



**STEMCO PRODUCTS, INC**  
**FLEET MANAGEMENT SOLUTION TERMS OF SERVICE**

This Stemco Fleet Management Terms of Service (these “**Terms**”) and the applicable Service Order, if any (collectively the “**Agreement**”), constitute a binding agreement between Stemco Products, Inc. (“**Stemco**”) and the person, organization, or other legal entity that agrees to this Agreement (“**Customer**” or “**you**”).

PLEASE READ THESE TERMS CAREFULLY. THESE TERMS GOVERN YOUR USE OF THE SERVICES. BY COMPLETING THE REGISTRATION PROCESS, OR BY ACCESSING OR USING ANY OF THE SERVICES, YOU REPRESENT THAT: YOU HAVE READ, UNDERSTAND, AND AGREE TO BE BOUND BY THESE TERMS; THE INFORMATION YOU PROVIDED IN CONNECTION WITH YOUR REGISTRATION FOR THE SERVICES IS ACCURATE AND COMPLETE; AND, YOU HAVE THE AUTHORITY TO ENTER INTO THE AGREEMENT PERSONALLY OR ON BEHALF OF THE ORGANIZATION YOU HAVE NAMED AS THE USER OF THE SERVICES. IF YOU DO NOT AGREE TO BE BOUND BY THESE TERMS AND THE AGREEMENT, YOU DO NOT HAVE SUCH AUTHORITY, OR YOU ARE NOT OF LEGAL AGE TO FORM A BINDING CONTRACT WITH STEMCO, YOU MAY NOT ACCESS OR USE THE SERVICES.

1. **Definitions.** Terms not defined in this Section 1 shall have the meaning otherwise provided in these Terms or in a Service Order.
  - 1.1. “**Authorized User**” means any individual who is an employee of Customer or an affiliate, partner, service provider or such other person or entity as may be authorized by Customer to access the Services pursuant to Customer’s rights under the Agreement.
  - 1.2. “**Customer Data**” means any data, information, programs, and other content provided or transmitted by Customer or its Authorized Users to the Services, including information transmitted by the Devices, or otherwise uploaded or stored to the Services by Customer’s Authorized Users. Customer Data includes information necessary to set-up Customer’s account.
  - 1.3. “**Customer Personal Data**” means Customer Data that identifies, either alone or in combination with other information, an individual or from which identification or contact information of an individual can be derived.
  - 1.4. “**Devices**” means internet-connected devices and sensors provided by Stemco that seamlessly collect and transmit vehicle mileage information to the Software.
  - 1.5. “**Documentation**” means the online user guides and other technical material relating to the use of the Services, including any applicable service descriptions that are made available by Stemco to Customer, as may be updated from time to time.
  - 1.6. “**Downtime**” means circumstances where the Software is not, in all material respects, accessible to Customer for reasons other than (i) malfunctions in any computers, servers, software, or equipment of Customer or Customer’s third-party providers (other than Stemco), (ii) scheduled downtime or deployment window for routine maintenance during off-peak hours, (iii) general Internet outages, and/or (iv) force majeure events or other events beyond Stemco’s reasonable control.
  - 1.7. “**Intellectual Property Rights**” means any and all intellectual property, industrial property, and other proprietary rights throughout the world, including all rights in, to, or arising out of patents, patent applications, inventions (whether patentable or not), invention disclosures, trade secrets, know-how, proprietary information, works of authorship, copyrights, mask works, moral rights, trademarks, service marks, software, data, technology, layout designs and design rights, and all registrations, applications, renewals, extensions, or reissues of any of the foregoing.
  - 1.8. “**Services**” means Stemco’s internet-based platform that is designed to provide Customer and its Authorized Users with vehicle mileage and maintenance information collected and transmitted to the Software through Devices. Stemco hosts and provides the infrastructure necessary to host and operate the Services including all the Software, Documentation, and other online, web-based software applications, application programming interfaces (APIs), tools, and platforms.
  - 1.9. “**Service Order**” means an online or written order form executed or accepted by Customer setting forth the terms of its subscription to the Services.
  - 1.10. “**Software**” means Stemco’s fleet mileage collection tracking and reporting software, including all associated applications and similar technological features contained therein.
  - 1.11. “**Standard Support Hours**” means Monday-Friday, 9:00 am – 5:00 pm (EST), excluding holidays recognized in the United States and/or its state(s).
  - 1.12. “**Term**” shall be ascribed the meaning set forth in Section 12.1 of these Terms.
2. **Modification.** Stemco may amend these Terms from time to time and for any reason upon written notice to Customer,



