

# **Oregon's DEQ Too™ Program**

## **Terms and Conditions for:**

### **Continuously Connected Vehicle Telematics Device Provider**

(Version 12/4/2017)

This is an agreement ("Agreement") between my company and the State of Oregon acting by and through the Oregon Department of Environmental Quality (DEQ) setting forth the obligations of the parties for the participation of my company as a provider of a continuously connected vehicle telematics device in Oregon's DEQ Too™ Program.

#### **BACKGROUND SECTION**

##### **DEQ Develops and Implements Oregon's Air Pollution Control Reduction Strategies**

With the oversight of the Federal Environmental Protection Agency (EPA), the Oregon Legislature and the Environmental Quality Commission (EQC), Oregon's air pollution control strategies are established and implemented by the DEQ. Such strategies include, but are not limited to, permitting, inspections, enforcement, area-specific planning and strategy development, monitoring and measuring, voluntary, financial assistance and incentive programs. DEQ's Vehicle Inspection Program (VIP) is an air pollution reduction strategy involving the periodic inspection of vehicles which is enforced by denying registration until a vehicle passes the inspection.

##### **Program Effectiveness**

The Oregon Legislature has determined that, in the best interest of the state of Oregon, vehicles are to be required to have their emissions tested within certain time periods, certain geographic areas and certain model year ranges. The effectiveness of Oregon's VIP program is periodically evaluated and the program is considered one of the most effective vehicle emissions testing programs in the country. A great example of Oregon's approach is that the State does not allow a repair waiver. In the vast majority of states, if a vehicle fails an emissions test, the vehicle owner needs only to produce a receipt that a certain amount of money was spent (some are as low as \$150) on repairs and then it can receive registration renewal. This exemption, referred to as a "repair waiver", means that excessively polluting vehicles are allowed to continue operating in these other states after failing the emissions test and receiving just a partial repair. Oregon does not have a repair waiver program, so vehicles that fail DEQ's test must be fully repaired and are not allowed to continue causing excessive air pollution. DEQ does have a financial assistance program to help motorists who cannot afford to fix their vehicle. As a result of VIP's effectiveness, the Portland and Medford areas have not exceeded the federal standards for ozone or carbon monoxide (CO) in several years. In addition to the VIP program continuing to help reduce ozone and CO concentrations - even as Oregon's population increases - the program also helps to reduce fine particulate, greenhouse gases, and air toxics.

##### **Program Efficiency**

Besides its effectiveness, the efficiency of Oregon's VIP program is also regularly evaluated. From self-service kiosks and testing vehicles on an auto dealer's lot, to issuing registration stickers for a unique DEQ/DMV one-stop-shopping experience - Oregon's VIP is considered one of the most innovative, convenient and efficient vehicle emissions testing programs in the country. With DEQ Too, Oregon is now taking efficiency to a whole new level by adding to VIP's range of convenient testing options from which motorists can choose.

## The DEQ Too Test Method is Not about Expanding the Reach of the VIP Program

DEQ's authority for the VIP program is established by the Oregon legislature and the program's scope is limited in several ways; including those mentioned below. DEQ cannot and does not mandate or provide incentive that vehicle emission tests or repairs be done outside of testing boundaries, model year range, or registration renewal period:

1. *Must Test only within certain Geographic Boundaries.*  
Vehicles must be registered or registering inside specific geographic boundaries in the Portland-Metro and the Medford-Ashland areas.
2. *Must Test only within certain Model Year Ranges:*
  - In the Portland-Metro area, the vehicles must be at least 5 years old and no older than a 1975 model year.
  - In the Medford-Ashland area, the vehicle's model age must be between 5 and 20 years old.
3. *Must Test only within specified Registration Renewal Period.*  
Vehicles must be tested only during the period of their DMV registration renewal. The renewal period is based upon registration which expires every 2 years.

DEQ Too is all about program efficiency; it's a new efficient, convenient test method that motorists can choose to use or not use. DEQ Too's objective is not about modifying the program's reach; it does not expand the limited scope of the VIP program. So the DEQ Too test method falls squarely under VIP's limited scope just the same as the existing test methods; inspector-conducted tests at Clean Air Stations, the inspector-conducted tests on the lot of auto dealerships, and the inspector-assisted tests when motorists use self-service kiosks. As such, all of VIP's test methods are limited to the exact same testing boundaries, the same model year ranges and the same registration renewal periods.

It is understood that some vehicles registered outside the established boundaries, outside the model year ranges or outside of their renewal periods can also be in need of emissions system repair. And, in fact, motorists with such vehicles can voluntarily use any of DEQ's test methods which may result in the motorist electing to repair the vehicle. It is also understood that businesses have and use non-DEQ Too approved equipment and methodologies, and use conditions and incentives to diagnose and repair vehicles outside of the scope of the VIP program. But DEQ Too, like all the test methods in the VIP program, does not and will not mandate or provide incentive that vehicle emission tests or repairs be done in such "voluntary" circumstances. It is critical that the VIP program scope remains consistently within its legislative directive across all VIP test methods. DEQ Too-approved equipment and methodologies are strictly a part of DEQ's provision of a new efficient, convenient test method that motorists can choose to use or not use.

