

FREIGHTWAVES, INC.
SONAR AGREEMENT

This SONAR Agreement (“**Agreement**”) contains the terms and conditions governing the right of FreightWaves’ customers (each, a “**Customer**” or generally “**Customers**”) to use FreightWaves’ SONAR data platform or to use an API to download SONAR data (“**SONAR**”) as authorized in an executed Order Form.

1. Grant of Rights

- a. **License.** For each FreightWaves Customer subscribing to SONAR, FreightWaves hereby grants a non-exclusive, revocable, non-transferable license to access and use SONAR. In return for the right to use SONAR, Customer agrees to comply with this Agreement, any terms and conditions in Customer’s Order Form. To the extent Customer utilizes the web based graphical interface found at <https://sonar.surf> or such other web address as FreightWaves may designate, Customer agrees to comply with the Terms of Use posted on FreightWaves’ website.
- b. **Restrictions on Use.** Customer may use SONAR solely for its internal business purposes and not for the benefit of any third party. Provided however, that Customer’s utilization of SONAR to perform analysis, formulate or adjust Customer’s pricing to third parties, develop internal benchmarking or Models or similar activities that may indirectly benefit third parties, will not be considered a violation of Customer’s usage rights so long as SONAR data is not exposed or provided to the third party other than as integrated into such models, methodologies, engines, tools, benchmarking and analyses (“Models”), and Customer takes reasonable steps to ensure that Customer’s Models cannot be reverse engineered to produce a reasonable facsimile of SONAR or SONAR data. Customer may not use SONAR for any development purposes or to develop any applications, software or otherwise that could in any way interact or interfere with the performance of SONAR or compete with SONAR. Customer may not use or exploit SONAR data in the construction of benchmarks or indices, whether tradable or non-tradable. Customer may not sub-license SONAR to or share SONAR with any third parties without FreightWaves’ express, prior written permission. Customer shall not access SONAR through any medium that FreightWaves has not authorized in writing. Unauthorized access or use of SONAR is unlawful and FreightWaves and its suppliers shall have all rights provided by applicable laws and regulations to prevent such access or use and to collect damages in any such event. Customer agrees to notify FreightWaves in writing promptly upon becoming aware of any unauthorized access or use. Customer shall not share, recompile, decompile, disassemble, reverse engineer, or make or distribute any other form of, or any derivative work from, SONAR. The analysis and presentation included in SONAR shall not be recirculated, redistributed or published by Customer without the prior written consent of FreightWaves and, where necessary, with certain sources of the information included in SONAR.
- c. **Updates.** FreightWaves from time to time in its sole discretion will develop and implement updates and changes to SONAR, which may include upgrades, bug fixes, patches, other error corrections, new data feeds and/or new features (collectively, including related

documentation, "**Updates**"). Updates may also modify or delete in their entirety certain features and functionality. Customer agrees that FreightWaves has no obligation to continue to provide or enable any particular features or functionality or data sets.

2. Term

- a. **Term and Termination.** Customer shall have a right to use SONAR for the term specified on Customer's Order Form (the "**Term**") except that FreightWaves shall have the right to terminate this Agreement at any time immediately upon written notice to Customer if Customer breaches any provision of this Agreement. Upon termination of this Agreement for any reason whatsoever, Customer shall immediately cease use of SONAR.

3. Fees

- a. **Fees and Payment Terms.** Customer agrees to pay FreightWaves the License Fees and/or other fees set forth on Customer's Order Form ("**Fees**") together with (i) any applicable taxes for SONAR, and (ii) any levies or fees imposed or charged by exchanges or other information services or sources displayed at Customer's request through SONAR. Amounts delinquent more than 30 days shall bear interest at the lower of 1.5% per month or the highest rate permitted by applicable law. FreightWaves reserves the right to suspend or terminate Customer's access to SONAR if Customer fails to pay any required amounts when due. All Fees are non-refundable.
- b. **Third Party Services.** If Customer elects a service that requires third-party fees and such fees are disclosed by FreightWaves in writing in advance of Customer's election, Customer shall pay for each third-party information service accessed for display through SONAR. The total monthly charge does not include monthly fees for third-party information services. Customer shall pay any taxes, assessments, fees or penalties in respect of SONAR that are Customer's legal responsibility to pay.

