

ITERIS
VIDEO and TRAFFIC DATA SHARING/INFORMATION USE AGREEMENT
Commercial Entity—End User

This agreement (hereinafter “Agreement”)is made and entered into this _____ day of _____, 20____ by and between Iteris Inc., a Delaware Company, located at 1700 Carnegie Avenue Suite 100, Santa Ana, California, 92705, (“Iteris”) and [company name] _____ (herein after referred to as the “User”) whose office is at [mailing address]

_____.

WHEREAS, the Virginia Department of Transportation (VDOT) has established a system which monitors traffic and road conditions on the VDOT transportation system, including but not limited to Interstate roadways and other non-Interstate roadways and disseminates transportation operations data and Closed Circuit Television (CCTV) video to the traveling public and public safety partners through means such as Dynamic Message Signs (DMS), Highway Advisory Radio (HAR) transmitters and VDOT’s 511 real-time traveler information Interactive Voice Response (IVR) and web system; and

WHEREAS, VDOT has installed CCTV cameras, vehicle detection sensors, road weather information sensors and various other sensors at certain locations, which are connected to VDOT’s five regional Transportation Operations Centers (TOC) located in Fairfax, Hampton Roads, Richmond, Staunton and Salem, allowing these facilities to receive traffic data and visual traffic information at any time; and

WHEREAS, VDOT desires to disseminate timely and accurate traffic information to the motoring public by providing media outlets with real time information on traffic conditions in the Commonwealth; and

WHEREAS, radio, television, telephones, mobile devices and the Internet have proven to be effective media for the dissemination of information on traffic and travel conditions; and

WHEREAS, VDOT has established a contract with Iteris as the Transportation Video and Data (TVD) contractor to serve as a single interface for data and video distribution services and has authorized Iteris as its exclusive contractor for such services; and

WHEREAS, User has submitted an application to Iteris, attached hereto as Attachment C, requesting Iteris to provide User with access to VDOT Traffic Information (further defined herein) that VDOT has authorized Iteris to distribute.

NOW, THEREFORE, in consideration of the terms and conditions contained herein, Iteris and User agree as follows:

Definitions: For purposes of this Agreement, the following terms shall have the meanings as set forth hereunder:

“End User “ means any entity which receives VDOT Traffic Information from Iteris and has an agreement with Iteris that does not expressly allow for subsequent sale, transfer or dissemination of

information. Except as otherwise provided in this Agreement, an End User may not sell, transfer, disclose, repackage, or disseminate VDOT Traffic Information to any other third party.

“VDOT Traffic Information” means all non-sensitive, publicly available traffic-related information obtained by Iteris from VDOT that Iteris has been authorized to distribute and disseminate to User and includes real-time video images gathered by VDOT’s CCTV Video System, as well as other traffic data, such as travel speeds, crashes and other traffic incident information, lane closures, construction zones, events, weather-related hazards, congestion and any other information relating to or affecting roadway travel and any derivative thereof.

Intended Use of Data and Video and Constraints on Usage

1. Iteris represents that it is authorized by VDOT to access VDOT Traffic Information for the purpose of aggregating and disseminating the information to various entities for certain purposes designed to help motorists improve travel times along major highways, and to increase safety along major highways by informing motorists of incidents and events, including crashes, construction zones and weather-related hazards.
2. Iteris is authorized by VDOT to provide User access to VDOT Traffic Information gathered by or on behalf of VDOT, subject to the terms and conditions herein.
3. User agrees that for purposes of this Agreement it is an End User of the VDOT Traffic Information provided by Iteris, and unless otherwise specifically agreed to by Iteris, in writing, User may use the VDOT Traffic Information only for the purposes specified below, provided User :
 - attributes the information to VDOT in accord with the terms of this Agreement and does not claim it as its own (e.g. by claiming copyright for VDOT Traffic Information),
 - uses it in a manner that in no way implies an endorsement by or affiliation with Iteris or VDOT, and
 - does not modify its content.
4. Iteris agrees and acknowledges that the VDOT Traffic Information supplied by it to the User may be used for the following purposes:
 - Various interactive and related news-oriented services for distribution by means of any form of on-line or broadband transmission system served by the Internet/digital websites.
 - Traffic, travel and/or breaking news reports for broadcast via radio, television and/or Internet
 - Traffic- or travel-related alerts and communication by means of, including but not limited to:
 - text messages
 - e-mail
 - phone call
 - mobile application (app)

User may not use the VDOT Traffic Information for any other purpose without the express written approval of Iteris. Further, as an End User, except as otherwise provided herein, User shall not redistribute, transfer, disseminate or sell the VDOT Traffic Information to any third party. For purposes of this Agreement, if User directly broadcasts VDOT Traffic Information free of charge by means of television, radio, internet, text messages, email, telephone call or mobile application, for the purpose of making such information available to the public or transmits VDOT Traffic Information to an affiliate free of charge, such broadcast or transmission shall not be deemed redistribution, transfer, dissemination or sale of VDOT Traffic Information and any User who broadcasts or transmits VDOT Traffic Information in this manner shall be deemed to have not violated the foregoing prohibition on dissemination of information imposed upon an End User.

The User shall ensure that the VDOT Traffic Information is not modified except for physical format.

