

**I-95 Corridor Coalition Traffic Flow Data Program
R009
Agreement for Use of Data**

1.0 This Agreement for Use of Data (“Agreement” or “Data Use Agreement”) is entered into, by and among INRIX, Inc., a corporation organized under the laws of the State of Delaware and having a primary business address set forth in Section 8 below, HERE North America, a limited liability company organized under the laws of the State of Delaware and having a primary business address set forth in Section 8 below, and TomTom North America, Inc., a corporation organized under the laws of the State of California and having a primary business address set forth in Section 8 below (collectively referred to hereinafter as the “Data Vendors”) and

(hereinafter “Data Licensee”), having an address as set forth on the signature page below. Data Vendors and Data Licensee together are hereinafter referred to as the “Parties”.

2.0 Background: I-95 Corridor Coalition (hereinafter “Coalition”), an unincorporated coalition of members and affiliate members (collectively referred to herein after as “Coalition Members” or “Coalition Member” in singular), has authorized the University of Maryland (hereinafter “UMD”), an agency and instrumentality of the State of Maryland, to act on behalf of the Coalition to enable the Coalition to continue to serve as a valuable knowledgeable collaborative resource throughout the I-95 Corridor. Acting on behalf of the Coalition, UMD has executed agreements with the Data Vendors under which they have agreed to license real-time traffic data, including travel time, speed, complimentary metrics and associated products provided pursuant to task orders (hereinafter referred to as “Licensed Data”) to Coalition Members and their subcontractors under the following agreements: UMD and INRIX have executed contract # 83794N-1-INRIX; UMD and HERE North America have executed contract # 83794N-2-HERE; and UMD and TomTom North America have executed contract # 83794N-3-TomTom (collectively hereinafter referred to as the “Contracts”).

This Agreement, to be executed by all Data Vendors and Data Licensees, sets forth the terms and conditions under which Coalition Members and their subcontractors may access and use any Licensed Data purchased through the Contracts, irrespective of geography or time; for appropriate use of and liability for misuse of Licensed Data; and warranties regarding Licensed Data.

For the avoidance of doubt, Data Licensee acknowledges that Data Vendors’ obligation to deliver the Licensed Data to Data Licensee is limited to the duration and the terms of active task orders under the applicable Contracts. The foregoing shall be without prejudice to Data Licensee’s right to use the Licensed Data that it has received as set forth in clause 4.0 below.

3.0 Certification: Data Licensee certifies that it is a member or affiliate member of the Coalition in good standing or an entity under contract to a Data Licensee (that may include universities) that directly supports a Coalition Member in good standing via a written agreement (hereinafter

referred to as ‘Subcontractor’), and requires and is authorized to access/use the Licensed Data procured under the Contracts.

If Data Licensee is a Subcontractor, it shall complete Attachment A to this Agreement, which shall be incorporated as part of this Agreement. Coalition Members shall notify all Data Vendors and UMD upon the termination of its written agreement with any Subcontractor.

Data Vendors agree that Data Licensee is entitled to access and use Licensed Data under the terms of this Data Use Agreement. Notwithstanding whether Data Licensee elects to purchase or not purchase Licensed Data for its particular jurisdiction, Data Vendors agree that Data Licensee is entitled to access and use, at no cost, Licensed Data purchased by any Coalition Member, subject to the terms of this Data Use Agreement.