including for changes in the Services or to account for compliance obligations. All such changes will apply prospectively and to all similarly situated users of the Services. If any changes to these Terms are unacceptable to Customer, Customer may terminate the Agreement by providing ten (10) days' written notice of termination to Stemco, delivered at any time within thirty (30) days of the effective date of the change/amendment to these Terms. Continued use of the Services following the effective date of any changes constitutes your acceptance of the changes but does not alter the foregoing right of termination. For purpose of this Section 2, the posting of an updated copy of these Terms to the Services and email notification shall constitute sufficient written notice of the changes.

**3. Access Rights and Restrictions.**

**3.1. Access.** Subject to the terms and conditions of the Agreement, Stemco grants to Customer a non-exclusive, non-transferable, non-sublicensable (except to affiliates), revocable right to access and use the Services during the Term (as defined below) for Customer's internal business purposes. Customer may permit its Authorized Users to use the Services provided that Customer shall be responsible for each Authorized User's compliance with the Agreement. These Terms do not govern the purchase, delivery, maintenance or support services for the Devices.

**3.2. Restrictions.** Customer will not, and will not permit any Authorized User or other party to: (i) modify, adapt, alter, translate, or create derivative works of the Services; (ii) sublicense, lease, rent, loan, distribute, or otherwise transfer the Services (including Documentation) to any third party; (iii) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the Services, except to the extent expressly permitted by applicable law (and then only upon advance written notice to Stemco); (iv) bypass, delete, or disable any copy protection or security mechanisms of the Services; (v) use or demonstrate the Services in a manner that is in competition with Stemco; (vi) remove any notice of proprietary rights from the Services; (vii) attempt to gain unauthorized access to, or disrupt the integrity, performance or security of the Services or the data contained therein; or, (viii) use, display or copy the Services (including Documentation), except as expressly allowed herein. Stemco shall have the right, but not the obligation, to review, monitor, and record all use of the Services and to disclose any information as necessary or appropriate to satisfy any law, regulation or other governmental request, to operate the Services properly, or to protect itself (including its affiliates) or its subscribers from any liabilities, civil or criminal. Stemco reserves the right to refuse to post or to remove any information or materials, in whole or in part, from the Services that, in Stemco's sole discretion, are unacceptable, undesirable, inappropriate or in violation of these Terms upon providing notice to Client

and an opportunity to cure the deficiency.

**3.3. Support Services.** Customer shall submit all inquiries with respect to a Downtime event to Stemco in writing as soon as reasonably practicable. Customer will in good faith (i) provide Stemco sufficient information in relation to a Downtime event and (ii) make commercially reasonable efforts to assist Stemco in resolving the Downtime event. Stemco will furnish all support services during Standard Support Hours. Stemco shall use commercially reasonable efforts to provide the following support based upon the severity level of the Downtime event:

Downtime Severity Level	Stemco's Initial Response Time
P0. All or a critical part of the Software is unusable or unavailable, in any material respect, causing immediate and significant business impact.	Within one (1) business day.
P1. A significant, but not immediately critical, part of the Software is unusable, creating some business impact.	Within three (3) business days.
P2. Disruption of a single element of the Software that does not affect the overall use of the Software and has minimal impact upon business operations.	Within three (5) business days.
P3. Non-urgent or cosmetic, causing only inconvenience.	3 business days

**3.4. Service Level Credits.** Stemco hereby guarantees 95% availability of the Software during any given month. If Downtime during any given calendar month exceeds 0.5%, then Stemco will pay Customer a service level credit calculated as follows:

Downtime	SLA Credit
0.5-10%	Customer shall receive a credit against future Fee equal to 2.5% of the pro-rated fee related to the applicable period
0.10-0.20%	Customer shall receive a credit against future Fee equal to 5% of the pro-rated fee related to the applicable period.
0.20-0.30%	Customer shall receive a credit against future Fee equal to 15% of the pro-rated fee related to the applicable period.
>30%	Customer shall receive a credit against future Fee equal to 50% of the pro-rated fee related to the applicable period.