Therefore testing equipment (e.g. telematics device, cable, display screen) and methodologies (e.g. audio, visual, software, app, website) that are officially approved for the purpose of DEQ Too program participation must not be associated with or used in any manner which places required conditions upon or provides incentive (financial or otherwise) to vehicle owners, businesses, or other individuals or entities to test or repair Oregon registered vehicles:

1. That are intended for registration outside of the authorized Portland-Metro and Medford-Ashland geographic boundaries.
2. That are outside of the authorized model year ranges:
  - In the Portland-Metro area, the vehicles must be at least 5 years old and no older than a 1975 model year.
  - In the Medford-Ashland area, the vehicle's model age must be between 5 and 20 years old.

3. That are *outside* of their registration renewal period.

Vehicles must be tested only during the period of their DMV registration renewal. The renewal period is based upon registration which expires every 2 years.

## **DEQ Too is Oregon's Newest Vehicle Emissions Testing Option**

In Oregon, motorists refer to the smog test as "Going through DEQ" (Department of Environmental Quality). While DEQ offers several convenient Clean Air Station locations, our average wait time is less than 10 minutes, and we provide weekend and evening hours, we understand it can still be a challenge for our operations to match up with everyone's specific needs. That is why we started allowing for another testing option to evolve in early 2016. Everyone likes choices. Take the evolution of the banking industry where business was conducted only with in-person tellers at first, then ATM machines were introduced and now banking can also be completed using the internet. Similarly, with DEQ, motorists can receive an emissions test with in-person inspectors or self-service machines at our stations and now testing can also be completed using the internet.

The internet option is called DEQ Too and involves the motorist voluntarily authorizing On-Board Diagnostics (OBD) data to be remotely transmitted from their vehicle to DEQ. Instead of visiting a Clean Air Station, motorists test their vehicle at locations they are driving to already. While taking care of their other car needs at such places, they can take care of their *DEQ too*. Participating businesses will lend motorists a telematics testing device to plug into their car and return it a couple of minutes later. The car's OBD data will be immediately transmitted to DEQ and then at the motorist's convenience they can use their smart phone or other device to check results. They'll be able to view diagnostic trouble codes if their Check Engine light is on. Or, if all looks good to pass DEQ's emissions test, they can order their DMV (Driver and Motor Vehicle Services Division, a branch of the Oregon Department of Transportation) stickers online which will arrive in the mail in as few as 3 business days.

Telematics devices manufactured into a vehicle's system to provide turn-by-turn navigation, roadside and stolen vehicle assistance, etc., can also transmit OBD data. In addition, auto fleet services, usage-based auto insurance programs, and other applications utilize after-market Telematics devices which can also transmit OBD data. DEQ will accept data transmitted from these types of continuously connected devices as well. While originally intended for other uses, these can be used for *DEQ too*.

The bottom line is that DEQ wants to ensure motorists have multiple testing options and can decide what's best for them in their particular situation at any given time. The DEQ Too option allows motorists to save time and fuel; and even help reduce air pollution.

## **DEQ Makes the Determination of Test Results**

The Department's Environmental Quality Commission authorizes remote, self-service testing via Oregon Administrative Rule 340-256-0358(1). DEQ is the only entity authorized to determine and provide the emissions testing results to vehicle owners.

## **The 2 types of Telematics Devices**

1. ***Continuously Connected*** vehicle telematics device (hereinafter interchangeable with "C-type" device). This device is one that is continuously connected, 24/7 to one vehicle. These C-type devices are either built-in to the vehicle's system during auto manufacturing or plugged-in after-market. By comparison, the other telematics device (S-type) can be shared for use by multiple vehicles.

The C-type device has a primary objective *other than* transmitting OBD data to DEQ. Examples of after-market C-type devices include use by auto fleets to optimize driving routes and maintenance

schedules and by usage-based auto insurance programs to help motorists achieve lower premiums. Key purposes of built-in, C-type devices are roadside assistance, stolen vehicle assistance, turn-by-turn navigation, hands-free calling, etc. Regardless of their primary purpose, these continuously connected devices can also capture OBD data and so they can be used for *DEQ too*.

2. **Shared** telematics device (hereinafter interchangeable with "S-type" device). A S-type is an after-market plug-in device that can be shared for use by multiple vehicles; one vehicle at a time. By comparison, the other telematics device (C-type) is continuously connected to and used by only one vehicle.

The objective of the S-type device is for use with multiple vehicles to transmit a snapshot of each vehicle's OBD data to DEQ. The general public would use S-type devices by borrowing them from participating host locations that exist for a primary purpose other than transmitting OBD data. For example, if a gas station participated as a host, their primary purpose is for motorists to refuel their vehicle. However, by briefly borrowing the device, motorists could take care of their *DEQ too* while they are refueling.

## The 5 types of Business Participants

DEQ Too relies on an open market approach whereby voluntary participation in a given role is open to any company that meets certain terms and conditions. Each business participant type and their role is as follows:

1. **C-Type Device Provider** is the company with which the vehicle(s) owner enters into the original agreement to lease, own and/or activate the telematics device.

