

eSNOOPI SELF-ISSUER TERMS OF SERVICE

e-SNOOPI PARTICIPANT SIGN UP

The Washington State Department of Transportation (**WSDOT**) is providing to qualified individuals and companies the electronic System Network for Oversize/Overweight Permit Information (**eSNOOPI**), a web-based self-issuer permit service for special permits authorizing oversize or overweight truck movements on state highways located in the state of Washington. If you or your company is interested in participating in this program, please review the Terms of Service below. To participate in eSNOOPI, you or a qualified representative from your company must fill out the contact information below and read and accept our Terms of Service detailed below.

IMPORTANT – READ CAREFULLY: This e-SNOOPI Self-Issuer Terms of Service is a legal agreement between you (either an individual or a company/entity) and the WSDOT.

CONTACT INFORMATION

Name: _____
(The signatory to the following agreement)

Title: _____

Company: _____

Address: _____

City: _____

State: _____

Zip Code: _____

Country: _____

Phone: _____

Fax: _____

Email: _____

WSDOT SELF-ISSUER TERMS OF SERVICE

This eSNOOPI Self-Issuer Terms of Service (**TOS**) is entered into by and between the Washington State Department of Transportation (WSDOT), an agency of the state of Washington with an address at 7345 Linderson Way SW (PO Box 47367), Olympia, WA 98504-7367, and the individual or entity agreeing to the terms herein (**Participant**). This TOS is entered into to allow Participant to self-issue special permits authorizing oversize or overweight truck movements on state highways located in the state of Washington. This TOS will be effective as of the date you click the "I Agree" button below (**Effective Date**). In consideration of Participant's use of the eSNOOPI, you represent and warrant that you are of legal age to form a binding contract, have full power and authority to enter into this TOS, and are not a person barred from receiving services under the laws of the United States or other applicable jurisdiction. In addition, if you are accepting on behalf of an employer or another entity, you represent and warrant that you have full legal authority to bind your employer or such entity to this TOS. **If you do not have legal authority to bind, do not click the "Accept and Sign Up" button below.**

1. SCOPE OF SERVICES. Subject to the terms and conditions of this TOS, WSDOT hereby provides Participant with access to a collection of resources related to the permitting of oversize and/or overweight vehicles through an interface with the eSNOOPI. Participant understands and agrees that the eSNOOPI may include certain communications from WSDOT, such as but not limited to, eSNOOPI announcements and administrative messages, and that these communications are considered a required part of participation in eSNOOPI, and that Participant will not be able to opt out of receiving such communications. Unless explicitly stated otherwise, any new features that augments or enhances the current eSNOOPI, including but not limited to the release of new eSNOOPI properties, shall be subject to the TOS. WSDOT may provide eSNOOPI related training and technical assistance upon Participant request, to be scheduled at WSDOT convenience. Participant understands and agrees that the eSNOOPI is provided "AS-IS" and that WSDOT assumes no responsibility for the timeliness, deletion, mis-delivery or failure to store any Participant communications. Participant is responsible for obtaining access to the eSNOOPI, and that access may involve third-party fees (such as Internet service provider or airtime charges). Participant is solely responsible for obtaining and paying for such services. In addition, Participant must provide and is solely responsible for all equipment necessary to access and receive transmissions from the eSNOOPI.

2. TERM. The term of this TOS shall commence upon the Effective Date and shall be in effect until terminated as provided elsewhere herein.

3. TERMS AND CONDITIONS. Participant agrees to be bound by and adhere to the terms and conditions set forth in this TOS and any updates and modifications hereto. This TOS may be updated by WSDOT from time to time without notice to Participant. Participant may review the most current version of the TOS at any time at: <http://www.wsdot.wa.gov/commercialvehicle/permitting>. In addition, when using eSNOOPI provided services, Participant agrees to be subject to any posted guidelines or rules applicable to such services that may be posted at the eSNOOPI website from time to time. All such guidelines or rules, and any amendments thereto, are hereby incorporated by reference into the TOS.