**3.5. Third-Party Products and Services.** Customer acknowledges that use of certain Services may require the



installation of certain software components owned or licensed by Stemco from a third party (collectively “**Third Party Software**”) or that are subject to an open source license agreement, including components available under the GNU Affero General Public License (AGPL), GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Apache License, BSD licenses, or any other license that is approved by the Open Source Initiative (“**Open Source Software**”) and collectively with Third Party Software, the “**Third Party Components**”). Any use of Third Party Components by Customer shall be solely governed by the terms and conditions of the applicable license for the Third Party Components and not by these Terms. If Customer decides to use Third Party Components, Customer is responsible for reviewing and understanding the terms and conditions governing these Third Party Components. Customer agrees that the third party, and not Stemco, is responsible for the performance of the Third Party Components. Any such Third Party Components’ license terms shall be set forth in the “readme” or “about” files of the Services or otherwise made available by Stemco. Customer hereby agrees to comply with any additional terms and conditions applicable to the Third Party Components and acknowledges that any links to websites operated by third parties (collectively hereinafter the “**Third Party Websites**”) maybe provided by Stemco as a convenience only. Third Party Websites shall not be deemed as under the control or supervision of Stemco, and Stemco does not review, approve, monitor, endorse, warrant, or make any representations with respect to Third Party Websites and is not responsible for the content of any Third Party Website.

#### 4. Use of the Services.

**4.1. Setup Responsibilities.** Customer shall be responsible for setting up and configuring the Services and associated Devices, including without limitation any provisioning of access to the Services to its Authorized Users. Customer shall be responsible for obtaining and maintaining, at Customer’s expense, all of the necessary telecommunications, computer hardware, software, services and Internet connectivity required by Customer or any Authorized User to access the Services from the Internet. In the event that Stemco assists or advises Customer with any Services setup, configuration or support, in no event shall such assistance or advice be construed as legal advice.

**4.2. Customer Account.** Customer is solely responsible for protecting and safeguarding Customer’s account and passwords and/or keys or other access protocols that have been provided to Customer or that are generated in connection with Customer’s use of the Services. Customer acknowledges that all access credentials are for the individual use of the assigned Authorized User. Customer shall use commercially reasonable efforts to prevent unauthorized access to, or use of, its account and the

Services. Customer is solely and fully responsible for all Service-related activities on its Devices, including accrued charges, that occur in connection with its account and its use of the Services. In the event Customer believes Customer’s account or the Services have been compromised, including any unauthorized use or access of the Services or any other known or suspected breach of security, Customer shall promptly notify Stemco by email to [SVTSupport@stemco.com](mailto:SVTSupport@stemco.com) following discovery of such breach. Customer agrees to promptly: (i) provide complete, true, accurate, and up-to-date information about Customer as prompted by the registration form, if applicable, and (ii) maintain and update this information to keep it true, accurate, up-to-date and complete.

#### 4.3. Suspension, Limitation and Termination of Access.

Stemco shall be entitled, without liability to Customer and without notice, to immediately suspend, terminate or limit Customer’s access to the Services at any time in the event that Stemco determines, in its reasonable discretion, that (i) the Services are being used by Customer, or its Authorized Users, in violation of any applicable laws or regulations or the Agreement; (ii) the Services are being used by Customer in an unauthorized, inappropriate, or fraudulent manner; (iii) the use of the Services by Customer adversely affects Stemco’s equipment or service to others in Stemco’s sole discretion; (iv) Stemco is prohibited by an order of a court or other governmental agency from providing the Services; (v) there is a denial of service attack or any other event which Stemco determines, in its sole discretion, may create a risk to the Services or to any other customers if the Services were not suspended; (vi) there is a security incident or other disaster that impacts the Services or the security of the Services, Customer’s account or Customer Data; (vii) any undisputed payment amount due under the Agreement is not received by Stemco within ten (10) days after it was due; or (viii) Customer fails to comply with any material term and condition of the Agreement. Without limiting the generality of this Section 4.3, Stemco shall have no liability for any damages, liabilities or losses as a result of any suspension, limitation or termination of Customer’s right to use the Services pursuant to this Section 4.3. Customer agrees to immediately cease and desist from using the Services and agrees not to try to access the Services in violation of this Section 4.3.

#### 5. Intellectual Property.

**5.1. Ownership.** Customer agrees that the Services (including the Documentation) are protected by copyright and other laws relating to Intellectual Property Rights, and that the Services embody valuable confidential information of Stemco and its suppliers, the development of which required the expenditure of considerable time and financial resources. All rights, title, and interest in and to the Services, and all worldwide Intellectual Property Rights therein and associated therewith, are the exclusive property of Stemco and its suppliers. All rights in and to the Services



not expressly granted to Customer in the Agreement are reserved by Stemco and its suppliers. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Customer regarding the Services, or any part thereof, including any right to obtain possession of any software, source code, data or other technical material related to the Services.

