

**Model Access Licence Agreement for Use
and Re-use of Images from Highways
Agency Traffic Management Cameras by
HA Maintenance Contractors**

22 December 2008

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Comment [HA2]: Highways Agency:

- **Delete** in all footers:
 - "Model"
- **Insert** in all footers:
 - First – Maintenance Contractor's as a legal entity
 - Second – after "Maintenance Contractor" insert "for Area Network XXXX"
- **Check** that all have been amended by viewing footers and using "Ctrl F" find facility

MODEL ACCESS LICENCE AGREEMENT FOR USE AND RE-USE OF IMAGES FROM HIGHWAYS AGENCY TRAFFIC MANAGEMENT CAMERAS BY HA MAINTENANCE CONTRACTORS

Dated

Comment [HA3]: Highways Agency to complete

Between

THE SECRETARY OF STATE FOR TRANSPORT (hereinafter referred to as “**the Secretary of State**”)

And

THE USER (hereinafter referred to as the “**User**”)

Comment [HA4]: Insert Applicant's name as a legal entity to replace “THE USER”

The Secretary of State provides access to images from the Highways Agency's traffic management cameras on the trunk road and motorway network of England for re-use by third parties where the planned end use of the images will:

- complement the Highways Agency's remit in operating maintaining and improving the trunk road and motorway network in England
- help deliver the Highways Agency's core business aim of safer roads more reliable journeys and better informed travellers through the provision of timely traffic information services.

With regard to the provision by the Secretary of State to the User of access to images from the Highways Agency's traffic management cameras on the trunk road and motorway network in England the parties have agreed as follows:

1 ACCESS LICENCE

In consideration of the performance by the User of its obligations under this Licence the Secretary of State acting under delegated licensing authority from the Controller of Her Majesty's Stationery Office (the “**HMSO**”) grants the User viewing access and permission to re-use traffic images from the Highways Agency's (“**the Agency**”) traffic management cameras on the trunk road and motorway network in England (“**the images**”) for the purposes of:

- carrying out its authorised functions in respect of Area Network **[insert name]** as specified in its **Regional Maintenance Contractor** **[Term Maintenance Contractor]** contract with the Secretary of State (“**the Maintenance Contract**”)
- to support cross-border cooperation between the United Kingdom’s road networks.

Comment [HA5]: Insert Applicant’s name as a legal entity to replace “THE USER”

Comment [HA6]: Applicant delete as appropriate

1.1 This Licence shall have effect on and continue for the period specified in the Maintenance Contract and any extensions thereof unless determined in accordance with the provisions hereof and without prejudice to any party’s specific rights of determination as set out within this Licence.

Comment [HA7]: Applicant: insert in **pencil** preferred start date

1.2 The User acknowledges that the images distributed by the Secretary of State are Crown Copyright and that their use reproduction and re-use by the User and its servants employees workers and any inward secondees from other organisations or legal entities and by its sub-contractors retained to support the User’s authorised functions in the Maintenance Contract (“**its Sub-Contractors**”) are governed by the terms of this Licence. For the avoidance of doubt the User agrees to bind its servants employees workers and any inward secondees from other organisations or legal entities and its Sub-Contractors to the terms set out in this Licence.

2 USERS EQUIPMENT

2.1 The Secretary of State grants the User permission to access the images through connecting the User’s system via the connection(s) to the Agency’s telecommunications system using professional information technology standards in compliance with the Agency’s technical specification.

3 COSTS AND CHARGES

3.1 The Secretary of State shall not levy a fee for the provision or use or re-use of the images of traffic conditions during the period of this Licence but reserves the right to levy a charge to recover the costs to the Agency of providing the connection(s) to the Agency’s telecommunications system and reserves the right to levy a fee for the provision or use or re-use of the images under any subsequent Licence and to levy additional charge(s) to recover the additional costs to the Agency arising from additional usage(s) agreed in writing by the Secretary of State during the period of this Licence. The charges(s) agreed for the period of this Licence are detailed in **Appendix A.**

4 INDEMNITY

4.1 The User shall be liable for and shall indemnify and keep indemnified the Secretary of State against all losses actions claims costs damages demands expenses (including but not limited to all reasonable legal costs and disbursements) and proceedings whatsoever incurred by or made against him arising from a direct consequence of the User's use or re-use of the images negligently or in a way which is not permitted under this Licence or otherwise arising from a material breach of the provisions of this Licence in all circumstances where such claim does not arise directly or indirectly from the negligent acts of the Secretary of State PROVIDED THAT the User shall not be liable under such indemnity to the extent that the claim arises or is increased or aggravated as a result of any failure by the Secretary of State to act with reasonable prudence and to take reasonable steps to minimise the claim.