4. PARTICIPANT DATA.

4.1 Registration Data. Participant agrees to: (a) provide true, accurate, current and complete information about itself and/or entity as prompted by the eSNOOPI registration form (**Registration Data**); and (b) maintain and promptly update the Registration Data to keep it true, accurate, current and complete. If Participant provides any information that is untrue, inaccurate, incomplete, or not current, or WSDOT has reasonable grounds to suspect that such information is untrue, inaccurate, incomplete, or not current, WSDOT may in its sole discretion suspend or terminate this TOS and prohibit Participant from participation in any and all current or future use as a self-issuer of the eSNOOPI (or any portion thereof). Any such determination is final and binding on Participant.

4.2 Liability. Participant, and not WSDOT, is responsible for all information Participant enters, posts, emails, transmits, or otherwise makes available via the eSNOOPI. WSDOT does not control the information entered via the eSNOOPI and, as such, does not guarantee the accuracy, integrity, or quality of such information. Under no circumstances will WSDOT be liable in any way for any information Participant enters, including, but not limited to, any errors or omissions in any information, or any loss or damage of any kind incurred as a result of the use of any information posted, emailed, transmitted or otherwise made available via the eSNOOPI. The provisions contained in this section shall survive termination of this TOS.

4.3 When a Permit may be Voided. A permit may be voided only when there is an error in fact or an error of law that occurs at the time the permit is obtained and/or purchased. Examples of errors in fact are incorrect weight or height, and examples of errors of law, wrong type of permit or duplicate permits. Those instances where the applicant, after obtaining a permit, decides not to use it or because of circumstances beyond the applicant's control cannot use it are not eligible for voiding. Examples not eligible would include but not be

limited to road closures, weather conditions, cancellation of move by shipper, or equipment failure.

The WSDOT may void a permit only under the conditions following:

(a) Participant must (i) notify WSDOT Commercial Vehicle Services of the specific factual error(s) and/or error(s) in law before 9:00 am the business day after the date the permit was issued, and (ii) show that it obtained and/or purchased a corrected permit to replace the incorrect permit before 9:00 am the business day after the date the incorrect permit was issued. If approved for void, the voided permit will not be charged a fee. Business day for this TOS shall mean Monday through Friday, 8:00 am to 4:30 pm, Pacific Time, except holidays observed by the State of Washington.

(b) The Administrator or designee for WSDOT Commercial Vehicle Services must verify that the specific error identified by the Participant is one that legally authorizes a permit to be voided. If so verified, WSDOT shall void the permit and not submit the credit card charge for payment.

(c) Department of Licensing trip permits and fuel permits are not authorized to be voided.

4.4 Permit Fee Refund(s). A permit fee is eligible for a refund only when there is an error in fact or an error of law that occurs at the time the permit is obtained and/or purchased. Examples of errors in fact are incorrect weight or height, and examples of errors of law, wrong type of permit or duplicate permits. Those instances where the applicant, after obtaining a permit, decides not to use it or because of circumstances beyond the applicant's control cannot use it are not eligible for refund. Examples not eligible would include but not be limited to road closures, weather conditions, cancellation of move by shipper, or equipment failure.

The WSDOT may refund a permit fee only under the conditions following:

(a) The Participant must request a permit fee refund by fully completing and submitting DOT Form 560-024 to WSDOT Commercial Vehicle Services within sixty (60) days after the issue date of the permit. The Form 560-024 is available online at www.wsdot.wa.gov/commercialvehicle/permits. The Participant must include documents that support the claimed error(s) in fact and/or of law, as well as a copy of the corrected or replacement permit obtained and/or purchased by the Participant on the same date as the date of the permit for which it seeks a refund.

(b) The Administrator or designee for WSDOT Commercial Vehicle Services must verify that the specific error identified by the Participant is one that legally authorizes the refund of the permit fee. If so verified, WSDOT shall process the permit fee refund. .