- 4.0 Grant of License: Data Vendors hereby grant Data Licensee a nonexclusive, fully paid up right and license to reproduce, use, distribute, make derivative works based on, and archive Licensed Data consistent with Data Licensee’s traffic management, operations and planning responsibilities. Data Licensee is entitled to receive all Licensed Data purchased by any Coalition Member regardless of geographical or political boundaries of Data Licensee’s respective jurisdiction.
- 5.0 Rights and Limitations of License: The license granted under this Agreement is subject to the following restrictions:
- (a) Data Licensee shall not have the right to sell or otherwise transfer or disclose Licensed Data either to public or private entities that are not licensed to receive such data without prior written authorization from Data Vendors unless Data Licensee is required by applicable laws or regulations or pursuant to an order of a court of competent jurisdiction or a valid administrative or congressional subpoena to disclose Licensed Data. In that event, Data Licensee shall provide the affected Data Vendors prompt notice of the demand, unless prohibited by law, so they may take appropriate action to prevent disclosure, if they wish. Data Licensee shall provide a copy of any such notice to UMD. Nothing herein shall be deemed to authorize Data Licensee not to comply with any lawful order pending action by Data Vendors.
 - (b) Data Licensee shall limit access to Licensed Data to those of its employees and subcontractors who have a need to access and use Licensed Data in order to fulfill their contractual duties and shall require all such persons authorized to access and use Licensed Data to agree to abide by the terms of this Data Use Agreement. Any Data Licensee that desires access to Licensed Data for purposes not authorized by this Agreement must negotiate directly with Data Vendors to acquire such additional access and rights.
 - (c) Data Licensee may disseminate real-time traffic data delivered by Data Vendors to the public, subject to the following restrictions:
 - i. Licensed Data may only be disseminated to the public using dynamic message signs (also known as variable message signs), portable message signs, highway advisory

radio, 511 information systems, and Coalition Members' supported websites, web services, social media, and smart phone applications; and

- ii. Licensed Data disseminated to the public shall be restricted solely to travel times and speeds only that is disseminated via dynamic message signs (also known as variable message signs), portable message signs, highway advisory radio, telephone-based 511 information systems; and
- iii. This Agreement does not place any restrictions on dissemination of data to the public through Coalition Members' supported websites, web services, social media, and smart phone applications, including web-based 511 information systems.

- (d) The license granted by Data Vendors to Data Licensee authorizes Data Licensee to create visualizations and summary statistics of the archived traffic data (i.e., maps, graphs, charts, tables, etc.) for presentation and distribution to the general public ("Derivative Works"). Data Licensee shall own all copyrights in all such Derivative Works to the extent those works are protected by copyright.
- (e) Nothing in this Agreement shall preclude Data Licensee from distributing, displaying or otherwise presenting any traffic data or derivative works deemed essential to the safety of the traveling public.

6.0 Right to Acquire Non-Licensed Data: Nothing in this Agreement shall prohibit Data Licensee from acquiring, displaying or otherwise presenting or sharing information that Data Licensee has obtained from sources other than Data Vendors.

7.0 Prevention of Unauthorized Use: Data Licensee will cooperate with Data Vendors to protect the commercial value of Licensed Data by taking such measures as:

- (a) retaining all proprietary or restricted use notices included on Licensed Data as received; and
- (b) not obstructing or modifying proprietary or restricted use notices included on Licensed Data as received; and
- (c) ensuring that all copies of Licensed Data include all proprietary or restricted use notices included on Licensed Data as received . To the extent Data Vendors do not include any proprietary or restricted use notices on Licensed Data as delivered to Data Licensee, Data Licensee shall insert, at a minimum, the following notice on any copies of Licensed Data that Data Licensee makes: "PROPRIETARY INFORMATION OF DATA VENDOR. USE BY ENTITIES OTHER THAN AUTHORIZED, LICENSED USERS PROHIBITED"; and
- (d) storing and disseminating Licensed Data using methods, communication mediums and technologies that provide reasonable protections against their unlawful copying and unauthorized access and use.

8.0 Notice of Unauthorized Use: In the event Data Licensee becomes aware of an inappropriate use or unauthorized disclosure of Licensed Data, Data Licensee shall provide immediate verbal

notice as soon as practicable and subsequent written notice within 24 hours of its verbal notice to UMD and to the Data Vendor(s) whose data are the subject of inappropriate use or unauthorized disclosure as follows:

University of Maryland Program Managers

Dr. Stanley Young Kathleen Frankle (or designee)
301-405-3096, 410-414-2925
seyoung@umd.edu, kfrankle@umd.edu
Department of Civil and Environmental Engineering
University of Maryland
2200 Technology Ventures Building
College Park, Maryland 20742-3021

INRIX Inc.

