



END-USER LICENSE AGREEMENT

MESCA VISION™ ONLINE TRANSPORTATION MANAGEMENT SYSTEM

IMPORTANT! READ THE ENTIRE DOCUMENT TO THE BOTTOM OF THIS PAGE!

This End-User License Agreement (EULA) is a binding contract between the business and its employees using the Service (“USER”) and MESCA FREIGHT SERVICES, LLC (“MESCA”)

WARNING. Online usage of Vision™ Online Transportation Management System is monitored to prevent violations of this EULA by end-users.

I. SPECIFIC USER ACKNOWLEDGEMENTS

1. Proprietary Product. USER acknowledges that the Vision™ Online Transportation Management System (the “Service”) is MESCA’s commercially valuable proprietary product, the design and development of which have involved the expenditure of substantial funds and effort over a long period of time, and which affords MESCA a commercial advantage over its competitors. USER understands that loss of this competitive advantage due to any unauthorized reproduction or use of the Service would cause substantial damage to MESCA.

2. Use Subject to License. USER further acknowledges that USER is granted online access to the Service in consideration of and only upon user’s agreement to the terms and conditions set forth below. In consideration of the grant to USER by MESCA of access to the Service, USER shall assent to the terms of this EULA and agrees to use the Service only as expressly permitted by this EULA.

3. Intellectual Property Rights. USER understands and acknowledges that title to the Service, databases as adapted and integrated into the Service by MESCA, and all copyrights and other rights therein, at all times are and will remain solely and exclusively in MESCA. USER agrees not to remove, destroy, deface or otherwise alter any legends, notices statements or marks indicating MESCA’s ownership or the restrictions contained in this EULA on use of the Service that are contained or displayed on any screens or printouts.

Initials: _____

P.O. Box 1039, Augusta, ME 04332-1039

Tel: 207-622-9029 • Fax: 207-623-4978

www.mesca.com

4. No Unauthorized Use. USER agrees that USER will not, during the term of this EULA or at any time thereafter, directly or indirectly engage in or take or refrain from taking any action or inaction which may in any way lead to the unauthorized dissemination, reproduction or use of the Service by any third party, nor use the same for USER's own commercial benefit (except as expressly permitted under the terms of this EULA).

5. No Sublicense. USER further agrees not to swap, rent, sublicense, transfer, sell, upload, download, display or offer the Service to any other person or entity in any medium or nature whatsoever, except as expressly permitted under the terms of this EULA. USER agrees not to copy or duplicate or permit any other person or entity to copy or duplicate any portion of or the entire Service except as expressly permitted under the terms of this EULA.

6. Notification of Unauthorized Use. USER agrees to notify MESCA immediately of any unauthorized use of the Service. The notice shall include, but not be limited to, the names and addresses of the unauthorized user(s).

7. Termination. USER understands that, upon termination of this EULA for any reason, USER has no right to use the Service and agrees to cease all use whatsoever of the Service.

II. LICENSE GRANT

Subject to the terms and conditions of this EULA, MESCA grants to USER a non-exclusive, nontransferable limited license to use the Service in the manner specified below:

1. Load Calculations. USER is licensed to undertake load calculations for the benefit of USER.

2. Third Party Use. USER shall not allow third parties to use the Service or provide printouts of load calculations to such third parties.

3. Printouts and Copies. USER may not download, upload, publish, distribute, transmit or sell any materials obtained through use of the Service except to the extent permitted under this EULA. In this EULA, "printout" means a visually readable copy which may be displayed on screen or printed on paper.

4. Termination of License

A. This EULA will terminate upon termination or cancellation of USER's membership in MESCA. It will also terminate without notice in the event MESCA elects, in its sole discretion, to cease offering the Service.

B. USER may terminate this EULA at any time by giving written notice to MESCA. MESCA may terminate this EULA immediately upon USER's breach of a material term of this EULA, or for any reason upon 30 days written notice to USER, which notice may be sent by mail or email to the mailing or email address for USER.

C. Immediately upon termination of this EULA, USER will be denied online access to the Service.

Initials: _____

III. OWNERSHIP

Except to the extent that a third party's materials or property are included in the Service, and this third party has copyright or other proprietary interests in such materials or property, all right, title, and interest in the Service including, but not limited to, all copyrights, are the exclusive property of MESCA.

IV. LIMITATIONS ON LICENSED USE

USER acknowledges that the Service embodies the selection, coordination and arrangement by MESCA of pre-existing materials, as well as original works of authorship created by MESCA in enhancements thereto. In addition, USER acknowledges that the Service further embodies the collection and organization by MESCA of discrete items of information through the investment of substantial monetary and other resources. USER agrees that in no event will its licensed use of the Service hereunder entail reproduction or distribution of all, substantially all, or any material portion of the contents of the Service.

Notwithstanding anything to the contrary, however, in no event does MESCA claim copyright in any work of the United States Government or political subdivision thereof.

USER at all times shall treat the Service as proprietary information of MESCA and shall comply fully with the limitations on usage and distribution contained in Section I above. MESCA's grant to USER of access to the Service is in consideration of USER's acknowledgment of these limitations and USER's agreement not to use or to allow third parties access to the Service, except as expressly provided in this EULA.