(c) Department of Licensing trip permits and fuel permits are not authorized to be refunded. .

5. DISCLOSURE AND TREATMENT OF INFORMATION.

5.1 Participant acknowledges that WSDOT is subject to the Washington State Public Records Act, chapter 42.56 RCW, which, unless specifically exempt, requires public disclosure of information in WSDOT's possession.

5.2 Participant acknowledges, consents, and agrees that WSDOT may access, preserve and disclose Participant's Registration Data and permit information if required to do so by law or in a good faith belief that such access, preservation, or disclosure is reasonably necessary to: (a) comply with legal process; (b) enforce the TOS; (c) respond to claims that any content violates the rights of third parties; (d) respond to Participant as an eSNOOPI customer; or (e) protect the rights, property or personal safety of WSDOT, its users and the public.

5.3 Participant understands that the technical processing and transmission of the eSNOOPI, including Participant's self-entered information, may involve: (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices.

5.4 The provisions contained in this section shall survive termination of this TOS.

6. SELF-ISSUER ACCOUNT, PASSWORD AND SECURITY. Participant will receive a log-on ID and password upon completing the eSNOOPI registration process. Participant is fully responsible for maintaining the confidentiality of the password and for all activities that occur under the password. Participant agrees to: (a) immediately notify WSDOT of any unauthorized use of the password or any other breach of security; and (b) ensure that Participant exits from eSNOOPI at the end of each session. WSDOT cannot and will not be liable for any loss or damage arising from Participants failure to comply with this **Section 6**. The provisions contained in this section shall survive termination of this TOS.

7. PAYMENT.

7.1 Participant shall be responsible for electronically remitting all permit fees due WSDOT, through the built-in e-commerce access within WSDOT's automated permit system, using Participant's VISA or Master Card account(s).

7.2 Participant agrees to and shall assume all liability for keystroke and/or credit card account number acquisition and/or storage of such information on all Participant computer(s) the Participant used to access eSNOOPI.

7.3 In the event an audit, as authorized in **Section 8**, discloses a deficiency in payment by Participant, Participant shall pay to WSDOT the deficient amount plus interest at the rate of twelve percent (12%) per annum. Interest on deficient amounts shall be calculated from the date the original permit fee was due. Participant shall make such payments within fifteen (15) days of the date of WSDOT's written notice to pay such delinquent payment. WSDOT and Participant agree that such charges represent a fair and reasonable estimate of the costs incurred by WSDOT by reason of delinquent payments.

8. AUDIT. WSDOT and its agents shall have full access to and the right to examine all of Participant's records with respect to all matters covered by this TOS. WSDOT and its agents shall be permitted to audit, examine, and make excerpts or transcripts from such records, and to audit all invoices, materials, and other matters related to this TOS. Records include any writing containing information relating to the permitting of oversize and/or overweight vehicles through the eSNOOPI regardless of physical form or characteristics, and shall include, but not be limited to, information contained on Participant's computer. The provisions contained in this section shall survive termination of this TOS.

9. SELF-ISSUER OBLIGATIONS.

9.1 *Limitations on Use.* Participant agrees to and shall not use the eSNOOPI to:

- (a) enter, post, email, transmit or otherwise make available any information that is unlawful;
- (b) impersonate any person or entity, including, but not limited to, a WSDOT official, or falsely state or otherwise misrepresent Participant's affiliation with a person or entity;
- (c) forge headers or otherwise manipulate identifiers in order to disguise the origin of any information transmitted through the eSNOOPI;
- (d) enter, post, email, transmit or otherwise make available any information that Participant does not

have a right to make available under any law or under contractual or fiduciary relationships;

(e) enter, post, email, transmit or otherwise make available any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment;

(f) interfere with or disrupt the eSNOOPI or servers or networks connected to the eSNOOPI, or disobey any requirements, procedures, policies or regulations of networks connected to the eSNOOPI;

(g) intentionally or unintentionally violate any applicable local, state, national or international law, including, but not limited to, regulations promulgated by the United States Congress, Federal Highway Administration, the State of Washington, and the WSDOT;

(h) provide material support or resources (or to conceal or disguise the nature, location, source, or ownership of material support or resources) to any organization(s) designated by the United States government as a foreign terrorist organization pursuant to section 219 of the Immigration and Nationality Act.