4. Data Obligations; Uploading

- a. **Prohibition on Distribution.** Without FreightWaves' prior written consent, Customer shall not share or distribute SONAR related data or reference FreightWaves or any of FreightWaves' Affiliates in any print, electronic or other medium.
- b. **FreightWaves Data Rights.** FreightWaves shall have the right to use any data provided or uploaded to FreightWaves by Customer for FreightWaves' internal purposes, to improve FreightWaves' products and services and to provide FreightWaves customers with data for benchmarking and other purposes. FreightWaves will only use Customer data in an aggregated and anonymized manner unless otherwise expressly authorized.
- c. **Restriction on Sending Personal Data.** Use of SONAR by Customer does not necessitate FreightWaves having any Personal Data from Customer, except for limited name and business contact information in connection with billing and access credentialing for SONAR ("**Ancillary Data**"). Except for Ancillary Data, Customer shall not, and shall ensure that no person affiliated with Customer shall, send, transmit, upload or otherwise communicate any Personal Data to SONAR or FreightWaves. "**Personal Data**" is defined as information relating to an identified or identifiable natural person. An identifiable natural

person is a natural person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. Customer shall defend, indemnify and hold harmless FreightWaves and any of its Affiliates and their respective employees, officers, managers, owners and advisors from and against any loss, claim, demand, fine, penalty, damages or expense (including reasonable attorneys' fees) ("**Losses**") incurred in connection with any violation by Customer of this subsection.

- d. **Limitations on Customer Contributions and Messaging.** This subsection applies to the extent that Customer elects to (i) upload Customer's own data and content to SONAR in connection with Customer's use of SONAR ("**Customer Contributions**"); and/or (ii) use certain messaging functionality as part of SONAR. These content standards apply to any and all Customer Contributions and use of interactive services. Customer Contributions must in their entirety comply with all applicable federal, state, local and international laws and regulations. Without limiting the foregoing, Customer Contributions and any messaging must not: (1) contain any material which is defamatory, obscene, indecent, abusive, offensive, harassing, violent, hateful, inflammatory or otherwise objectionable, (2) promote sexually explicit or pornographic material, violence, or discrimination based on race, sex, religion, nationality, disability, sexual orientation or age, (3) infringe any patent, trademark, trade secret, copyright or other intellectual property or other rights of any other person, (4) violate the legal rights (including the rights of publicity and privacy) of others or contain any material that could give rise to any civil or criminal liability under applicable laws or regulations or that otherwise may be in conflict with this Agreement or any Terms of Use posted on FreightWaves' website, (5) be likely to deceive any person, (6) promote any illegal activity, or advocate, promote or assist any unlawful act, (7) cause annoyance, inconvenience or needless anxiety or be likely to upset, embarrass, alarm or annoy any other person, (8) Impersonate any person, or misrepresent your identity or affiliation with any person or organization, (9) involve commercial activities or sales, such as contests, sweepstakes and other sales promotions, barter or advertising, (10) involve unlawful price fixing or involve any restraint of trade, (11) give the impression that they emanate from or are endorsed by us or any other person or entity, if this is not the case. FreightWaves reserves the right to refuse or remove any Customer Contributions or messaging if FreightWaves believes, in its sole discretion, that such Customer Contributions or messaging violates the standard in this subsection (d) or that doing so is necessary to protect SONAR users or to comply with laws and regulations.

5. Warranties and Limitations of Liabilities

- a. **Customer's Representations.** Each time Customer uses SONAR, Customer shall be deemed to represent, warrant and covenant to FreightWaves and its Affiliates that: (i) it has all requisite regulatory and legal authority to enter into and be bound by this Agreement; (ii) its use of SONAR complies with all applicable laws, rules and regulations including, but not limited to, export and import laws and regulations, and (iii) any person signing the Customer Order Form or agreeing to any online Terms of Use on behalf of Customer has full legal and corporate authority to do so.
- b. **FreightWaves' Representations.** FreightWaves represents that: (i) SONAR is in compliance with any applicable law, rule, or regulation pertaining to the development and

distribution of SONAR; (ii) FreightWaves has the authority to grant the rights and licenses to Customer as set forth in this Agreement; and (iii) FreightWaves has implemented reasonable processes and procedures to prevent the introduction of malicious code or software into SONAR.