4.2 The Secretary of State shall have no liability and the User shall have no claim whatsoever against the Secretary of State in the event of the images not being available to the User for any reason

5 PROVISION OF TRAFFIC IMAGES

5.1 The service provision agreed with the User and other administrative details are specified in **Appendix B**.

5.2 The terms of this Licence shall not provide the User with exclusive rights to have access to or to use or re-use images from the Agency's traffic management cameras

5.3 The User shall not have exclusive access to or use of any traffic management camera. For the avoidance of doubt the User acknowledges that the Secretary of State and the Police Service have priority of use and shall control priority of use and operational control by other users in relation to panning and zooming of the traffic cameras in their absolute discretion.

5.4 The Secretary of State's provision of images to the User is made without any warranties or guarantees of any kind whatsoever whether implied or explicit on the level and quality of service to be provided or that access to images will be uninterrupted or error free.

5.5 The Secretary of State shall use his best endeavours to maintain the User's continuity of access to the images but in the event of an emergency or security requirement he shall be entitled immediately and without notice to cease provision of images from specific camera(s) or images of a

scene which in his sole and absolute discretion are not in the interests of operational requirements or the good or proper interests of the public or good or proper interests of policing.

5.6 The Secretary of State reserves the right to change at any time and without prior notice and without liability the traffic management camera sites provided to the User.

5.7 The Secretary of State reserves the right to substitute or replace existing traffic management cameras and the telecommunications network with new technology or to run such new technology in tandem with existing infrastructure.

6 PERMITTED USE AND RE-USE OF TRAFFIC IMAGES

6.1 The User shall only use or re-use the images for the purposes of carrying out its authorised functions in respect of the Maintenance Contract as defined in **Clause 1** of this Licence. The User and its servants employees workers and any inward secondees from other organisations or legal entities and its Sub-Contractors shall not use or re-use or copy or publish or broadcast or otherwise transmit or facilitate the use or re-use or publication or broadcasting or transmission of the images by them or any other third party in any other way or for any other purpose whatsoever without the written agreement of the Secretary of State.

6.2 Any use or re-use of the images which do not fall within the terms of this Licence shall require the prior written agreement of the Secretary of State and shall be subject to a new Licence.

6.3 The User agrees to instruct its servants employees workers and any inward secondees from other organisations or legal entities and its Sub-Contractors that for reasons of road safety the images must not be viewed whilst driving. In law a person may be regarded as driving a vehicle whilst the engine is running and the vehicle is stationary.

7 CONDITIONS FOR USE AND RE-USE

7.1 The User shall use or re-use the images only for the purposes specified in **Clause 6.1** of this Licence.

7.2 The Secretary of State may wish to evaluate the use and re-use made of the images in supporting the Agency's core business functions and objectives with respect to the trunk road and motorway network in England. The User agrees to provide data relating to the use and re-use of the images and technical feedback to the Secretary of State as required from time to time by the

Secretary of State in the form of a Project Plan (“**Project Plan**”) to be agreed between the parties in an exchange of letters.

8 DEALING

8.1 This Licence is personal to the User and is binding on any successors in title.

8.2 The User shall not assign charge mortgage transfer or sub-contract or otherwise dispose of this Licence or any part of this Licence or its obligations under this Licence or any part of this Licence.

8.3 The User shall not provide access to the images from the Agency's traffic management cameras to any third party other than in accordance with this Licence.

9 DATA PROTECTION ACT 1998

9.1 All use and re-use of images must comply with the Data Protection Principles as outlined in the Data Protection Act 1998.

9.2 The User acknowledges that it is a “Data Controller” as defined in the Data Protection Act 1998 with respect to its own use and re-use of the images and undertakes to comply with the Act and all subsequent legislation.