9.2. *Usage Rules.* Participant understands that the eSNOOPI and software embodied within the eSNOOPI may include security components that permit digital materials to be protected, and that use of these materials is subject to usage rules set by WSDOT and/or providers who provide information to the eSNOOPI. Participant may not attempt to override or circumvent any of the usage rules embedded into the eSNOOPI.

9.3 *No Distribution Allowed.* Participant shall not reproduce, publicize, distribute, or publicly display, in whole or in part, the materials provided on the eSNOOPI.

9.4 *No Resale of eSNOOPI.* Participant agrees to not reproduce, duplicate, copy, sell, trade, resell or exploit for any commercial purposes, any portion of the eSNOOPI (including Participant's WSDOT ID), use of the eSNOOPI, or access to the eSNOOPI.

9.5 *Access.* Participant agrees not to access the eSNOOPI by any means other than through the interface that is provided by WSDOT for use in accessing the eSNOOPI.

10. INDEMNITY. Participant will protect, save, and hold harmless WSDOT, its authorized agents and employees, from all claims, actions, costs, damages, or expenses of any nature whatsoever by reason of the acts or omissions of Participant, its agents, contractors, employees, or any person whomsoever, arising out of or in connection with any acts or activities related to this TOS. Participant further agrees to defend WSDOT, its agents or employees, in any litigation, including payment of any costs or attorney's fees, for any claims or actions commenced, arising out of, or in connection with acts or activities related to this TOS. This obligation shall not include such claims, actions, costs, damages, or expenses which may be caused by the sole negligence of WSDOT or its authorized agents or employees; provided, that if the claims or damages are caused by or result from the concurrent negligence of: (a) WSDOT, its agents or employees; and (b) Participant, its agents, contractors, employees, or involves those actions covered by RCW 4.24.115, this indemnity provision shall be valid and enforceable only to the extent of the negligence of Participant or its agents, contractors, and employees.

11. PENALTIES. Participant acknowledges that violations of chapter 46.44 RCW and the special permits issued pursuant to eSNOOPI may result in monetary and other penalties, including but not limited to those set forth in RCWs 46.44.105 and 110.

12. GENERAL PRACTICES REGARDING USE AND STORAGE. Participant acknowledges that WSDOT is responsible for establishing state policy and practices concerning the use of the eSNOOPI, including without limitation the maximum number of days that self-entered information will be retained by the eSNOOPI, and the

maximum number of times (and the maximum duration for which) Participant may access the eSNOOPI in a given period of time. Participant agrees that WSDOT has no responsibility or liability for the deletion or failure to store any information other than the information maintained or transmitted by the eSNOOPI. Participant acknowledges that WSDOT reserves the right to terminate use by self-issuers that are inactive for a period in excess of twelve (12) months, or generate less than a set minimum number of permits within a twelve (12) month period. Participant further acknowledges that WSDOT reserves the right to modify these state policies and practices.

13. MODIFICATIONS TO ESNOOPI. WSDOT reserves the right at any time and from time to time to modify or discontinue, temporarily or permanently, the eSNOOPI self-issuing component (or any part thereof) with or without notice. Participant agrees that WSDOT shall not be liable to Participant or to any third party for any modification, suspension or discontinuance of the eSNOOPI (or any part thereof).

14. TERMINATION.

14.1 Participant may terminate this TOS at any time with a written notice to WSDOT. Refer to section 20.2 "Notices to WSDOT" of this TOS.

