

TraCS USERS AGREEMENT

This TraCS Users Agreement (hereinafter Agreement) is entered into by and between the Iowa Department of Transportation, an agency of the State of Iowa, with principal offices at 800 Lincoln Way, Ames, Iowa 50010 (hereinafter Licensor) and the New York State Police, an agency of the State of New York, with principal offices at 1220 Washington Ave., Building 22, State Campus, Albany, New York 12226 (hereinafter Licensee). The parties agree that the following terms and conditions apply to the provision of the Traffic and Criminal Software and the Software Development Kit and documentation (collectively referred to as TraCS). TraCS is a proprietary product owned by the Licensor and protected by Title 17 United States Code. It is the intent of Licensor that TraCS be distributed only to other state and local entities for governmental use. The Geographical Information System (GIS) Location Tool is separate software requiring a separate agreement.

1. License. Licensor grants to Licensee a nonexclusive, nontransferable, royalty free license to copy and use TraCS all in accordance with the terms and conditions of this Agreement. Licensee shall not use TraCS for any commercial purpose whatsoever. TraCS may not be used, sublicensed, lent, copied, modified or transferred, in whole or in part, except as provided for in this Agreement.

2. Forms. Licensee shall have the right to employ TraCS to modify existing forms and create additional forms for use with TraCS, provided that such modified and additional forms shall be made available to Licensor and other Licensees without charge. Licensee shall grant a nonexclusive, transferable, royalty free license to the Licensor and other Licensees to copy, use, and modify the forms for use by Licensor and other Licensees.

3. Third party software developers/vendors. The Licensee may provide TraCS to a third party for the purposes of modifying forms, creating additional forms and developing interfaces to integrate TraCS with systems being used by the Licensee. The Licensee will enter into an agreement with the third party that requires the third party to acknowledge and comply with the terms of this agreement, including without limitation, the prohibition against use for commercial purpose. The Licensee will provide a copy of the agreement to the Licensor.

4. Proprietary Protection. The Licensor represents, and the Licensee acknowledges, that TraCS contains trade secrets of the Licensor (including without limitation, algorithms, methods, and structure and design elements). Such trade secrets are entrusted to the Licensee for use as expressly authorized under this Agreement. The Licensee and any third party the Licensee enters into agreement with agree to hold all the Licensor trade secrets in confidence. Under no circumstances may the Licensee or any third party the

Licensee enters into an agreement with, de-compile, reverse engineer, or "unlock" (as the term is generally used in the industry) TraCS.

5. Source Code. Modifications to the source code requested by the Licensee will be prioritized with other source code modifications sought by the Licensor and other Licensees. The requesting Licensee(s) shall be responsible for funding the cost of requested enhancements to the source code. Source code enhancements shall be made by Technology Enterprise Group, Inc. (TEG), or such other software developer designated by Licensor, and shall be managed by the Licensor in conjunction with the Licensee(s). Enhancements shall become integrated into the master source code and available royalty free to the Licensor and all Licensees. Source code changes requested by the Licensee shall be made at the Licensee's expense.

6. New Releases. Licensor will provide the final form of each new release of TraCS to Licensee for use under the same provisions as the original TraCS software.

7. Sublicense. Licensee may sublicense TraCS to other state and local government entities within the Licensee's state for use in carrying out governmental functions, provided that such sublicense is subject to the terms and conditions of this Agreement. Licensee shall reproduce and include the copyright notice on all copies of TraCS.

8. Effective Date. This Agreement becomes effective when signed by both parties and continues until terminated.

9. Limitation of Liability. In no event shall Licensor be liable for any damages whatsoever (including, without limitation, indirect, incidental, special, or consequential damages including lost profits, business interruption, loss of information, or other loss) arising out of this Agreement or Licensee's use or inability to use TraCs, even if Licensor has been advised of the possibility of such damages.

10. Governing Law. This Agreement shall be governed by the laws of Iowa and any action arising out of or connected with it shall be brought in the courts of Iowa.

11. Disclaimer of Warranty. TraCS is provided "as is" and "with all faults" without any warranty of any kind, express or implied, including but not limited to, warranties of noninfringement, performance, merchantability, or fitness for a particular purpose. Licensee is responsible for the selection of TraCS to achieve its intended purpose, use of software, and the results obtained.

12. Support. The Licensee will develop its own technical and implementation resources for deployment of TraCS in their state. Licensor will continue to offer advice on

implementation as resources allow. Licensee may contract with TEG for support with the approval of the Licensor.

13. Termination. This Agreement may be terminated as follows:

A. by the Licensee at any time; or

B. by the Licensor:

1. for breach or nonperformance by Licensee of any material term or condition of this Agreement.
2. if the Licensor decides to discontinue support and maintenance of the TraCS software for use by other States. A transfer of the source code to the Licensee(s) will be negotiated between the Licensor and Licensee(s).

Upon termination of this Agreement under A. or B.1 above, Licensee shall promptly return to Licensor all copies of TraCS, including any modifications, or certify that all have been destroyed.

Licensee:
New York State Police

State of New York

William Callahan
WILLIAM J. CALLAHAN

March 13, 2001
Date

Licensor:
Iowa Department of Transportation
Motor Vehicle Division
State of Iowa

Shirley E. Andre
Shirley E. Andre

3-28-01
Date