9.3 The User shall give notification of the purpose(s) for which it will use and re-use the images under this Licence to The Office of the Information Commissioner where appropriate and comply with any conditions imposed by the Information Commissioner.

9.4 The User shall also comply with:

9.4.1 the recommendations contained within the “Code of Practice on the Management of Records” November 2002 issued by the Ministry of Justice and any subsequent versions of the Codes

9.4.2 the provisions of all relevant Designated Codes of Practice relating to journalism established by Order made under Section 32(3)(b) of the Data Protection Act 1998 which are or come into force during the period of this Licence.

9.5 In ensuring that the User's use and re-use of the images complies with the Data Protection Act 1998 the User shall refer to and make use as appropriate of amongst other things current guidance and any subsequent versions thereof provided by the Ministry of Justice (MOJ) the

Information Commissioner's Office (ICO) the National Archive (TNA) and their predecessor and successor bodies including:

- 9.5.1 "The Data Protection Act 1998 Legal Guidance", ICO
- 9.5.2 "The Data Protection Act 1998 Principles", ICO
- 9.5.3 "The Guide to Data Protection Auditing", ICO
- 9.5.4 "CCTV Code of Practice, July 2000", ICO
- 9.5.6 "Handling Subject Requests", MOJ
- 9.5.7 "Code of Practice on the Management of Records", TNA

10 HUMAN RIGHTS ACT 1998

10.1 The User agrees and acknowledges that at all times it will not act in relation to these images in such a way that the Secretary of State will be in breach of Article 8 of the Human Rights Act 1998.

10.2 In ensuring that the User's use and re-use of the images complies with **Clause 10.1** of this Licence the User shall refer to and make use as appropriate of amongst other things guidance issued by the Ministry of Justice and its predecessor and successor bodies.

11 FREEDOM OF INFORMATION ACT 2000

11.1 The User agrees and acknowledges that it will at all times throughout the duration of this Licence comply with the Freedom of Information Act 2000 if applicable

11.2 In ensuring compliance with the Freedom of Information Act 2000 if applicable the User shall refer to and make use as appropriate of amongst other things guidance issued by the Ministry of Justice (MOJ) The National Archive (TNA) the Information Commissioner's Office (ICO) and their predecessor and successor bodies including the recommendations contained within the following Codes of Practice and any subsequent versions of them:

- 11.2.1 "Code of Practice on the discharge of public authorities functions under part 1 of the Freedom of Information Act 2000 – dealing with requests for information" November 2002, MOJ
- 11.2.2 "Code of Practice on the Management of Records" November 2002, MOJ

12 TRAFFIC IMAGE DISTRIBUTION SYSTEM - STAFF AND SECURITY

12.1 The User shall comply with the following conditions:-

12.1.1 to put in place controls to ensure that the security reliability performance accuracy and completeness of the Agency's telecommunications system and data is not compromised:

12.1.1.1 as a result of the connection(s) of the User to the system

12.1.1.2 as a result of threats to the system

12.1.1.3 by unauthorised disclosure of confidential data

12.1.2 to maintain such security measures as may from time to time be reasonably specified by the Secretary of State to prevent unauthorised access to the Agency's telecommunications system and data including:

12.1.2.1 holding securely and not divulging to any party other than the Secretary of State any usernames and passwords issued by the Agency

12.1.2.2 disallowing unauthorised users from accessing the Agency's telecommunications system

12.1.3 without prejudice to the application of the Official Secrets Acts the Data Protection Act 1998 the Human Rights Act 1998 and the Freedom of Information Act 2000 to any such information the User undertakes

12.1.3.1 to treat confidential information which may be derived from or obtained in the course of this Licence or which may come into the possession of the User or any of its servants employees workers and inward secondees from other organisations or legal entities or its Sub-Contractors as a result of or in connection with this Licence as confidential

12.1.3.2 to provide all necessary precautions to ensure that all such confidential information is treated as confidential by the User its servants employees workers and any inward secondees from other organisations or legal entities and by its Sub-Contractors.

13 TERMINATION SUSPENSION AND VARIATION

13.1 This Licence shall terminate at the expiration date of the Maintenance Contract and any extensions thereof.

13.2 The Secretary of State shall be entitled to vary suspend or terminate this Licence if in his reasonable opinion he deems it necessary having notified the User in writing at least 7 days in advance of his intention of doing so and his reasons for doing so.