14.2 In addition to the termination provisions provided elsewhere herein, WSDOT may, at its sole discretion, immediately and without notice to Participant, terminate Participant's eSNOOPI log-on ID and password, any associated email address, and access to the eSNOOPI. The basis for such a termination shall include, but not be limited to:

- (a) breaches or violations by Participant of this TOS or other incorporated agreements or guidelines;
- (b) requests by law enforcement or other government agencies;
- (c) a request by Participant (self-initiated deletions);
- (d) discontinuance or material modification to the eSNOOPI (or any part thereof);
- (e) unexpected technical or security issues or problems;
- (f) extended periods of less than minimal or no activity by Participant;
- (g) engagement by Participant in fraudulent or illegal activities; and/or
- (h) nonpayment of any fees (and interest) owed by Participant in connection with the eSNOOPI.
- (i) Permit violations resulting in permit confiscations within a twelve- month period, beginning at the time and date of the first confiscation.
 - (a) First confiscation will suspend self-issue authorization for the company for twenty-four hours from the date of the first confiscation.
 - (b) Second confiscation will suspend self-issue authorization for the company for fifteen days from the date of the second confiscation.
 - (c) Third confiscation will suspend self-issue authorization for the company for thirty days from the date of the third confiscation.

(d) Fourth confiscation will suspend self-issue authorization for the company for one year from the date of the fourth confiscation.

14.3 Participant agrees that WSDOT shall not be liable to Participant or any third party for any termination of Participant's log-on ID, any associated email address, or access to the eSNOOPI.

15. LINKS. The use of the eSNOOPI may result in links to third parties, to other World Wide Web sites, or resources. Because WSDOT has no control over such sites and resources, Participant acknowledges and agrees that WSDOT is not responsible for the availability of such external sites or resources, and does not endorse and is not responsible or liable for any information, advertising, products or other materials on or available from such sites or resources. Participant further acknowledges and agrees that WSDOT shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such site or resource.

16. WSDOT'S PROPRIETARY RIGHTS. Participant acknowledges and agrees that the eSNOOPI and any necessary software used in connection with the eSNOOPI contain proprietary and confidential information that is protected by applicable intellectual property and other laws. Except as expressly authorized by WSDOT, Participant agrees to not modify, rent, lease, loan, sell, distribute or create derivative works based on the eSNOOPI or the software, in whole or in part.

17. DISCLAIMER OF WARRANTIES. Participant expressly understands and agrees that:

17.1 Participant's use of the eSNOOPI is at Participant's sole risk. The eSNOOPI is provided on an "AS-IS" and "AS AVAILABLE" basis. WSDOT and its agents and employees disclaim all warranties, expressed or implied.

17.2 WSDOT and its agents and employees, make no warranty that that: (a) the eSNOOPI will meet Participant's requirements; (b) the eSNOOPI will be uninterrupted, timely, secure or error-free; (c) the results that may be obtained from eSNOOPI will be accurate or reliable; (d) the quality of any product, information or other material generated by eSNOOPI on Participant's equipment will meet Participant's expectations.

17.3 Any material obtained through the use of the eSNOOPI is accessed at your discretion and risk, and you will be solely responsible for any damage to your computer system or loss of data that results from the attempt to obtain material from eSNOOPI.

17.4 No advice or information, whether oral or written, obtained from WSDOT or through or from the eSNOOPI shall create any warranty not expressly stated in this TOS.

18. LIMITATION OF LIABILITY. WSDOT assumes no responsibility for errors or omissions in the eSNOOPI. Participant expressly understands and agrees that WSDOT and its employees, and agents shall not be liable to Participant for any direct, indirect, incidental, special, consequential or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data or other intangible losses (even if WSDOT has been advised of the possibility of such damages), resulting from: (a) Participant's use or inability to use the eSNOOPI; (b) Participant's cost to procure substitute permits or other information that could not be accessed, maintained or transmitted through the eSNOOPI; (c) unauthorized access to or alteration of Participant's transmissions to or from the eSNOOPI; or (d) any other matter relating to the eSNOOPI.