DEQ will only enter agreements with prospective C-Type Device Providers that provide at least one primary service that has shown specific and sustained demand for the service for the last 12 months. It is in the Program's best interest to ensure that any C-Type Device Provider has a proven, sustainable primary service that necessitates a 24/7 continuous connection, rather than becoming a telematics company that goes into business solely to test vehicles. S-Type Device Providers serve in that role via Hosts, Auto Dealerships and/or Fleets. The sustained demand for the service does not necessarily need to be demonstrated by the prospective C-Type Device Provider itself. It can be demonstrated by any company. For example, a new telematics device for Usage-Based Insurance would not need to demonstrate that there's a sustained demand for such a service.

2. **S-Type Device Provider** is the company with which the Host, Auto Dealership and/or Fleet enters into an agreement to lease, own and/or activate the telematics device.

DEQ will only enter S-Type Device agreements with companies that have met specific, technical and sustained demand for the use of OBD plug-in equipment for the last 12 months. This experience demonstrates that the company successfully and actively oversees the quality and technical support of the OBD-related equipment it provides. In an open-market system like DEQ Too, such experience is in the Program's best interest to make certain that the Program itself maintains quality standards to ensure long term viability of the program.

3. **Hosts** own or operate a business that has an S-type device that is used on location voluntarily by a motorist or by the host on behalf of the volunteering motorist. The objective is to allow transmission of OBD data to DEQ from the business location. Having the S-type device is in addition to the business' primary product/service. Examples of possible device-borrowing locations include, but are not limited to: gas station, auto service, repair, parts and car washing companies.

DEQ will only enter agreements with prospective Hosts that provide at least one primary service or product that has shown specific and sustained demand for the service/product for at least 12

months. It is in the Program's best interest to ensure that any Host has a proven, sustainable primary service or product, rather than becoming a business location solely for testing vehicles. That service already exists with the testing service that DEQ provides at its Clean Air Stations. The sustained demand for the product/service does not necessarily need to be demonstrated by the prospective Host itself. It can be demonstrated by any company. For example, a new gas station would not need to demonstrate that there's a sustained demand for such a product.

4. Companies with a **Fleet** of vehicles voluntarily use the devices to transmit OBD data from the vehicles they own/operate to DEQ and subsequently retrieve results from the DEQ Too website.
5. **Auto Dealerships** voluntarily use the devices to transmit OBD data to DEQ from the vehicles they own/sell and subsequently retrieve results from the DEQ Too website.

When a company enrolls to participate and meets the terms and conditions for one of the above roles, DEQ places them on one of the five list-types as an "Official DEQ Too Business Participant". When a general public vehicle owner voluntarily uses a telematics device to transmit OBD data to DEQ, they do not need to enroll with DEQ Too in advance, but they must agree to certain terms and conditions on the website before results will be shown.

### **Vehicle owners will obtain results on the DEQ Too website**

- The vehicle owner will enter their license plate or VIN to display their test results.
- If the vehicle is "Unready", the website will indicate what that means.
- If DEQ has failed the vehicle (Check Engine Light has been commanded "ON"), the website will indicate why and provide a link to DEQ's Recognized Auto Repair Shops.
- Once the vehicle has passed the test, the owner will pay DEQ's certification fee via the website.

### **How the DMV registration process works in Oregon; specifically with the DEQ Too Program**

- The C-type device company will need the general public motorist or fleet to provide their registration expiration date to the company; but that date is not connected to the VIN, per se. In Oregon, registration stickers are issued for a vehicle to be affixed to the vehicle's front and back license plates - but then the license plates (along with their stickers) may be moved to a different vehicle. DMV must be made aware by the vehicle owner of the license plate/registration switch, but the C-type device provider wouldn't know. Therefore, the C-type device provider and their customer must coordinate closely to ensure that the provider has the correct registration expiration date on file for the connected vehicle.
- Dealerships: When using DEQ Too, dealerships will *not* be able to use remote OBD test results to obtain DMV vehicle registration at a DEQ Clean Air Station. Dealerships will be made aware of this when they enroll as a DEQ Too Business Participant.
  - Dealerships participating in DMV's Electronic Vehicle Registration Program (and/or their customers purchasing vehicles) receive vehicle registration and stickers directly through the EVR Program.
  - Non-EVR dealerships (and/or their customers purchasing vehicles) receive vehicle registration through the mail or in-person at a DMV field office.
- Fleets: When using DEQ Too, fleets will *not* be able to use remote OBD test results to renew their registration at a DEQ Clean Air Station. Fleets will be made aware of this when they enroll as a

DEQ Too Business Participant.

- DMV-Registered-Fleets receive and maintain "Permanent Fleet" license plates from DMV. A detailed renewal process is required for these fleets which does not involve registration renewal stickers or online renewal with DMV.
- For vehicle's that are a part of a company's fleet, but not a part of DMV-Registered-Fleets, renewal is required and these license plates do use registration renewal stickers. These fleet-types renew vehicle registration through the mail, in-person at a DMV field office, or online with DMV.
- General Public Motorists: When using DEQ Too, motorists will **not** be allowed to use remote OBD emissions test results to renew registration via the mail, in-person at a DMV field office or at a DEQ Clean Air Station. Motorists will be made aware of this prior to purchasing a DEQ E-Certificate on the DEQ Too website. Renewal of registration must **only** be done on-line with DMV in order to participate in Oregon's DEQ Too program:
  - Renewal reminders are mailed from DMV to the vehicle owner about 90 days prior to the date the vehicle registration stickers expire on a license plate. The renewal reminder also serves as the renewal application. The renewal reminder comes with an on-line renewal access code.
  - At the moment a motorist obtains a DEQ E-Certificate through the DEQ Too website, DMV immediately receives data from DEQ indicating that the vehicle has passed the emissions test. Then the motorist can renew on-line with DMV and receive registration stickers in the mail in as few as 3 business days.
  - The ability for the general public to renew their registration on-line with DMV is about a 165 day window. As early as 90 days before the registration expiration date and then 75 days after. Other than that window, on-line renewal with DMV is not allowed.

