



Authorization for TTS Access to Agency Traffic Signal Data

This is an agreement between the Lexington-Fayette Urban County Government ("Agency") and Traffic Technology Services, Inc. ("TTS"). Both the Agency and TTS are each sometimes referred in the agreement as "Party" and both the Agency and TTS are sometimes referred in this Agreement together as "Parties".

Recitals

Whereas, TTS is in the business of developing technologies, strategies, and systems for use in maximizing the efficiency of transportation end users and thus the overall capacity of existing transportation networks; and

Whereas, Agency collects Real Time Traffic Signal Data and other related data; and

Whereas, TTS has a significant business interest to access Real Time Traffic Signal Data as the input into its proprietary and patented processes; and

Whereas, these Agency Data may be made available to TTS at minimal or no cost to Agency; and

Whereas, these Agency Data are not confidential, nor identify any transportation end user specifically in any manner; and

Whereas, TTS desires permission to obtain access to the Real Time Traffic Signal Data for use in conjunction with its business; and

Whereas, TTS agrees to provide related inventories, signal performance metrics, and other formatted data products in exchange for access to these Real Time Traffic Signal Data; and

Whereas, the Agency agrees to provide TTS with Real Time Traffic Data and to TTS subject to the terms and conditions in this Agreement;

Now therefore, TTS and the Agency agree as follows:

Agreement

Section 1. Definitions

"Agency Data" means collectively, Real Time Traffic Signal Data, Traffic Signal Timing Plan, and any other data provided to TTS by Agency under this Agreement.

"Real Time Traffic Signal Data" means signal status and states, demand status and states, and other information available from the traffic signal controller or Agency's central signal system or Agency's Advanced Traffic Management System (ATMS).

"Traffic Signal Timing Data" means signal timing plans, as-built intersection design, traffic signal plans, signal control plans, or other documents that identify the time-of-day plans.

"Product" means the data derived from the Real Time Traffic Signal Data and Traffic Signal Timing Data, marketed, distributed, and sold as "Personal Signal Assistant" or related products.



Section 2. Authorized Representatives

The Director of Traffic Engineering is designated by Agency as an authorized representative (Agency Agent).

The Chief Executive Officer, Chief Marketing Officer, or Director of Government Accounts are designated by TTS as authorized representatives (TTS Agent).

Section 3. Purpose and Scope

TTS desires access to the Real Time Traffic Signal Data, to include signal status and states, demand status and states, and other information available from traffic signal controller or ATMS. In addition, TTS desires access to time of day signal timing parameters. TTS will use these data in patented, proprietary processes to produce Product for use by TTS customers and other interested parties.

The intended use of the Product is for connected vehicle applications to improve the vehicle performance or efficiency, improve ride comfort for driver or operator and passengers, provide information to the driver or operator, monitor driving behaviors, or apply to automated features. TTS shall limit its customers' applications of the derived Product for applications that do not violate local, state, or federal laws, or uses that will not be used in a manner to encourage undesirable driver behavior for the Agency.

The Product is not permitted for traffic law enforcement.

Section 4. Access of Traffic Signal Timing Data

Agency hereby grants TTS access to Traffic Signal Timing Data. TTS will work with Agency Agent to obtain data in the most efficient and non-intrusive manner from Agency, which may include access to Agency central system or ATMS. TTS will be provided with access to this Traffic Signal Timing Data at no cost, except TTS will be responsible for any costs associated with making the data available.

Section 5. Access of Real Time Traffic Signal Data

Agency hereby grants TTS non-exclusive, non-transferable, non-sublicensable, limited, and royalty free access to obtain and utilize its Real Time Traffic Signal Data. TTS will be provided with access to this Real Time Signal Data at no cost, except TTS will be responsible for any costs associated with making the data available. TTS will be responsible for all vendor costs associated with Agency's ATMS vendor making system modifications to make the Real Time Signal Data available. TTS shall have the right to use the data in any manner it deems appropriate in furtherance of its business purposes, including without limitation providing the derivatives of the data and Product to third parties, subject to the terms of this Agreement. Agency reserves the right to make available the same data for other parties that request access to Agency Data.

Section 6. Ownership of and Rights to Data

The Agency retains all rights to the raw data, or Real Time Traffic Signal Data, being provided to TTS. TTS shall own all rights to Product and any formatted, predictive, or derivative data generated from the raw data.



Section 7. Reporting

TTS shall provide Agency with periodic reports, at least quarterly, of traffic signal performance metrics of Product.

Section 8. Indemnification

TTS will indemnify, defend, save, and hold harmless the Agency and its elected and appointed officials, employees, agents, volunteers, successors and assigns, from all claims, including but not limited to claims that arise from or relate to (i) a breach of TTS' representations and warranties, (ii) any personal injury, death or property damage caused by any alleged act, omission, error, fault, mistake or negligence of TTS, its employees, agents, or representatives in connection with or incident to TTS' performance under or related to this Agreement, and (iii) the infringement of any patent, copyright, trademark, trade secret or other proprietary right of any third party by TTS' use of the Agency Data provided under this Agreement.