19. POWERS AND DUTIES OF STATE OFFICIALS. Nothing contained in this TOS shall in any way limit the constitutional and statutory powers, duties and rights of elected officials, including without limitation the independent rights of the State Auditor in carrying out his or her legal authority.

20. NOTICES.

20.1 *Notices to Participant.* WSDOT may, at its sole discretion, provide Participant with notices, including those regarding changes to the TOS, by postings on the eSNOOPI, email, regular mail, or personal delivery. Notices by regular mail and legal notices shall be made or sent to Participant at the address listed in the Contact Information section of this TOS. Participant agrees to accept service of process at said address; Provided, that such address is located in the State of Washington. Otherwise, Participant designates the Secretary of State of Washington as an agent for the purpose of service of process. Such service shall be deemed personal service.

20.2 *Notices to WSDOT.* Notices to WSDOT shall be made or sent to Permit Program Manager, c/o Commercial Vehicle Services, 7345 Linderson Way SW (Tumwater), PO Box 47367, Olympia WA 98504-7367. Such notice will be deemed given: (a) upon receipt when delivered personally; (b) upon written verification of receipt from overnight courier; or (c) upon verification of receipt of registered or certified mail.

21. GENERAL.

21.1 *Compliance with Laws.* Each party shall comply with all applicable laws, rules, and regulations.

21.2 *Relationship.* The parties hereto are and shall remain independent contractors and nothing herein shall be deemed or construed as creating a partnership, joint venture, or agency relationship between the parties.

21.3 *No Third Party Beneficiary.* This TOS is not intended to benefit, nor will it be deemed to give rise to, any rights in any third party.

21.4 *No Right of Survivorship and Non-Transferability.* Participant agrees that its access to the eSNOOPI is non-assignable and non-transferable and any rights to Participant's WSDOT provided ID or data maintained by the eSNOOPI will automatically cease without further action upon termination of Participant's business entity or, in the case of an individual, upon Participant's death.

21.5 *Entire Agreement.* This TOS contains all the agreements and conditions made between the parties hereto pertaining to Participant's use of the eSNOOPI and supersedes any prior agreements between Participant and WSDOT with respect to the eSNOOPI. Participant acknowledges that it also may be subject to additional terms and conditions on upgrades to the eSNOOPI, and third-party content, or third-party software associated with the eSNOOPI.

21.6 *Interpretation.* This TOS shall be governed by and interpreted in accordance with the laws of the State of Washington. The titles to paragraphs or sections of this TOS are for convenience only and shall have no effect on the construction or interpretation of any part hereof.

21.7 *Waiver and Severability of Terms.* The non-enforcement or failure to exercise any right or provision of the TOS by WSDOT shall not constitute a waiver of such right or provision. If any provision of the TOS is found by a court of competent jurisdiction to be invalid, the parties nevertheless agree that the court should endeavor to give effect to the parties' intentions as reflected in the provision, and the other provisions of the TOS remain in full force and effect.

21.8 *Statute of Limitations.* You agree that regardless of any statute or law to the contrary, any claim or cause of action arising out of or related to use of the eSNOOPI or the TOS must be filed within one (1) year after such claim or cause of action arose or be forever barred.

21.9 *Choice of Law and Forum.* This TOS and the relationship between the Participant and WSDOT shall be governed by the laws of the State of Washington without regard to its conflict of law provisions. Participant agrees that the venue for any action or suit concerning this TOS shall be in the Thurston County Superior Court, Washington and all actions or suits thereon shall be brought therein.

21.10 *Exclusions.* The parties specifically exclude from application to the Agreement the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act.

21.11 *Interstate Nature of Communications on WSDOT Network.* Should Participant register with WSDOT as a self-issuer located outside the State of Washington, Participant acknowledges that use of the eSNOOPI will result in interstate data transmissions.

21.12 *Special Admonitions for International Use.* Recognizing the global nature of the Internet, Participant agrees to comply with all local rules regarding online conduct. Specifically, Participant agrees to comply with all applicable laws regarding the transmission of technical data exported from the United States or the country in which Participant resides.