## **PROGRAM OBLIGATIONS**

On behalf of my company, I agree to the following terms and conditions:

### ***Originally Intended Features of a Continuously Connected Vehicle Telematics Device***

We are a company with which a vehicle owner directly or indirectly enters into the original agreement to lease, purchase and/or activate a continuously connected telematics device (a "C-type" device). A C-type device is either built-in to the vehicle during manufacturing for the auto market, or as an after-market device, it is plugged-in for continuous use in one vehicle. Our devices may have any of several features to meet the original intended needs of our various customers. Examples of such features include fleet data, usage-based auto insurance, GPS, roadside assistance, etc.

### **DEQ Too is an *Added Feature* of our Telematics Device Services**

For use in Oregon's DEQ Too program, we have added a feature to transmit a snapshot of OBD data to DEQ.

- Our devices meet the requirements of the Oregon DEQ Remote OBD Specifications Document for Telematics Device Providers.
- We allow vehicle owners to use this added feature to transmit OBD data to DEQ if at least the following conditions are met:

- Each vehicle owner voluntarily provides our company with permission to transmit their OBD data to DEQ. When granting us the permission, we inform the owner that they are not bound to use DEQ Too to pass Oregon's vehicle emissions test. They can elect to test at a DEQ Clean Air Station even after enrolling in our program.
- A valid E-VIN exists for the owner's vehicle(s) (typically 2005 and newer model year vehicles)

### **Tampering with or Altering OBD Systems is a Violation of the Federal Clean Air Act**

Our company understands that it is a violation of Section 203(a)(3) of the Federal Clean Air Act to tamper with or to alter an OBD system from its original equipment configuration. We will not alter the OBD System on any vehicle and we will not alter any data that we receive from any vehicle's OBD system.

### **Strictly Within Scope of VIP Program and Only DEQ Makes Compliance Determination**

As described in the Agreement's Background section, we will not allow our DEQ Too-approved equipment and methodology to be used in any manner which places required conditions upon or provides incentive to vehicle owners, businesses, or other individuals or entities to test or repair Oregon registered vehicles which are outside the scope of the VIP Program. Compliance determination is solely DEQ's role. Our company will not provide any vehicle emissions inspection pass/fail/unready determination. We will not use any statement similar to "Your vehicle is not ready for DEQ's test" or "is Unready for DEQ's test", "Your vehicle has Failed DEQ" or "Has passed DEQ" or "Should pass DEQ" or "Only results that are, or appear to be, in compliance with emission standards will be sent to DEQ". However, as described in the next section, our company may relay detailed and common knowledge information about OBD to provide value to our customers.

### **Communication about OBD Details and Common Knowledge Information**

We may offer a feature to communicate detailed emissions system data for motorists with continuously connected telematics devices. This feature could help keep the vehicle owner more aware of their vehicle's emissions system at all times rather than just when their vehicle is due for their DEQ test every two years. Via communication methods such as text, email or their internet account with us, when we notice a vehicle Malfunction Indicator Lamp (MIL) is commanded on or monitors are unready, we may inform the owner and let them know what this means. This could include providing any Diagnostic Trouble Codes (DTCs) we see. When providing these details, we may relay the common knowledge information that vehicles with their MIL on or with monitors unready may have difficulty meeting smog compliance and could cause excess air pollution. If our device is capable of clearing MIL/DTCs, we understand that without proper repair, such action does not help vehicles pass emissions testing and we relay this fact to our customers.

### **Communication on Data Transmittal to DEQ and Customers Enrolling in our Program**

As part of our company's documentation when we initially enroll as a DEQ Too Business Participant, we will inform DEQ which communication method we will use. While we have less than 5,000 vehicle owners enrolled in our program to use DEQ Too, we may use the basic communication method, as set forth below. However, no later than 6 months after reaching our program's 5,000th enrollee, we must use the advanced communication method; also set forth below. Regardless of which communication method we use, whenever we transmit data to DEQ we will follow the Oregon DEQ Remote OBD Specifications Document.

#### **1) Basic Communication Protocol**

We will maintain a method for our customers to enroll in our company's program to send OBD data to DEQ and explain when they can check their results at [www.DEQToo.org](http://www.DEQToo.org). We will not allow enrollment of vehicles that are ineligible for DEQ Too (those that are not OBD II compliant or those that do not have an Electronic VIN). Enrollment will include our customers providing us with their vehicle registration expiration date(s). Customers will be able to modify their enrollment data as needed.

Starting from the 90th day preceding the customer's vehicle registration expiration date, we will begin to transmit one vehicle OBD record per day to DEQ. If a customer originally enrolls in our program during that 90 day timeframe, we will start transmitting data as soon as possible after their enrollment. These daily transmissions will continue for a minimum of 7 days before and a maximum of 70 days after the expiration date. Besides OBD records, no other information (including personal data) will be transferred to DEQ as part of the data transmission.