**5.2. Continuous Development.** Customer acknowledges that Stemco may continually develop, deliver and provide ongoing innovation to the Services in the form of new features, functionality, and efficiencies. Stemco reserves the right to modify the Services from time to time as long as the functionality of the Services is not materially degraded. Some modifications may be provided to Customer at no additional charge. In the event Stemco adds additional functionality to a particular Service, Stemco may condition the implementation of such modifications on Customer's payment of additional fees, provided that Customer may continue to use the version of the Services that Stemco makes generally available (without such features) without paying additional fees. If any of the Services are discontinued by Stemco, the Agreement shall be terminated in accordance with Section 12.2 of these Terms in relation to the Services that are discontinued.

**5.3. Feedback.** In the event that Customer or its Authorized Users provide any comments or suggestions in connection with the Services, whether written or oral (collectively, the "Feedback"), Stemco, in its sole discretion, shall be entitled to use the Feedback without restriction, and such Feedback will not be treated as confidential to Customer. Customer hereby grants Stemco, on behalf of itself and its Authorized Users, a worldwide, non-exclusive, irrevocable, perpetual, royalty-free right and license to incorporate the Feedback into Stemco products and services.

**5.4. Aggregated Data.** Stemco may collect and derive from Customer Data aggregated, anonymized data that does not identify Customer, any third-party entity or any natural persons, ("Aggregated Data") and use and disclose such Aggregated Data for Stemco's legitimate business purposes, which may include but is not limited to improve and enhance the Services, service and product development, research and marketing, and for other development, diagnostic and corrective purposes.

## 6. Fees and Payment Terms.

**6.1. Fees.** In consideration for the Services, Customer will pay to Stemco the fees set forth in the applicable Service Order or similar documentation ("Fees"). In the event such a Service Order or similar documentation does not exist, then the Fees shall be based on the pricing model set forth in Annex A. Stemco shall be entitled to withhold performance and suspend or discontinue the Services until all undisputed amounts due are paid in full.

**6.2. Fee Increases.** Stemco will provide Customer not less than fourteen (14) days' advance notice for any increase in Fees during a Renewal Term (as hereinafter defined). Any increases to the Fees shall apply at the beginning of Customer's Renewal Term. Customer's continued use of the Services after a Fee increase will constitute Customer's agreement to the increase in Fees.

**6.3. Billing.** All Fees for Services are due and payable in US Dollars and are non-refundable. If Customer is paying by credit card or eCheck, then (i) Customer hereby irrevocably authorizes Stemco to charge the credit card or other payment method provided for any such amounts when due, (ii) amounts due will be automatically charged, (iii) if Customer's credit card is declined, Stemco will attempt to reach out to Customer for a new payment method, and (iv) if Customer's credit card expires, Customer hereby gives Stemco permission to submit the credit card charge with a later expiration date. If Stemco fails to resolve an issue with Customer resulting from a credit card decline or expiration, Stemco may terminate the account due to non-payment. Customer agrees to notify Stemco of all billing disputes within thirty (30) days of delivery of the billing statement or invoice, and disputes not made within that time are waived. Late payments, including those resulting from credit card declines, will accrue interest at a rate of one and one-half percent (1.5%) per month, or the highest rate allowed by applicable law, whichever is lower. If Stemco must initiate a collections process to recover Fees due and payable hereunder, then Stemco shall be entitled to recover from Customer all costs associated with such collections efforts, including but not limited to reasonable attorneys' fees. In the event Stemco delivers to Customer an invoice for any Fees or interest payments owed hereunder, such invoiced amounts shall be due upon receipt, unless otherwise set forth in the Service Order.