13.3 Without prejudice to **Clause 13.1** and **Clause 13.2** of this Licence the Secretary of State shall be entitled to terminate the whole or part of this Licence by written notice to the User 7 days in advance:

13.3.1 if the User shall become bankrupt or shall execute a Deed of Arrangement or assignment for the benefit of or shall compound with his creditors under the provision of the insolvency laws for the time being in force

13.3.2 if the User being a company shall go into liquidation become insolvent or if any resolution or order is passed or made for the purposes of voluntarily compulsorily winding up the User save for the purposes of bona fide reconstruction on terms acceptable to the Secretary of State

13.3.3 in the event of a receiver or manager or administrator being appointed to the User.

13.4 Upon termination of the Licence under **Clause 1.1** or **Clause 13.1** or **Clause 13.2** or **Clause 13.3** of this Licence all the benefits rights and licences granted to the User under this Licence shall immediately cease.

14 WAIVER

14.1 Failure by either party at any time to enforce any provision of this Licence or to require performance by the other party of any of the provisions of this Licence shall not be construed as a waiver of any such provision and shall not affect the validity of the Licence or any part thereof or the right of a party to enforce any provision at any time in accordance with its terms.

15 GOVERNING LAW

15.1 This Licence shall be governed by and construed in accordance with English Law and the User hereby irrevocably submits to the jurisdiction of the English Courts.

16 STATUTE

16.1 A reference to any Act of Parliament or to any Order Regulation Statutory Instrument or the like shall include a reference to any amendment or re-enactment of the same.

17 NOTICES

17.1 Any demand notice or other communication given hereunder or pursuant to this Licence may be served personally on the addressee or sent by registered post or by recorded delivery or transmitted by facsimile or other means of telecommunication resulting in the receipt of a written communication in permanent form and if so sent or transmitted to the address of the party shown in this Licence or to such other address as the party may by notice to the other party have substituted therefor shall be deemed effectively given on the day when in the course of the means of transmission it would first be received by the addressee in normal business hours. The address for notices to be sent to the Secretary of State is per Director of Information, Information Directorate, Highways Agency, Broadway, Broad Street, Birmingham B15 1BL. The address for notices to be sent to the User is per

.....
.....

Comment [HA8]: Applicant to complete using the format used for the Highways Agency

18 CLAUSE HEADINGS

18.1 Clause headings are for reference only and shall not affect the interpretation of this Licence.

19 ENFORCEABILITY

19.1 If any provision of this Licence shall be held invalid illegal or unenforceable for any reason the validity legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

20 CONFLICT

20.1 Where there is any conflict or inconsistency between the standard terms and conditions in this Licence and any special condition contained in the Schedules to the Licence, the special condition shall prevail.

21 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

21.1 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Licence. Therefore a person who is not a party to this Licence shall not be able to enforce any of the terms of this Licence against either the Secretary of State or the User.

IN WITNESS whereof these presents consisting of this Licence its Appendices and associated Schedules are executed as follows:

Subscribed for and on behalf of the User
by
being the proper and duly authorised officer at
.....
on
before the following witness
.....
.....
.....(Signed)
.....(Witness)
and they are subscribed for and on behalf of the Secretary of State by
being an officer of the Highways Agency at Broadway, Broad Street, Birmingham B15 1BL on
before the following witness:
.....(Signed)
.....(Witness)

- Comment [HA9]:** Insert Applicant's name (as a legal entity).
- Comment [HA10]:**
Applicant: signatory's name
- Comment [HA11]:**
Applicant: address where Licence is signed by Applicant
- Comment [HA12]:**
Applicant: date that Licence is signed by Applicant
- Comment [HA13]:**
Applicant: name and address of Applicant's witness
- Comment [HA14]:**
Applicant: Applicant's signatory of the Licence
- Comment [HA15]:**
Applicant: Applicant's witness to sign
- Comment [HA16]:** For Highways Agency to complete. Currently "Paul Whitehead".

to the
LICENCE BETWEEN THE SECRETARY OF STATE FOR TRANSPORT
 and
THE USER

Comment [HA17]: Insert Applicant's name (as a legal entity) to replace "THE USER"

ADDITIONAL CONDITIONS OF USE AND RE-USE

With regard to the provision by the Secretary of State to the User of a Licence to access and re-use images from the Agency's traffic management cameras the parties have agreed the following additional conditions of use and re-use:-

1. PERMITTED USE AND RE-USE

1.1 The Secretary of State acting under delegated authority from the Controller of Her Majesty's Stationery Office (HMSO) licenses under non-exclusive licences eligible third party users viewing access and permission to use and re-use the images for permitted types of use and re-use which support the Agency's core business functions and objectives.