## **2) Advanced Communication Method**

We will provide a service-desk phone number to our customers and maintain a method for our customers to enroll in our company's program to send OBD data to DEQ. We will not allow enrollment of vehicles that are ineligible for DEQ Too (those that are not OBD II compliant or those that do not have an Electronic VIN). Enrollment will include, but not be limited to, our customers providing us with their vehicle registration expiration date (except dealerships) and a means to contact them such as an email address or phone number. Customers will be able to modify their enrollment data as needed.

We will transmit a single OBD record to DEQ whenever our customer authorizes us to do so. This record could be for the purpose of DMV vehicle registration renewal, to find out why a vehicle's Check Engine Light is on, or for other reasons. If the arrangement with our customer allows transmittal only during the time of DMV vehicle registration renewal, then:

- Starting from the 90th day preceding the customer's vehicle registration expiration date, we will transmit a single OBD record to DEQ. If a customer originally enrolls in our program during the 90 day timeframe, we will transmit their first record as soon as possible after enrollment.
- Once it has been determined that we should not send any further records during the customer's current registration renewal cycle, we will stop transmitting data to DEQ. We will not transmit a record after the 70th day following the current registration cycle expiration date.

Under the advanced communication method, every time we send a record to DEQ, we will relay to our customer when the transmission record has successfully reached DEQ, letting our customers know they can check their results at [www.DEQToo.org](http://www.DEQToo.org). Based on the results our customer learns from DEQ's website, the customer will help us determine if and when we need to send additional OBD records to DEQ. If and when a communication method becomes available that does not involve our customer's assistance in making that determination, we may use that method instead. Besides OBD records, no other information (including personal data) will be transferred to DEQ as part of the data transmission.

## **Providing DEQ with our Telematics Device Serial Numbers**

We will provide to DEQ the unique serial numbers (LINK\_ID) for each device or the range of numbers that we anticipate being used in the DEQ Too program. We will let DEQ know if and when we need to add or delete device ID numbers. As indicated in the Oregon DEQ Remote OBD Specifications Document, our device serial number will not exceed 60 alpha-numeric characters starting with a Manufacturing ID abbreviation, followed by abbreviation of device name, then the ID number. Using an abbreviated device name in the serial number is for if/when our company has more than one device model.

## **Communication about Financial Transactions**

If we charge money for our device in whole or in part because of the feature to transmit OBD data to DEQ:

- We will only charge money to our direct customer; namely the customer that signed up for and is using our device.
- We will describe to DEQ the billing frequency and mechanism we will use with our direct customer.
- We will clearly describe to the customer any device lease amount, selling price, per-usage fee or other financial charge to transmit OBD data to DEQ. The title and description of the fee will make it clear that DEQ does not require the charge, does not set the amount and none of the money goes to DEQ.
  - Acceptable titles include, but are not limited to, "Diagnostic Data Transmission Fee", "Diagnostic Device Purchase Price" and "Diagnostic Device Lease Amount".
  - Unacceptable titles include containing the terms "DEQ", "DEQ Too", "VIP", "Convenience Fee" or anything similar.

If a customer wants us to pay for, on their behalf, the DEQ Clean Air E-Certificate fee, we will charge the customer as they must ultimately bear the full cost of that fee. Any such arrangement will be clearly communicated in advance to customers.

## **User Interface Software**

If we elect to provide user interface software that allows motorists to use the interface instead of, or in addition to, using the official DEQ Too website, we understand and will make it clear that:

- DEQ does not require us or the motorists to use any interface software; the DEQ Too website can work as a standalone system.
- Prior to using the software, we, or a Partner on our behalf, will first receive DEQ's approval. After demonstrating to DEQ how the interface software works, DEQ will have up to 30 days to indicate what changes, if any, are required.
- DEQ has a strong interest in ensuring that features of the DEQ Too website and program are represented in a certain manner to all users. Therefore, DEQ's review includes, but is not be limited to, the following:
  - The user interface methodology aligns with the intent of any portions of this Agreement.
  - All the data entry that the DEQ Too website receives via the user interface must be authorized by the motorists and done as DEQ requires.
  - All the output and communication the motorists receive from the DEQ Too website via the user interface must be done as DEQ requires. This includes indication that test results have been determined solely by DEQ.
  - If any mobile display screen device is used as part of our methodology to complete transactions with the DEQ Too website, then its outermost edges, including any protective casing (built-in or otherwise), shall have the following maximum dimensions:
    - a. 6¼ inches long
    - b. 3¼ inches wide
    - c. 1¼ inch thick

These dimensions do not apply to any peripheral equipment designed to charge, store or carry the display screen. This does not apply if the methodology includes our company having the motorist use their own display screen (e.g. motorist's smart phone).

- Any problems caused by the user-interface software is our responsibility.
- We will not indicate that we created the remote OBD testing option in Oregon. The software will display the DEQ Too logo on user screens that DEQ requires. Note: The testing method

is made possible in Oregon only because DEQ initiated this convenient option. The Oregon Legislature provided the statutory authority to DEQ and its commission to develop rules authorizing remote OBD testing.