**6.4. Taxes.** The Fees are exclusive of all applicable sales, use, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges, and Customer will be responsible for payment of all such taxes (other than taxes based on Stemco's income), fees, duties, and charges and any related penalties and interest, arising from the payment of the Fees and the delivery of the Services. To the extent that Stemco charges any of the aforementioned taxes, they are calculated using the tax rates that apply based on the billing address provided by Customer. Such amounts are in addition to the Fees and will be billed to Customer's authorized payment method. If Customer is exempt from payment of any such taxes, Customer must provide Stemco with evidence of exemption. If Customer is not charged any of the aforementioned taxes by Stemco, Customer is responsible for determining if taxes are payable, and if so, self-remitting such taxes to the appropriate tax authorities in Customer's jurisdiction. Customer will make all payments of Fees to Stemco free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments of



Fees to Stemco will be Customer's sole responsibility, and Customer will provide Stemco with official receipts issued by the appropriate taxing authority, or such other evidence as Stemco may reasonably request, to establish that such taxes have been paid. Customer shall indemnify, defend, and hold Stemco harmless in connection with any proceedings brought by any taxing authorities in connection with the Agreement and based on Customer's conduct hereunder.

**6.5. Expenses.** If pre-approved by Customer in a Service Order, Customer shall reimburse Stemco for reasonable out-of-pocket expenses (including travel and living) incurred in performing its obligations for specific Services under such Service Order. All costs and expenses incurred by Customer in connection with the Agreement are the sole responsibility of Customer.

## **7. Customer Data and Processing.**

**7.1. Customer Data.** Customer Data, and all worldwide Intellectual Property Rights therein is, as between Stemco and Customer is and remains the exclusive property of Customer. Customer grants Stemco a non-exclusive, transferable (upon Customer written approval), worldwide, royalty-free and fully paid license to process and use Customer Data for purposes of providing the Services in the Agreement. Customer warrants that Customer is the owner or legal custodian of or otherwise has the right and has or will obtain the necessary permissions, valid consents and releases to lawfully transmit, store and use, all Customer Data in connection with the Services and to grant the rights granted to Stemco under the Agreement.

**7.2. Customer Personal Data.** The Services are not designed to process Customer Personal Data for or on behalf of a Customer.

**7.3. Customer Responsibilities.** Customer is responsible for making a back-up of Customer Data. Customer agrees that the Services are not intended to serve as a back-up or archive system of Customer Data. Customer shall have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data and the means by which Customer acquired Customer Data, and for the adequate security, protection and backup of Customer Data. Customer shall not use the Services, or allow others to use the Services, to collect directly or indirectly from individuals that access or use Customer's website any sensitive or special categories of Customer Personal Data.

**7.4. Compliance; Devices.** The parties shall comply with all applicable laws and regulations applicable to the Services, including its application, installation, use and monitoring of the Devices, including any applicable laws that govern wiretapping, data privacy and protection, intellectual property, and the use, sending, or transmission of electronic

messages. Stemco does not control, and is not required to monitor, any data transmitted by Customer or its Authorized Users to the Services, nor does it guarantee the accuracy, integrity, security or quality of any such data and is not responsible for obtaining any necessary consent or permissions from Customer's vehicle operators.

## **8. Representations, Warranties, and Disclaimers.**

**8.1. Mutual Representations and Warranties.** Stemco and Customer each represent and warrant that they have full corporate right, power, and authority to enter into the Agreement and that the execution of the Agreement by and the performance of its obligations and duties under these Terms and any applicable Service Order do not and will not violate any agreement to which it is a party or is otherwise bound.

**8.2. Customer Representations and Warranties.** Customer represents and warrants to Stemco that (i) Customer Data and use of Customer Data by Customer and Stemco (a) will not infringe, misappropriate, or otherwise violate the Intellectual Property Rights or other rights of any third party, (b) will not constitute defamation, invasion of privacy or publicity, or otherwise violate any similar rights of any third party, and (c) will not be used in any activity in violation of the law or to promote such activities, including, without limitation, in a manner that might be illegal or harmful to any person or entity; (ii) Customer will not use the Services to intentionally or unintentionally distribute, share, or facilitate the distribution of unauthorized data, malware, viruses, Trojan horses, spyware, worms, or other malicious or harmful code; (iii) Customer will comply with all applicable laws, statutes, and regulations with respect to its access and use of the Services; and (iv) Customer shall comply, at any and all times, with the Agreement, including these Terms, regardless of whether Customer is using the Services for a trial period.