1.2 Eligible third parties are those whose planned end use of the images

1.2.1 complement the Agency's remit in operating maintaining and improving the trunk road and motorway network in England

1.2.2 help to deliver the Agency's core business aims of safer roads more reliable journeys and better informed travellers.

1.3 With regard to **Clause 6.1** of this Licence permitted use is the use or re-use of the images for the purposes of the User's authorised functions in respect of the Maintenance Contract as defined in **Clause 1** of this Licence.

2. VARIATION SUSPENSION TERMINATION

2.1 Notwithstanding the generality of **Clause 13.2** of this Licence the Secretary of State may vary or suspend or terminate this Licence if in his reasonable opinion the User or any of its servants employees workers and any inward secondees from other organisations or legal entities or its Sub-Contractors compromises or no longer fulfils the purposes of this Licence as stated in **Clause 6.1** of this Licence.

3. CHARGES

3.1 With regard to **Clause 3.1** of this Licence the fees and charges levied by the Secretary of State to recover the costs to the Agency of providing the connection(s) to the User to the Agency's telecommunications system are levied in accordance with Government policy and guidelines. The charge to the User under this Licence is specified in **Schedule A1 to this Appendix**.

4 REVISIONS TO SCHEDULE A1 OF THIS APPENDIX

4.1 Any changes to the provisions of **Schedule A1 to this Appendix** shall be agreed in writing between the parties and the Schedule shall be revised and reissued for signature by the Secretary of State and the User and attached to this **Appendix**.

.....
Signed for and on behalf of the User

.....
Signed for and on behalf of the Secretary of State

Dated

- Comment [HA18]:**
Applicant: for Applicant's signatory of the Licence
- Comment [HA19]:** For Highways Agency to replace with the User's name as a legal entity
- Comment [HA20]:** For Highways Agency to complete
- Comment [HA21]:** For Highways Agency to complete

SCHEDULE A1

to
APPENDIX A
to the
LICENCE BETWEEN THE SECRETARY OF STATE FOR TRANSPORT
and
THE USER

Comment [HA22]: Insert Applicant's name (as a legal entity) to replace "THE USER"

1 CHARGES

1.1 With regard to **Clause 3.1** of this Licence and **Appendix A** to this Licence the User as a contractor of the Agency shall not be subject during the period of this Licence to any fees or charges for the use or re-use of the images.

2 TERMINATION SUSPENSION AND VARIATION

2.1 With regard to **Clause 13.2** of this Licence the period of suspension shall run concurrently with the period of this Licence. For the avoidance of doubt where the period of suspension lasts until the expiration date of the Licence as specified in **Clause 1.1** and **Clause 13.1** of this Licence the Licence shall terminate on the expiration date unless the parties mutually agree otherwise in accordance with **Clause 1.1** of this Licence.

.....

Signed for and on behalf of the User

.....

Signed for and on behalf of the Secretary of State

Dated

Comment [HA23]:
Applicant: for Applicant's signatory of the Licence

Comment [HA24]: For Highways Agency to replace with the User's name as a legal entity

Comment [HA25]: For Highways Agency to complete

Comment [HA26]: For Highways Agency to complete

to the
LICENCE BETWEEN THE SECRETARY OF STATE FOR TRANSPORT
 and
THE USER

Comment [HA27]: Insert name (as a legal entity) to replace "THE USER"

PROVISION OF SERVICE AND ADMINISTRATIVE DETAILS

With regard to the provision by the Secretary of State to the User of a Licence to access and re-use images from the Agency's traffic management cameras the parties have agreed the following provision of service and administrative arrangements:-

1 SERVICE PROVISION AND ADMINISTRATIVE DETAILS

- 1.1 With regard to **Clause 5.1** of this Licence **Schedule B1 to this Appendix**:
 - 1.1.1 specifies the service provision granted by the Secretary of State to the User
 - 1.1.2 provides a framework for logging administrative details relating to this Licence.