## **Partnerships with Other Companies**

In participating in Oregon's DEQ Too program, we may partner with one or more companies to help implement the DEQ Too program or who may otherwise interface with actual or proposed customers regarding the DEQ Too program (our "Partner" or a "Partnership"). We will provide to DEQ a description of the nature of any Partnerships we currently have. Since we may change Partners or add some, if anything changes significantly in the nature of our type of Partnerships, we will inform DEQ within 15 days of the change. Example partnership-type descriptions include, but are not limited to, retailers of devices (online or in-store), auto insurance companies using devices for their usage-based insurance program, and an auto manufacturing company using built-in devices providing GPS, or roadside assistance.

DEQ may acknowledge that our company and our Partner companies are involved in the DEQ Too program. The form of acknowledgement may include, but not be limited to, DEQ mentioning our Partner or partnership-types on the DEQ Too website. Within 15 days of a written request from DEQ, we will provide to DEQ a list (or website link) of the names of our current Partners. If DEQ deems that our partnership-type is not in the best interest of DEQ, DEQ may elect to terminate this Agreement.

We have full responsibility to DEQ for the duties and obligations under this Agreement. We maintain full responsibility regardless of whether they are performed by us or our Partners. If one or more of the following obligations are applicable to the role performed by a particular Partner, then we will provide a copy of this agreement to the Partner and ensure the Partner complies with the applicable obligation(s):

- The section on Advertising and Explaining the Use of our Devices with DEQ Too
- The section on Financial Transaction Communication
- Not act as an Agent or Employee of DEQ
- Keep Confidential Information confidential

## **Advertising and Explaining the Use of our Devices with DEQ Too**

We acknowledge that DEQ has a strong interest in ensuring that the communication directed toward existing or potential customers or Partners accurately represents the DEQ Too program. Therefore, we will provide to DEQ for DEQ review and approval all communication content we, or our Partners, intend for explaining and advertising the use of our telematics device with Oregon's DEQ Too program. This includes communication we intend to relay to any external audience that our company is involved in remote OBD in the State of Oregon. If DEQ does not provide a response to us within 15 days of receiving the material, then the communication content will be deemed approved. Such communication related to the DEQ Too program includes, but is not limited to, the use of the DEQ Too logo and any written and verbal messaging to existing or potential customers or Partners using signs, mail, coupons, newspaper, magazines, computer/phone applications, texts, emails, websites, blogs, TV, radio, social media, etc. And our advertising will not solely be about emissions testing. After all, we are in business for our primary product(s) and/or service(s) which is what we normally advertise about to attract customers.

DEQ will provide us an electronic copy of the DEQ Too design mark (logo) and grants to us the right to use the logo only after DEQ has placed us upon the DEQ Too Business Participant List. The logo (which resembles an Oregon license plate) and the word mark ("DEQ Too™") are trademarks of DEQ and the property of DEQ. We, and our Partners, shall use the logo and word mark in conformance with the

Authorized Use of DEQ Too Trademarks document. Upon removal of our company from the DEQ Too Business Participant List, we will immediately cease the use of the DEQ Too logo and word mark and ensure our Partners also do so.

The Business Participant List on the DEQ Too website may include our business name, logo/trademark, address, email and phone number. The business name will be hyperlinked to our DEQ-approved internet landing page that contains a description of our device's ability to be used for DEQ Too and the associated price. Using any part of this information, DEQ may broadly share (e.g. TV interview, news releases) that our company is participating in DEQ Too. We grant DEQ the right to use our official logo/trademark for the purpose described above and we will provide to DEQ an electronic copy of this along with any conformance guidelines. If we do not have an official logo/trademark, then a distinguishing branding about our company will be used (e.g. from top of our letterhead or on our webpage). Upon removal of our company from the DEQ Too Business Participant List, DEQ will immediately cease the use of our logo. This agreement does not grant DEQ any rights, title, or interest in or to our intellectual property rights.

If we include Oregon's DEQ Too services as part of advertising our devices to existing and potential customers and Partner companies, we will inform them of the information available at [www.DEQToo.org](http://www.DEQToo.org) and that we do not have an exclusive arrangement with DEQ to provide this service and that DEQ does not endorse any telematics device provider over another. We will ensure our Partners also do so if they advertise to existing and potential customers.

### **Estimating and Tracking Potential and Actual Program Demand**

By the 10th of each month, we agree to report on the following data (cumulative totals as of the end of the previous month):

- The approximate number of vehicles with our device(s) installed that are registered within the Portland-Metro area and Medford-Ashland area. (Oregon's DEQ emissions testing boundaries)
- The number of our customers that have enrolled with us in order to participate in DEQ Too.
- The number of non-repeat-visitors viewing our web page(s) that cover our device(s)' ability to smog test.