Mr. Rick Schuman- Program Manager
407-298-4346 Rick@inrix.com
10210 NE Points Dr., Suite 300
Kirkland, WA 98033

HERE North America LLC

Mr. Keith Hangland, Account Representative
408-789-8264 keith.hangland@here.com
425 West Randolph Street
Chicago, IL 60606

TomTom North America, Inc.

Attn: Legal Department
11 Lafayette Street
Lebanon, NH 03766-1445 USA
Telephone: (800) 331-7881
Facsimile: (603) 653-0249
Email: aeglegal@tomtom.com

Subject to the above paragraph, all notices and approvals required to be made under this Agreement shall be made in writing and delivered (i) in person; (ii) by facsimile, with confirmation of transmission, (iii) by electronic mail (email) with return confirmation of delivery, or (iv) by first class mail, postage prepaid and addressed to the contact for each party specified above or such other person and address as each party may hereafter designate in writing. Notice shall be deemed effective upon receipt.

- 9.0 Indemnification: Data Vendors hereby indemnify and agree to hold harmless UMD, Data Licensees and their respective officers, employees and agents from and against any and all claims, actions, costs, judgments or damages of any type arising out of an allegation that Licensed Data infringes the intellectual property or proprietary rights of any third party or a breach of the representations and warranties of Data Vendors.
- (a) Upon becoming aware of an allegation of infringement or a breach of a Data Vendor's representations and warranties, Data Licensee shall promptly notify the affected Data Vendor(s) and UMD.
- (b) Data Vendors' duty to indemnify is conditioned upon (i) Data Vendors having sole control of the defense and settlement of the claim (provided that Data Vendors may not settle or compromise or defend any claim unless they unconditionally release all other parties from all liability, and further provided that Data Vendors must obtain prior approval of any such settlement or compromise from counsel for UMD and the Data Licensee which shall not be unreasonably withheld or delayed); (ii) Data Licensee provides, at Data Vendors' expense, information and reasonable assistance upon Data Vendors' request; and (iii) Data Licensee has not already compromised or settled the claim.
- 10.0 Liability: Under no circumstance will Data Licensee be responsible for another Data Licensee's breach of its duties under this Data Use Agreement. Each Data Licensee shall be liable for its

own violations of this Agreement.. IN NO EVENT WILL ANY PARTY OR ITS OFFICERS, AGENTS, OR EMPLOYEES BE LIABLE TO THE OTHER PARTIES FOR ANY INCIDENTAL, SPECIAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUSINESS EXPENSE, MACHINE DOWN TIME, LOSS OF PROFITS, OR DAMAGE OR INJURY TO PROPERTY FOR ANY CLAIMS, DEMANDS OR DAMAGES ARISING OUT OF OR RELATED TO THE PERFORMANCE OR ITS OBLIGATIONS UNDER THIS AGREEMENT OR THE USE OF LICENSED DATA BY ANYONE EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11.0 Term and Termination

- (a) This Agreement will commence with respect to an individual Data Licensee as of the last date of execution by each Data Vendor, the Data Licensee, and the UMD representative affirming the good standing of the Data Licensee.
- (b) This Agreement will terminate upon the occurrence of any of the following:
 - (i) One or more Data Vendors or UMD gives written notice to Data Licensee of its breach of one or more obligations under this Agreement and Data Licensee's failure to cure its breach within thirty (30) days of receipt of notice of breach; or
 - (ii) UMD notifies Data Vendors and Data Licensee that Data Licensee is not a member or affiliate member in good standing of the I-95 Corridor Coalition and Data Licensee fails to restore its good standing within thirty (30) days of receipt of notice; or
 - (iii) A Coalition Member or its Subcontractor gives written notice to the Data Vendors and UMD that Subcontractor no longer has a need to access/use Licensed Data in which case this Agreement will terminate only with respect to the Subcontractor; or
 - (iv) Data Licensee gives written notice to Data Vendors and UMD that it wishes to terminate this Agreement.