**8.3. Warranty Disclaimer.** CUSTOMER AGREES THAT THE SERVICES ARE PROVIDED "AS IS," "AS AVAILABLE," AND WITHOUT WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING BUT (NOT LIMITED TO) ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WHICH WARRANTIES ARE HEREBY DISCLAIMED. CUSTOMER AGREES THAT THE SERVICES MAY NOT MEET CUSTOMER'S REQUIREMENTS, MAY NOT BE COMPATIBLE WITH ANY PARTICULAR INFORMATION SYSTEM, AND MAY NOT RESULT IN ANY ACTUAL BUSINESS OPPORTUNITIES, REVENUE OR SAVINGS. CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT THE SERVICES MAY NOT BE CONTINUOUSLY AVAILABLE AND MAY CONTAIN ERRORS, BUGS, VIRUSES, AND OTHER GLITCHES THAT MAY NOT BE CORRECTED. THE SERVICES AND SUPPORT

SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS AND STEMCO IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, VIRUSES, LOSS OR COMPROMISE TO CUSTOMER DATA, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. THE ENTIRE RISK AS TO THE USE OF THE SERVICES IS ASSUMED BY CUSTOMER.

## 9. Allocation of Risk and Limitation of Liability.

**9.1. Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY, NOR ANY OF ITS AFFILIATES, SUBCONTRACTORS, LICENSORS, VENDORS OR SUPPLIERS, NOR ANY OF ITS THIRD-PARTY PARTNERS (INCLUDING THIRD PARTY COMPONENT SUPPLIERS), BE LIABLE TO THE OTHER OR ANY OTHER THIRD PARTY FOR LOST REVENUES, LOST PROFITS OR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE, RELIANCE OR EXEMPLARY DAMAGES ARISING FROM PERFORMANCE HEREUNDER. THE MAXIMUM AGGREGATE LIABILITY OF EITHER PARTY, ITS LICENSORS AND VENDORS ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE), SHALL NOT EXCEED THE ACTUAL FEES PAID BY CUSTOMER FOR THE SERVICES IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE INITIAL EVENT GIVING RISE TO LIABILITY HEREUNDER.

**9.2. Basis of the Bargain.** The parties agree that the limitations of liability set forth in this Section 9 shall survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy. The parties acknowledge that the Fees have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

## 10. Confidentiality.

**10.1. Confidential Information.** During the term of the Agreement, each party (the “**Disclosing Party**”) may provide the other party (the “**Receiving Party**”) with certain information regarding the Disclosing Party’s business, technology, products, or services, or other confidential or proprietary information (collectively, “**Confidential Information**”) in whatever form (written, oral or visual) that is furnished or made available to the Receiving Party by or on behalf of the Disclosing Party that (i) if in tangible form, the Disclosing Party has labeled in writing as proprietary or confidential, (ii) if in oral or visual

form, the Disclosing Party has identified as proprietary or confidential at the time of disclosure, or (iii) is of a character that is commonly and reasonably regarded as confidential and/or proprietary. For the avoidance of doubt, the Services (including Documentation), and all enhancements and improvements thereto, will be considered Confidential Information of Stemco.

**10.2. Protection of Confidential Information.** The Receiving Party agrees that it will not use or disclose to any third party any Confidential Information of the Disclosing Party, except for exercising its rights and performing its obligations under the Agreement. The Receiving Party will limit access to the Confidential Information to its employees and contractors who have a need to know, who are subject to confidentiality obligations no less restrictive than those set forth herein and who have been informed of the confidential nature of such information. In addition, the Receiving Party will protect the Disclosing Party’s Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At the Disclosing Party’s request or upon termination of the Agreement, the Receiving Party will return to the Disclosing Party or destroy (or permanently erase in the case of electronic files, except in the case of systems used for transmission of email or emergency back-up) all copies of the Confidential Information that the Receiving Party does not have a continuing right to use under the Agreement, and, upon request, the Receiving Party shall provide to the Disclosing Party written notice certifying compliance with this sentence, unless prohibited by applicable law. Notwithstanding anything to the contrary in the Agreement, Receiving Party may retain and disclose Confidential Information of the other to the extent required by law or if it is required to protect Receiving Party’s legitimate interests.

**10.3. Exceptions.** The confidentiality obligations set forth in this Section 10 will not apply to any information that: (i) is or becomes generally available to the public through no fault of the Receiving Party; (ii) is lawfully provided to the Receiving Party by a third party free of any confidentiality duties or obligations; (iii) the Receiving Party can prove, by clear and convincing evidence, was already known to the Receiving Party without restriction at the time of disclosure; or (iv) the Receiving Party can prove, by clear and convincing evidence, was independently developed by employees and/or contractors of the Receiving Party who had no access to the Confidential Information. In addition, the Receiving Party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving Party to enforce its rights under the Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that the Receiving Party promptly (to the extent legally permitted) notifies the Disclosing Party in writing of such required disclosure and

reasonably cooperates with the Disclosing Party at its expense if the Disclosing Party seeks an appropriate protective order.