### **OTHER TERMS AND CONDITIONS**

1. Term of Agreement; Termination of Agreement. This Agreement shall begin upon the date our company is added to the DEQ Too Business Participant List until December 31st of the year we were added to the list. Each January 1, the Agreement will automatically renew for one year unless DEQ provides at least 30 days written notice to us or either party otherwise terminates in accordance with this Agreement. The parties can terminate this Agreement as follows: (a) Either party can terminate this agreement with 30 days notice at any time; (b) DEQ can terminate this agreement immediately upon our failure to comply with the terms of this agreement; or (c) DEQ can terminate this agreement if it elects to discontinue or suspend the DEQ Too Program for any reason. Without terminating the agreement, DEQ may, at any time, modify the Program Obligations of this Agreement. If DEQ does so, it will provide notice to us and identify the modification. If we do not wish to continue after receiving notice of the modification of the Program Obligations, we can terminate this agreement. Our continued use of the DEQ Too Program for longer than 30 days after we receive notice of the modification of the Program Obligations means we have agreed to the new Program Obligation terms. When this Agreement is terminated for any reason, (a) we must stop using the DEQ Too logo; (b) we must notify in writing any party that has enrolled with us that we must stop transmitting their vehicle data to DEQ; and (c) DEQ will remove us from the DEQ Too Business Participant List and will no longer accept data transmitted from our devices.

2. Assignment. Except as is expressly allowed below, we shall not assign this Agreement, in whole or in part, without DEQ's prior written consent, which consent shall not be unreasonably withheld. Our assignment of this Agreement to a parent, affiliate, subsidiary or to a successor organization by merger or acquisition does not require the consent of DEQ. The provisions of this Agreement will be binding upon and will inure to the benefit of any successors and permitted assigns.
3. Survival. Any provision of this Agreement which imposes an obligation after termination or expiration of this Agreement shall survive the termination or expiration of this Agreement.
4. Confidentiality. We acknowledge that, in the course of performing our responsibilities under this Agreement, we may be exposed to or acquire information that is confidential to DEQ. Any information we receive or acquire relating to DEQ in the performance of this Agreement is deemed to be confidential information of DEQ ("Confidential Information"), with the exception of (i) information that becomes part of the public domain through lawful means and without breach of any confidentiality obligation by us; (ii) information subsequently and rightfully received from third parties who have the necessary rights to transfer the information without any obligation of confidentiality; (iii) information that was known to us prior to the effective date of the Agreement without obligation of confidentiality; (iv) information that is independently developed by us and documented in writing without use of, or reference to, any confidential information of DEQ; and (v) information required to be disclosed by law.
5. Indemnity. We shall indemnify and hold harmless DEQ, the State of Oregon, and their agents, officials and employees harmless from all claims, demands, suits, actions, proceedings, losses, liabilities, damages, awards and costs (including reasonable attorneys' fees), which may be brought or made against DEQ, the State of Oregon, or their agents, officials or employees and arising out of or related to any of the following (each, an "indemnifiable loss"): (i) any personal injury, death or property damage caused by any alleged act, omission, error, fault, mistake or negligence of us, our employees, agents, or representatives in connection with or incident to the use of our devices related to the Agreement; (ii) any act or omission by us that constitutes a material breach of the Agreement, including any breach of warranty; or (iii) the infringement of any patent, copyright, trademark, trade secret or other proprietary right of any third party related to our devices used under this Agreement. DEQ shall promptly notify us in writing of any action, claim or demand of which DEQ becomes aware and which DEQ reasonably expects to result in an indemnifiable loss. Our obligation under this section does not extend to any indemnifiable loss to the extent caused by the negligence or willful misconduct of DEQ, the State of Oregon, or their agents, officials or employees.
6. Defense of Claims. To the extent we are required under this Agreement to defend DEQ against claims asserted by third parties, DEQ shall reasonably cooperate in good faith, at our reasonable expense, in the defense of the claim and we shall select counsel reasonably acceptable to the Oregon Attorney General to defend the claim and shall bear all costs of counsel. The Oregon Attorney General's acceptance of counsel may not be unreasonably withheld, conditioned or delayed. Counsel must accept appointment as a Special Assistant Attorney General under ORS Chapter 180 before counsel may act in the name of, or represent the interests of, the State of Oregon, DEQ, its officers, employees or agents. DEQ may elect to assume its own defense with an attorney of its own choice and its own expense at any time DEQ determines important governmental interests are at stake. DEQ shall promptly provide notice to us of any claim that may result in an obligation on the part of us to defend. Subject to these limitations, we may defend a claim with counsel of our own choosing, on the condition that no settlement or compromise of any claim may occur without the consent of DEQ, which consent must not be unreasonably withheld, conditioned or delayed.
7. Governing Law; Jurisdiction; Venue. This Agreement is to be construed and enforced in accordance with the laws of the State of Oregon, without giving effect to its conflict of law principles, and applicable federal law. Any action or suit brought by the parties relating to this Agreement must be brought and conducted exclusively in the Circuit Court of Marion County for the State of Oregon in

Salem, Oregon, unless the claim must be brought in a federal forum, in which case it must be brought and adjudicated exclusively within the United States District Court for the District of Oregon. We hereby consent to the personal jurisdiction of these courts, waive any objection to venue in these courts, and waive any claim that either of these courts is an inconvenient forum. In no way may this section or any other term of this Agreement be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States, or otherwise, from any Claim or from the jurisdiction of any court.