- c. **Third Party Material.** SONAR contains information and data from third party sources (“**Third Party Content**”). Customer acknowledges and agrees that FreightWaves is not responsible for any such Third Party Content, including its accuracy, completeness, timeliness, validity, copyright compliance, legality, quality, or any other aspect thereof. FreightWaves does not assume and will not have any liability or responsibility to Customer or any other person or entity for any Third Party Content, however, FreightWaves warrants it has the authority to provide Recipient the Third Party Content as outlined in this Agreement. Third Party Content is provided solely as a convenience to Customer. Providers of Third Party Content may retain title and ownership of Third Party Content and are third party beneficiaries of this Agreement.
- d. **Disclaimer of Warranties.** FreightWaves and its Affiliates make no warranty, express or implied, as to results to be attained by the recipient or others from the use of SONAR and FreightWaves shall have no liability for any use Customer makes of data from SONAR. Customer is responsible for the selection and use of, and results obtained from, SONAR. To the maximum extent permitted by law, FreightWaves and its Affiliates and their respective third party suppliers shall not be responsible for or have any liability for any injuries or damages caused by delays or interruptions of SONAR, from whatever cause. Customer is solely responsible for the accuracy and adequacy of the data and information used by it and the resultant output thereof. RECIPIENT AGREES AND ACKNOWLEDGES THAT ACCESS TO SONAR IS PROVIDED ON AN “AS-IS”, BASIS AND ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION ANY REPRESENTATIONS OR WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE ARE SPECIFICALLY DISCLAIMED.
- e. **Limitation of Liability.** NEITHER PARTY TO THIS AGREEMENT NOR ITS AFFILIATES OR (IN THE CASE OF FREIGHTWAVES) ITS THIRD PARTY SUPPLIERS SHALL BE LIABLE FOR CONSEQUENTIAL, INDIRECT, PUNITIVE, SPECIAL, OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOST REVENUE AND LOST SAVINGS IN ANY THEORY OF LIABILITY. THE MAXIMUM LIABILITY OF FREIGHTWAVES, ANY AFFILIATE OF FREIGHTWAVES AND ANY THIRD PARTY SUPPLIER OF FREIGHTWAVES FOR DAMAGES UNDER THIS AGREEMENT SHALL BE THE TOTAL AMOUNT OF FEES PAID BY CUSTOMER TO FREIGHTWAVES DURING THE NINE (9) MONTHS PRIOR TO THE DATE SUCH LIABILITY OR DAMAGES ARE ASSESSED. IF ANY PORTION OF THIS SECTION, WARRANTIES AND DISCLAIMERS OF LIABILITIES, IS RULED TO BE UNENFORCEABLE BY AN APPLICABLE AUTHORITY THEN FREIGHTWAVES’ LIABILITY WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.
- f. **Indemnification.** Customer shall defend, indemnify, and hold harmless FreightWaves and the Covered Entities against any Losses arising in connection with a breach of this Agreement by Customer or the use of SONAR by Customer.

- g. **Force Majeure.** Neither party shall be liable to the other for any default resulting from force majeure, which shall be deemed to include any circumstances beyond the reasonable control of the party or parties affected such as governmental actions, acts of war or terrorism, fires, explosions, earthquakes, floods, severe storms, or pandemic. No action, regardless of form, arising out of or pertaining to SONAR may be brought by Customer more than one year after the cause of action has accrued. This Agreement shall not limit any liability for death or personal injury directly resulting from negligence if and to the extent such limitation would violate applicable law. This subsection shall not excuse any delay in payments.

6. Remedies

- a. **Remedies.** If Customer or any of its employees, representatives or Affiliates breaches or threatens to breach any provision of this Agreement, FreightWaves shall be entitled to injunctive relief to enforce the provisions of this Agreement, but nothing in this Agreement shall preclude FreightWaves from pursuing any action or other remedy for any breach or threatened breach of this Agreement, all of which shall be cumulative. If FreightWaves prevails in any such action, FreightWaves shall be entitled to recover from Customer all reasonable costs, expenses and attorneys' fees incurred in connection with such action. As reasonable protection of the proprietary rights of FreightWaves and others in the information provided through SONAR, to avoid breach of FreightWaves' obligations to providers of such information, and to avoid unnecessary uncertainty, burden, and expense for all parties, Customer acknowledges and agrees that the dissemination or distribution by Customer of information identical or similar to that provided through or derived in whole or in part from SONAR shall be deemed a material breach of this Agreement and shall give rise to an immediate right of FreightWaves to terminate this Agreement and Customer's rights to SONAR.