**10.4. Remedies.** Any breach or threatened or attempted breach of this Section 10 may result in immediate, irreparable harm for which monetary damages would be an inadequate remedy.

**11. Indemnification.** Each party will indemnify, defend and hold the other, its officers, directors, affiliates, subsidiaries, licensors, agents and employees (each an “**Indemnified Party**”) harmless from and against any and all losses, damages, liability, costs and expenses awarded by a court or agreed upon in settlement, as well as all reasonable and related attorneys’ fees and court costs to the extent arising out of or relating to its access to, or use of, the Services or performance under the Agreement in violation of the Agreement.

## **12. Term and Termination.**

**12.1. Term.** These Terms commence on the earlier of Customer’s (i) registration of an account with Stemco to use the Services, or (ii) access to, or use of, the Services, and shall continue until all subscriptions to Services in all Service Orders have expired or have been terminated. Unless otherwise specified on an applicable Service Order, Customer’s subscription to the Services commences on Customer’s registration for an account, and shall continue in effect for one (1) year (the “**Initial Term**”). Thereafter, and unless otherwise specified in a Service Order, each applicable Service Order shall automatically renew for successive one (1) year terms (each a “**Renewal Term**”), unless either party provides notice to the other party of its intention not to renew at least sixty (60) days prior to expiration of the Initial Term or the then-current Renewal Term. The Initial Term and all Renewal Terms will collectively be referred to as the “**Term**”.

**12.2. Termination.** Either party may terminate the Agreement immediately upon notice to the other party if the other party materially breaches the Agreement, and such breach remains uncured more than thirty (30) days after receipt of written notice of such breach. In addition, either party may terminate the Agreement upon notice to the other (i) if either party becomes the subject of a petition in bankruptcy or any proceeding relating to insolvency, receivership, or liquidation for the benefit of creditors; (ii) in the event of late or non-payment of Fees; or (iii) if Customer’s account is inactive for a period of three (3) months or more.

**12.3. Effect of Termination.** Upon termination or expiration of this Agreement for any reason: (i) all rights and obligations of both parties, including all licenses granted hereunder, shall immediately terminate (except that all payment obligations accrued prior to termination or

expiration shall survive); and (ii) each party shall comply with the obligations to return or destroy all Confidential Information of the other party, as set forth in Section 10.2. Additionally, Stemco shall have no obligation to retain any Customer Data after any termination or expiration of the Agreement and may delete all Customer Data, unless required to do otherwise by applicable law. All liabilities accrued under the Agreement prior to the effective date of termination and the following Sections will survive expiration or termination of the Agreement for any reason: Sections 1-2, Sections 4-6, Sections 8-11, Section 12.3, and Section 13. Upon termination of the Agreement, Customer will have no rights to use the Services and shall not have any rights or remedies to request any information stored with the use of Services.

## **13. Miscellaneous.**

**13.1. Governing Law and Venue.** The Agreement and any action related thereto will be governed and interpreted by and under the laws of the State of Texas, without giving effect to any conflicts of laws principles that require the application of the law of a different jurisdiction. Customer hereby expressly consents to the personal jurisdiction and venue in the state and federal courts located in Harrison County, Texas for any lawsuit arising from or related to the Agreement. The United Nations’ Convention on Contracts for the International Sale of Goods does not apply to the Agreement. Customer may not bring any suit or action against Stemco for any reason whatsoever more than one (1) year after the cause of action accrued.

**13.2. Export.** Customer agrees not to export, re-export, or transfer, directly or indirectly, any software, technology or information forming a part of the Services or the Documentation in violation of any export control or other laws and regulations of the United States of America, or any other relevant jurisdiction.

**13.3. Severability.** If any provision of the Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of the Agreement will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

**13.4. Waiver.** Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

**13.5. No Assignment.** Neither party may assign its rights or delegate any obligations hereunder without the express prior written consent of the other party, which such consent shall not be unreasonably withheld or delayed. The Agreement shall inure to the benefit of each party’s permitted successors and assigns.



