or military authority, law, regulation, order or decree, by fire, riots, strikes, legal moratorium, war or revolution, by communication line or power failures, or by "acts of god," epidemic, earthquake, fire, flood or other natural disasters, nor will any such delay or failure be considered to be a breach of this Agreement or entitle either party to any credit or reimbursements. In any such event, performance will take place as soon thereafter as is reasonably feasible.

**13.8** All provisions of this Agreement that are, by their nature, intended to continue will survive any expiration or termination hereof.

**13.9** No provisions of this Agreement are intended or will be construed to confer upon or give to any third person or entity other than Air-Weigh and Subscriber any rights, remedies or other benefits under or by reason of this Agreement.

**13.10** The Service may not be exported or reexported from the United States of America except in accordance with the laws, regulations, orders or other restrictions on the export of software from the United States of America. Subscriber will indemnify and hold Air-Weigh harmless for any breach of this Section.

**13.11** Each and every provision of this Agreement which provides for a limitation of liability, disclaimer of warranty or exclusion of damages is intended by the parties to be severable and independent of any other such provision. Further, in the event that any remedy hereunder is determined to have failed of its essential purpose, all limitations of liability and exclusions of damages will remain in effect.

032626\00001\14183862v2