2 REVISIONS TO SCHEDULE B1 OF THIS APPENDIX

2.1 Any changes to the administrative details set out in **Schedule B1 to this Appendix** shall be incorporated into a revised Schedule and attached to this **Appendix**.

.....
 Signed for and on behalf of the User,

Comment [HA28]:
Applicant: for Applicant's signatory of the Licence

.....
 Signed for and on behalf of the Secretary of State

Comment [HA29]: For Highways Agency to replace with the User's name as a legal entity

Comment [HA30]: For Highways Agency to complete

Dated

Comment [HA31]: For Highways Agency to complete

SCHEDULE B1

to

APPENDIX B

to the

LICENCE BETWEEN THE SECRETARY OF STATE FOR TRANSPORT

and

THE USER

Comment [HA32]: Insert name (as a legal entity) to replace "THE USER"

PROVISION OF SERVICE AND ADMINISTRATIVE DETAILS

Licence type	HA Maintenance Contractor Licence
User's HA Licence Sponsor (Regional Technology Manager/Regional Director): contact name, job title and HA Directorate/Region	
HA's contact name and address for the administration of this Licence	[Head of Traffic Information Policy, Highways Agency, Broadway, Broad Street, Birmingham B15 1BL] [NTCC]
User's policy representative: contact name, position and address (responsible for the administration of this Licence)	
User's technical representative: contact name, job title and address	
HA Area Network(s) for this Licence	
Connection (Image Source)	[VIH Edge Client] [Video Client] [HANET]
Account name (on the gateway)	
Account active	[Yes] [No]
Maintenance Contract Start and End Dates	
Licence commencement date <i>Clause 1.1 of Licence</i>	
Licence end date	The Licence shall continue for the period specified in the User's Maintenance Contract and any extensions thereof unless and until: <ul style="list-style-type: none"> the Secretary of State terminates the Licence under Clause 13.2 of this Licence or Clause 2.1 of Appendix A to this Licence

Licence renewal Date <i>Clause 1.1 of Licence</i>	
Licence early termination by Secretary of State <i>Clause 13.2 and Clause 13.3 of Licence</i>	Date of written termination notice: Reason for termination:
Licence suspension by Secretary of State <i>Clause 13.2 of Licence</i>	Date of written suspension notice Reason for suspension:
Licence variation by Secretary of State <i>Clause 13.2 of Licence</i>	Date of written variation notice: Reason for variation:
Date of revisions to Schedule A1 and nature of revision (case by case) <i>Clause 4.1 of Appendix A</i>	
Date of revisions to Schedule B1 and nature of revision (case by case) <i>Clause 2.1 of Appendix B</i>	
Evaluation	With regard to Clause 7.2 of this Licence: Exchange of letters requiring evaluation: [Yes] [No] Date of Project Plan: Reporting Frequency: Report Due Date: Report Delivery Date:
Purpose of use and re-use	To carry out its authorised functions in respect of its Maintenance Contract.
Agreed user group	The User's servants employees workers and any inward secondees from other organisations or legal entities and its Sub-Contractors as defined in Clause 1.2 of this Licence.
User's agreed third party users	None other than the User's Sub-Contractors as specified in Clause 1.2 of this Licence.
User's control priority level	
User's preset priority level	
Image priority	
View operator blanked	[Yes] [No]
View VIH blanked	[Yes] [No]
Year 1 charge start date	N/A
Charge rate	N/A
Annual charge date (Year 2 onwards)	N/A
Annual charge rate (Year 2 onwards)	N/A

User's supervision arrangements regarding traffic camera images	N/A
Name of RCC Region and Highways Agency Area Team	RCC [Region]: Highways Agency Area Team [number]:

.....

Signed for and on behalf of the User,

.....

Signed for and on behalf of the Secretary of State

Dated

Comment [HA33]:
Applicant: for Applicant's signatory of the Licence

Comment [HA34]: For Highways Agency to replace with the User's name as a legal entity

Comment [HA35]: For Highways Agency to complete

Comment [HA36]: For Highways Agency to complete

MODEL