**13.6. Force Majeure.** Without limiting any other provision in the Agreement, neither party is responsible or liable to the other for delay or failure to perform its obligations hereunder in the event that any of a party's operations or activities are affected by any cause or event beyond the sole and reasonable control of the applicable party (as determined by such party in its sole discretion), including, without limitation, by reason of any acts of God, equipment failure, threatened or actual terrorist acts, air raid, act of public enemy, war (declared or undeclared), civil disturbance, insurrection, riot, epidemic, pandemic, fire, explosion, earthquake, flood, hurricane, unusually severe weather, blackout, embargo, labor dispute or strike (whether legal or illegal), labor or material shortage, transportation interruption of any kind, work slowdown, any law, rule, regulation, action, order, or request adopted, taken, or made by any governmental or quasi-governmental entity (whether or not such governmental act proves to be invalid), or any other cause, whether or not specifically mentioned above.

Except as otherwise set forth in the Agreement, no modification of or amendment to the Agreement, or any waiver of any rights under the Agreement, will be effective unless in writing and signed by an authorized signatory of Customer and Stemco.

**13.7. Independent Contractors.** Each party's relationship to the other party is that of an independent contractor, and neither party is an agent or partner of the other. Neither party will have, and will not represent to any third party that it has, any authority to act on behalf of the other.

**13.8. Third-Party Beneficiaries.** There are no third-party beneficiaries under the Agreement.

**13.9. Notices.** Except as otherwise expressly permitted in the Agreement, notices under this Agreement shall be in writing and shall be deemed to have been given (i) five (5) business days after mailing if sent by registered or certified U.S. mail, (ii) when personally delivered, or (iii) one (1) business day after deposit for overnight delivery with a recognized courier for U.S. deliveries (or three (3) business days for international deliveries). Customer shall give notice at the following addresses: (A) Stemco Products, Inc., ATTN: Legal Department, 300 Industrial Drive, Longview, TX 75602; and (B) a convenience copy (which does not constitute service of process) to Enpro Inc., ATTN: Stemco Legal, 5605 Carnegie Blvd., Suite 500, Charlotte, NC 28209. Stemco shall give notice at the following address: Global Procurement & Material Management, ATTN: Sourcing Manager, Linde Inc. 175 East Park Dr. Tonawanda, NY 14150

**13.10. Entire Agreement and Order of Precedence.** The applicable Service Order and these Terms constitute the final, complete and exclusive agreement of the parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the parties with respect to such subject matters. In the event of a conflict, the Service Order shall govern in the order of precedence stated in the preceding sentence. Any terms and conditions that may be contained in any acknowledgement, invoice, purchase order or other form are specifically null and void.

**Annex A  
Subscription Costs and Pricing**

**A subscription to the Services includes the following:**

- Gate Reader cellular fees.
- Hosting Provider Fees to pay the operational expenses for the Web Portal.
- Email Support [SVTsupport@stemco.com](mailto:SVTsupport@stemco.com)
- Telephone Support 1-800-527-8492.
- Software-related expenses associated with App Store listings, development software/tools/utilities.
- Except as otherwise provided for in the Agreement, Stemco is responsible for maintenance and enhancements for all Software.

**All subscriptions are subject to an initial \$500 Web Portal setup fee, payable within thirty (30) days after Customer receives an invoice therefor from Stemco.**

<b>Evaluation Period<sup>^</sup></b>	
<b>Number of Customer Vehicles</b>	<b>Cost</b>
Up to 100 Vehicles	There is a zero-subscription-charge evaluation period for customers to evaluate the service

<sup>^</sup> Unless otherwise agreed upon by the parties, the Evaluation Period terminates at the earlier of the following: (i) when Customer purchases additional services beyond the initial evaluation quantity, or (ii) nine (9) months from the date when Customer submitted a Software account request.

<b>Pricing Sheet</b>	
<b>Number of Customer Vehicles</b>	<b>Cost</b>
1-399	\$1.50 per vehicle per month
400-799	\$1.15 per vehicle per month
800-1499	\$0.85 per vehicle per month
1500-2499	\$0.70 per vehicle per month
2500+	\$0.60 per vehicle per month

<b>Payment Timelines</b>	
<b>Number of Customer Vehicles</b>	<b>Payment Timeline</b>
Up to 75 vehicles	Customer will be billed annually for the upcoming year of usage.
More than 75 vehicles	Customer will be invoiced at the end of each calendar quarter for usage in the completed calendar quarter.*

\*If service usage begins in the second or third month of a quarter, the invoice will be prorated monthly.