Notices shall be provided to the addresses listed in Section 8.0 above.

Except for the reasons stated above, this Agreement will remain in effect and will not terminate.

- (c) Termination under section 11.0(b) (i) and (ii) will become effective upon expiration of the 30-day period if the breach has not been cured. Termination under Section 11.0(b) (iii) and (iv) will become effective immediately upon receipt of notice.
- (d) In the event of termination of this Agreement:
 - (i) Data Vendor will cease to provide Licensed Data to Data Licensee; and
 - (ii) Data Licensee will no longer be able to access Licensed Data maintained in archives and analysis tools at UMD; and
 - (iii) Data Licensee must destroy any and all Licensed Data in its possession and certify their destruction to UMD within thirty (30) days of the effective date of termination

12.0 Representations and Warranties

- (a) Data Vendors represent and warrant that all Licensed Data shall be original and unencumbered.
- (b) Data Vendors represent and warrant that they either own the Licensed Data or are authorized by the owner(s) of Licensed Data to grant licenses to Data Licensees under this Agreement or that Licensed Data are in the public domain.

13.0 General

- (a) The validity, interpretation and effect of this Agreement shall be governed by the laws of the state where Data Licensee is located without regard to its conflicts of laws rules when Data Licensee is an agency or instrumentality of state government.
- (b) No Party may assign its rights or obligations under this Agreement, except with the prior written approval of the other Parties. Such approval will not be unreasonably withheld.
- (c) This Agreement may be modified only by written agreement of authorized representatives of all Parties.
- (d) This Agreement supersedes any previously executed agreement between Data Licensee and Data Vendor/s with respect to Licensed Data.
- (e) Nothing herein shall be construed to create a partnership, joint venture, or teaming agreement between or among the Parties and nothing herein shall be construed to imply that any Party's employees are employees of another Party.
- (f) The Parties shall use their best efforts to resolve any disagreement that arises out of this Agreement amicably.
- (g) No provision of this Agreement shall be waived unless in writing and signed by all Parties to this Agreement. The waiver of any provision of this Agreement shall not be deemed to be a continuing waiver or the waiver of any other provision of this Agreement.
- (h) If any one or more of the provisions contained in this Agreement is held to be invalid, illegal, or unenforceable in any respect for any reason, then such invalidity, illegality, or unenforceability shall not affect any other provision hereof or any other application of the affected provision.
- (i) This Agreement, together with Attachment A (if applicable), embodies the entire understanding between and among the Parties. There are no contracts, understandings, conditions, warranties or representations, oral or written, express or implied, with reference to the subject matter hereof which are not merged herein.
- (j) This Agreement may be executed in counterparts, all of which when taken together

will be deemed one original. The Parties agree to accept digital delivery of this executed Agreement.

Signature page follows

By signing below, the Parties certify that they agree to the above terms and are duly authorized to bind their respective entities.

Data Licensee (agency, affiliate, subcontractor)

By: _____
Name:

Date _____

Title

Address

Name and Title of Primary Contact:

Telephone/Facsimile/E-mail

INRIX, Inc. Signed by:



By: _____
47C01DE5D045418...

Date 18 November 2014

Name:

General Counsel

Title

HERE North America, LLC

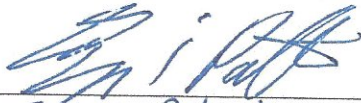
By: 

Date 11/20/14

Name: **Lori Bellows**
Director

Title

TomTom North America, Inc.

By: 

Date 21 November 2014

Name: Eszter Pattantyus

SVP, Maps

Title _____

UNIVERSITY OF MARYLAND CERTIFICATION

University of Maryland hereby certifies that as of the date below, Data Licensee is a Coalition Member or affiliate in good standing, or a Subcontractor of a Coalition Member or affiliate in good standing.

By: _____

Date _____

Denise Markow
VPP Program Manager
I-95 Corridor Coalition