V. WARRANTIES, DISCLAIMER, AND LIMITATION OF LIABILITY

1. General Limitation. EXCEPT AS EXPRESSLY STATED HEREIN, THE SERVICE IS PROVIDED "AS IS", WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF PERFORMANCE OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

2. Limitation of Liability. THE AGGREGATE LIABILITY OF MESCA FOR ANY CLAIM FOR DAMAGES UNDER ANY LEGAL THEORY SHALL BE LIMITED TO THE AMOUNT PAID BY USER FOR USER'S MEMBERSHIP IN MESCA FOR THE PERIOD DURING WHICH THE EVENT COMPLAINED OF OCCURRED. MESCA SHALL NOT BE LIABLE TO USER FOR ANY CLAIM RELATING IN ANY WAY TO USER'S TARIFF CALCULATIONS OR FREIGHT BILLING, OR INABILITY TO PERFORM ITS SHIPPING FUNCTIONS, EVEN IF USER'S ACCESS TO THE SERVICE HAS BEEN TERMINATED WITHOUT NOTICE BY MESCA. MESCA SHALL NOT BE LIABLE FOR ANY LOST PROFITS OR OTHER CONSEQUENTIAL, EXEMPLARY, INDIRECT, OR SPECIAL DAMAGES RELATING IN WHOLE OR IN PART TO USER'S RIGHTS HEREUNDER, OR USE OF, OR INABILITY TO USE, THE SERVICE IN ANY WAY, EVEN IF SUCH ENTITIES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

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3. Online Contents. USER AGREES THAT USER IS RESPONSIBLE FOR DETERMINING THAT ALL INFORMATION PROVIDED BY MESCA IS SUFFICIENTLY ACCURATE. MESCA SHALL NOT BE LIABLE FOR ANY LOSS OR INJURY ARISING OUT OF OR CAUSED, IN WHOLE OR IN PART, BY ANY ERRORS OR OMISSIONS IN PROCURING, COMPILING, COLLECTING OR REPORTING THE INFORMATION IN THE SERVICE.

4. Assistance of MESCA. USER acknowledges that any assistance provided by MESCA will be in the form of technical assistance, i.e., helping USER utilize the Service from a technical standpoint as provided in documentation for the Service.

5. No Continuing Obligation of MESCA. MESCA is not obligated by this EULA to continue making the Service available online for any period of time whatsoever.

6. Accuracy and Official Documents. Significant efforts have been made by MESCA to assure the faithful reproduction of the primary sources of the contents of the Service and the accuracy of the enhancements to primary materials contained in the Service. MESCA cannot warrant, however, absolute accuracy. The primary source may be the only source of absolute accuracy.

7. USER's Representation. USER represents that the login used to gain access to the Service is the login issued by MESCA to USER, and that USER has not provided or used, and will not provide or use, the login of any other person to gain access to the Service.

VI. SUBSEQUENT CHANGES

1. New Functions or Features. From time to time, MESCA may, but shall have no obligation to, add new functions or features to the Service or make new information services available to USER.

2. Changes in Terms and Conditions. From time to time, MESCA may amend any of the existing terms and conditions of this EULA. Each time that USER seeks online access to the Service, MESCA may require that USER assent to this EULA or to the then current version of this EULA.

VII. EQUIPMENT

1. Incompatibly. MESCA is not responsible and shall not be liable for incompatibility of the Service with any software, hardware or any other equipment provided by USER.

2. Loss, Damage, etc. MESCA shall not be liable for any loss, injury, claim, liability or damage of any kind resulting in any way from damage to USER'S equipment, hardware or software due to use of the Service.

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VIII. EFFECT AND TERM OF EULA

1. Effect of Agreement. This EULA constitutes the complete understanding of the parties and supersedes any prior understanding or agreement, oral or written, relating to the Service. No waiver of any provision shall be valid unless in writing and signed by all parties.

2. Term. This EULA is effective upon acceptance by USER by clicking on the "Accept" button upon presentation of this license. This EULA will terminate when superseded by a subsequent Agreement between the parties.

IX. FORCE MAJEURE. The schedule for manufacture, production, and distribution of the Service may be altered due to the onset of war, strikes, accidents, fires, casualties, or other causes beyond the parties' control. If such causes or conditions delay performance under this EULA, the time for performance will be continued for a period equivalent to the delay.

X. CHOICE OF LAW AND SEVERABILITY. This EULA shall be construed under the laws of the State of Maine, U.S.A. without giving effect to any choice of law rules that may require the application of laws of another jurisdiction. Should any provision of this EULA be found to be void, invalid, or unenforceable by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect.

XI. NON-ASSIGNABILITY AND NON-WAIVER. Neither this entire EULA, nor any portion thereof, may be assigned, sublicensed, loaned, leased, distributed or transferred by USER without the written permission of MESCA. If USER engages in any of the aforementioned prohibited transactions, such transaction shall be void from the outset.

The failure of either party to enforce any provision of this EULA shall not be deemed a waiver of that party's right to enforce that provision or any other provision.

Customer Signature: _____

Company Name: _____

MESCA Account #: _____ **Date:** _____