Section 9. Representations and Warranties

Agency makes no warranties concerning the quality or accuracy of the data provided under this Agreement. Agency does not warrant it will be able to continuously provide the data without interruption and expressly reserves the right to discontinue the data stream at any time. Notwithstanding anything to the contrary herein, Agency reserves the right to immediately discontinue the Agency Data stream without notice and at Agency discretion upon evidence of tampering or other unauthorized interference with the Agency Data. Except as expressly provided for herein, Agency makes no other representations or warranties.

Section 10. Limitation of Liability

Nothing in this Agreement excludes or limits TTS's liability for: (a) fraud or fraudulent misrepresentation; (b) breach of confidentiality; (c) indemnification obligations under Section 8(ii) or Section 8(iii) above; (d) claims for personal injury, including death, or damage to real property or tangible personal property arising from the negligence, reckless conduct or intentional acts of TTS, its officers, employees or agents; or (e) matters that cannot be excluded or limited under applicable law.

Section 11. Term

Unless terminated earlier in accordance with Section 12, this Agreement will begin on the latest date of the authorized agent signature (the "Effective Date") and continue for one (1) year (the "Initial Term"). This Agreement will automatically renew on the anniversary of the Effective Date for successive one (1) year periods, for a maximum of five (5) years, unless either party provides written notice of non-renewal at least thirty (30) days before the end of the then-current term (collectively, "Renewal Terms"). The "Term" will consist of the Initial Term and all Renewal Terms, if any.

Section 12. Termination

Each Party shall have the right to terminate this Agreement by providing written notice to the other Party within thirty (30) days, unless identified otherwise in this Agreement.

Section 13. Data Destruction

Upon termination of this Agreement, TTS shall destroy all raw data whatever form or medium, including all copies thereof. TTS shall destroy the data no later than thirty (30) days following termination of this Agreement.



Section 14. Notices

Absent notice to the contrary in writing, all communications to TTS shall be sent to:

**Traffic Technology Services, Inc.
Attn: Contracts & Agreements
17933 NW Evergreen Pkwy, Suite 240
Beaverton, OR 97006**

or email: suppliers@trafficechservices.com

Absent notice to the contrary in writing, all communications to the Agency shall be sent to:

**Lexington-Fayette Urban County Government
Division of Traffic Engineering
101 E. Vine St., Suite 300
Lexington, KY 40507
email: Te_admin@lexingtonky.gov**

or at any other address as any Party may, from time to time, designate by notice given in compliance with this Section.

Section 15. Assignment

Neither Party shall assign, transfer, subcontract, or delegate all or any part of this Agreement, or any interest therein, without the other Party's prior written consent, which shall not be unreasonably withheld.

Section 16. Agreement Binding

This Agreement shall be binding upon the successors of Agency Agent, TTS Agent, TTS, or Agency and assigns of the Parties hereto.

Section 17. Personal Liability

Nothing in this Agreement may be construed to create any personal liability on the part of any officer or agent of either Party to this Agreement.

Section 18. Choice of Law

This Agreement shall be governed in all respects by and construed under the laws of the Commonwealth of Kentucky without regard to its conflicts of law provisions.

Section 19. Choice of Forum

The Parties agree to institute any litigation concerning the enforcement or interpretation of the Agreement in the courts of appropriate jurisdiction Fayette County, Kentucky. TTS hereby consents to the personal jurisdiction of these courts, waives any objection to venue in these courts, and waives 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 Agency 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.



Section 20. Waiver

Any waiver of any breach of any condition or covenant herein contained to be kept and performed by either Party shall not be deemed or considered as a continuing waiver, and shall not operate to bar or prevent the non-breaching Party from declaring a default for any succeeding breach, either of the same condition or covenant or otherwise.

Section 21. Severability

If any term (or part of a term) of this Agreement is invalid, illegal, or unenforceable, the rest of the Agreement will remain in effect.

Section 22. Interpretation of the Agreement

The Parties acknowledge that each of the Parties have participated in the drafting of this Agreement. No Party shall be considered to be the drafter of this Agreement for the purposes of interpretation.

Section 23. Parties in Interest

Nothing herein shall be construed to be to the benefit of any third party, nor is it intended that any provision shall be for the benefit of any third party.

Section 24. Force Majeure

Neither Party will be liable for failure or delay in performance to the extent caused by circumstances beyond reasonable control.

Section 25. Entire Agreement

This Agreement constitutes the entire agreement between the Parties. This Agreement supersedes all proposals and oral and written agreements between the Parties on this subject. No modifications, alterations, changes, or waiver to this Agreement or any of its terms shall be valid or binding unless accomplished by a written amendment signed by both Parties.

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