8. Not a part of DEQ. We shall not act as an agent or employee of DEQ.
9. General Representations and Warranties. We represent and warrant to DEQ that (i) we have the power and authority to enter into and perform this Agreement; (ii) this Agreement, when executed and delivered, will be a valid and binding obligation of us enforceable in accordance with its terms; (iii) we will, at all times during the term of this Agreement, be qualified to do business in the State of Oregon. DEQ represents and warrants to us that: (i) DEQ has the power and authority to enter into and perform this Agreement; and (ii) this Agreement, when executed and delivered, will be a valid and binding obligation of DEQ enforceable in accordance with its terms.
10. Liability Insurance. At all times while participating in the program:
  - We agree to carry Commercial General Liability or Garage Liability insurance with a minimum \$1,000,000 per occurrence for any number of claimants.
  - If not otherwise covered by our liability insurance, we also agree to carry insurance that protects our company in the event of damage to vehicles that used our device.
11. Limitation of Liability. In no event shall either party be liable for any lost profits, lost savings, lost data or other consequential, punitive, exemplary or incidental damages. Neither party excludes or limits its liabilities to the extent they may not be excluded under applicable laws. Our liability for damages to the DEQ for any cause whatsoever is limited to \$5,000,000.
12. Compliance with Law. Both parties shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to party (including but not limited to all: applicable anti-corruption laws and policies at the state and federal level and the Oregon Government Ethics Commission's "A Guide for Public Officials" (2010), as supplemented (2015) (and any successor publications) in performance of this Agreement.
13. Tax Compliance Certificate. Our company will provide to DEQ a signed tax compliance certification that certifies the following: By executing this tax compliance certification, I certify under penalty of perjury that I am authorized to act on behalf of the Company and that, to the best of my knowledge, we are not in violation of any Oregon Tax Laws. For purposes of this certification, "Oregon Tax Laws" means a state tax imposed by ORS 320.005 to 320.150 (Miscellaneous Taxes) and ORS chapters 118 (Inheritance Tax), 314 (Income Tax), 316 (Personal Income Tax), 317 (Corporation Excise Tax), 318 (Corporation Income Tax), 321 (Forest Products Tax) and 323 (Cigarettes And Tobacco Products Tax), and the elderly rental assistance program under ORS 310.630 to 310.706; and any local taxes administered by the Department of Revenue under ORS 305.620.
14. Notice and Other Communication that is required of us under this Agreement will be provided in writing or email delivered to DEQ at the below addresses:
  - Email - [deqtoo@deq.state.or.us](mailto:deqtoo@deq.state.or.us)
  - Mail - Attention: DEQ Too Program, 1240 SE 12<sup>th</sup> Ave, Portland, Oregon 97214.

## DOCUMENTATION

We understand that DEQ will not include us on the DEQ Too Business Participant List without first receiving documentation demonstrating that we meet the requirements of this program. Our documentation will be submitted within 7 days following our electronic submittal of the DEQ Too Business Participant enrollment form using [www.DEQToo.org](http://www.DEQToo.org). We understand that the final determination of our participation is made by DEQ and that DEQ's goal is to make their determination within 30 days of receiving our documentation. DEQ will inform us in writing when we are added to the DEQ Too Business Participant List.

We understand that the documentation must include, but may not be limited to:

1. A written statement and signature making it clear to DEQ that the individual agreeing to the terms and conditions via the DEQ Too electronic enrollment form has the authority to commit to the agreement on behalf of the company.
2. Submittal of our device(s) or some sort of electronic simulation capability so DEQ can verify they function as we have described.
3. The unique serial numbers (LINK\_ID) for each device or the range of numbers that we anticipate being used in the DEQ Too program.
4. Any technical/electronic address that DEQ needs for certification/security.
5. Declaration of which (Basic or Advanced) communication method we are using with our customers..
6. An operational contact name, telephone number and email address will be provided to DEQ for DEQ's internal use only.
7. A customer service phone number and/or electronic address so that DEQ can provide this contact information upon request from our customers if/when they experience difficulties with our device/process.
8. The Certificate of Insurance.
9. The signed Tax Compliance Certificate (DEQ provides the certificate needing our signature).
10. Certification that our business is legally authorized to do business in the State of Oregon.
11. Show how we are the company with which the vehicle owner enters into original agreement to lease, own and/or activate device.
12. If our company provides this to our customer, we will provide DEQ with a description of the OBD details and common knowledge information.
13. The title and description of any fees or other financial charges to customers for OBD data transmission and a description of our billing mechanism and frequency.
14. How we determine that the motorist has voluntarily agreed that we will send OBD data to DEQ on their behalf. And how we inform the motorist that they are not bound to use DEQ Too to pass Oregon's vehicle emissions test. They can elect to test at a DEQ Clean Air Station even after enrolling in our program.
15. The approximate number of vehicles with our device(s) installed that are registered within Oregon's DEQ emissions testing boundaries.

16. How we make it clear to existing and potential customers and Partners that we do not have an exclusive arrangement with DEQ to provide this service.
17. A description of the nature of any Partnerships we currently have. If any of the following obligations are applicable to the role performed by a particular Partner, then we will provide DEQ with a written description and any accompanying documentation of how we ensure the Partner complies the applicable obligation(s):
  - The section on Advertising and Explaining the Use of our Devices with DEQ Too
  - The section on Financial Transaction Communication
  - Not act as an Agent or Employee of DEQ
  - Keep Confidential Information confidential
18. Initial communication content and methods we, or our Partners, intend for explaining and advertising the use our telematics device with Oregon's DEQ Too program. This includes providing DEQ with an electronic copy of our company logo and our internet landing page that contains a description of our device's ability to be used for DEQ Too.