7. Parties

- a. **Relevant Parties.** Customer recognizes that (i) FreightWaves, (ii) its Affiliates, (iii) the respective partners and third party suppliers of FreightWaves and its Affiliates, and (iv) the respective affiliates of the entities covered in subparagraph (iii) ((iii) and (iv) together, the "**Covered Entities**"), each have rights with respect to SONAR, including the software, data, information and other items provided by FreightWaves and its Affiliates by reason of Customer's use of SONAR. References to an entity's "**Affiliates**" in this Agreement shall refer to any entity that is controls, is controlled by or is under common control with the first entity.
- b. **Use of Third Parties.** Customer acknowledges and agrees that FreightWaves may delegate certain of its responsibilities, obligations and duties under or in connection with this Agreement to one or more third parties or to an Affiliate.

8. Proprietary Rights

- a. **Proprietary Rights to SONAR.** The Customer acknowledges that the data associated with SONAR was developed, compiled, prepared, revised, selected and/or arranged by

FreightWaves and its third party suppliers through the application of methods and standards of judgment developed and applied through the expenditure of substantial time, effort and money and constitute valuable industrial and Intellectual Property of FreightWaves and its third party suppliers. "**Intellectual Property**" shall mean patents, copyrights, trademarks, trade secrets and other intellectual property and proprietary rights. Customer agrees to protect the Intellectual Property of FreightWaves and all others having rights in SONAR during and after the Term. Customer acknowledges and agrees that it has no ownership rights in and to SONAR and that no such rights are granted under this Agreement. Customer shall honor and comply with all written requests made by FreightWaves or its suppliers to protect their and others' contractual, statutory and common law rights and Intellectual Property in SONAR with the same degree of care used to protect its own proprietary rights, which in no event shall be less than reasonable efforts. Customer agrees to notify FreightWaves in writing promptly upon becoming aware of any unauthorized access or use by any party or of any claim that SONAR infringes upon any copyright, trademark, or other contractual, statutory or common law rights. Neither party shall use the other party's trademarks: (i) as part of that party's own trademarks or those of any third parties; (ii) in a manner that is likely to cause confusion; or (iii) in a manner that implies inaccurately that a party sponsors, endorses or is otherwise connected with the other party's activities, products or services.

- b. **Use of Marks.** The Customer shall not use any of FreightWaves' or its Affiliates' trademarks, trade names, or service marks in any manner which creates the impression that such names and marks belong to or are identified with Customer, and Customer acknowledges that it has no ownership rights in and to any of these names and marks. Customer acknowledges that it has no ownership rights in and to any of these names and marks. FreightWaves shall not use Customer's (or its Affiliates') names, trademarks or service marks in any advertising, publicity, press release, or other promotional endeavor, including any customer list, web site or other materials distributed to its customers or potential customers, without Customer's written consent.

9. Assignment

- a. **Assignment by Customer.** Customer shall have the right to assign this Agreement or the rights hereunder only with the prior, written consent of FreightWaves, which consent will not be unreasonably withheld or delayed. Notwithstanding any assignment, Customer will remain responsible for any act or omission by any assignee.

10. Composition of Agreement

- a. **Complete Agreement.** This Agreement, together with the Customer Order Form and any Terms of Use on FreightWaves' website, is the complete and exclusive statement of the agreements between the parties with respect to the subject matter and supersedes any oral or written communications or representations or agreements. No changes, modifications or waivers regarding this Agreement shall be binding unless in writing and signed by both parties.
- b. **Severability.** FreightWaves and Customer intend this Agreement to be a valid legal instrument. If any provision of this Agreement shall be held invalid, the remainder of this Agreement shall not be affected and shall be valid and enforceable to the fullest extent

permitted by law. The invalid provision shall be reformed to the minimum extent necessary to correct any invalidity while preserving to the maximum extent the rights and commercial expectations of the parties. The headings in this Agreement are intended for convenience of reference and shall not affect its interpretation.

11. Governing Law and Venue

- a. **Governing Law.** This Agreement and the legal relations among the parties shall be governed by and construed in accordance with the laws of the State of Tennessee regardless of the laws that might otherwise govern under applicable choice-of-law principles.
- b. **Venue for Dispute Resolution.** The parties agree to submit to the federal and state courts having jurisdiction in Hamilton County, Tennessee in connection with any matters arising out of this Agreement and not to assert a defense of forum non-conveniens or sovereign immunity doctrines in connection with any action.

12. Survival of Terms

- a. **Survival.** All provisions of this Agreement that do not by the express terms of this Agreement terminate or expire at any point in time shall survive any termination or expiration of this Agreement.