5. Upon request by Iteris, User agrees to notify Iteris as new services or products using the VDOT Traffic Information are launched and provide Iteris reports on changes in the use of the data and a summary of new features. User agrees to respond to any concerns raised or requests concerning the VDOT Traffic Information made by Iteris within 48 hours. .
6. If Iteris determines that the User has disseminated or otherwise used the VDOT Traffic Information in a manner contrary to this Agreement, then Iteris shall inform User in writing of such determination and request corrective action. User shall have thirty (30) days to take corrective action and if no such corrective action is undertaken by User during said thirty (30) day period, then Iteris shall have the right to immediately terminate this Agreement and User's access to the VDOT Traffic Information, by providing User with written notice. Notwithstanding, User understands and agrees that Iteris may, or may be required by VDOT to, suspend User's access to VDOT Traffic Information during the above-referenced 30 day corrective action period until the required corrective action has been taken.
7. As consideration for the execution of this Agreement and for the use of the VDOT Traffic Information, User agrees to use all such Information in accord with the terms of this Agreement, including but not limited to attributing the Information and any derivative works to VDOT in the manner set forth in this Agreement and further to use the traffic video images and data with timeliness and accuracy for the public benefit, upon receipt from Iteris.

Required Attribution and Credit to VDOT

8. All VDOT Traffic Information distributed by Iteris pursuant to this Agreement will be branded with a "VDOT 511" attribution as follows. Guidelines for said attribution are contained within the *VDOT Attribution Guide & Media Toolkit* which is attached to this Agreement as Attachment A and is incorporated herein by reference. The video feeds will incorporate a color banner at the top incorporating VDOT and 511 logos, which banner shall remain affixed to the videos at all times. The data feeds will include a tag "data courtesy VDOT 511" within the incident description field. It is a violation of this Agreement and cause for immediate termination thereof to remove, scrub, obscure, degrade, cover, pixilate or otherwise render unrecognizable the branded banner

and the images contained therein; or to remove, scrub or otherwise fail to communicate and display the tag branding along with and affixed to the data.

9. User and Iteris shall in no event be deemed to be in a relationship of principal/agent, employer/employee, partners or joint ventures.

Method of Data and Video Sharing

10. Iteris and the User each agree that User shall have access to the VDOT Traffic Information, including video signals from the CCTV Camera System and data from the Data System, in a form which is accessible and in a commonly used format. Attachment B provides details of the interfaces to the camera and data feeds. Iteris specifically reserves the right to make changes in the form and accessibility of said VDOT Traffic Information as it sees fit without advance notice to User; provided that Iteris will use its best efforts to provide User with as much prior notice as is practicable prior to any discontinuation of access to the Traffic Data or CCTV Camera System Information.
11. Iteris shall make reasonable accommodation for User's electronic access to the VDOT Traffic Information collected and managed by VDOT.
12. User agrees to provide Iteris with a technical contact person.
13. User agrees to provide written reports at the request of Iteris, describing all of User's uses of VDOT Traffic Information obtained pursuant to this Agreement, including but not limited to functionality and use of all of the services and products developed by User using VDOT Traffic Information..

User's Responsibility in Connecting to Iteris' Dissemination System(s)

14. User hereby agrees, as a condition to receiving the VDOT Traffic Information, to furnish and supply at its own cost and expense all equipment deemed by Iteris to be necessary to receive and utilize said information. Any and all expenses relating to access by User to the Iteris systems shall be borne by User.
15. User agrees, as a condition to receiving the VDOT Traffic Information, to move or alter, at its own expense and at Iteris' request, any of its equipment, hardware, or software as necessary to accommodate future alterations, improvements, or other changes to Iteris' or any other VDOT TVD contractor equipment, facilities, or operating platforms.

Rights of Iteris and VDOT

16. Notwithstanding anything in this Agreement to the contrary, Iteris reserves the right to suspend access to individual cameras or data feeds without prior notice, if Iteris or VDOT determines, in its sole discretion, that the traffic video or data feed is inappropriate for public dissemination. Iteris would also note that VDOT has, by separate agreement, reserved the right to suspend Iteris' access to VDOT Traffic Information for various reasons and accordingly that Iteris' authority to provide VDOT Traffic Information is subject to the terms and conditions of the

agreement(s) between VDOT and Iteris. Further, VDOT retains exclusive ownership of all VDOT Traffic information provided under this Agreement.

17. This Agreement does not grant any exclusive rights to the User. Iteris may, in its sole discretion, enter into similar agreements with other entities.

Rights and Responsibilities of the User

18. The User is prohibited from inducing any other party to, or entering into agreements that preclude any other party from entering into an agreement with Iteris or VDOT.

19. User shall maintain the following records relating to its use of VDOT Traffic Information for the duration of this Agreement and for three years after termination, cancellation or expiration of the Agreement:

- A list of all of User's uses of VDOT Traffic Information; and
- A record of all affiliates, divisions, staff or other entities within User's organization that have utilized or have access to VDOT Traffic Information and the purpose of their use.

User agrees that Iteris shall have the right to inspect, audit and review the above referenced records from time to time, upon reasonable notice.

20. User agrees to direct all customer comments, complaints or suggestions about the service derived from the VDOT Traffic Information to User's customer service staff. User agrees, at the request of Iteris, to provide Iteris with written reports regarding the public's response to the service (i.e., usage), system changes and a summary of all new features and design.

Liability and Indemnification

21. VDOT, Iteris and/or any suppliers make no warranty that the information will be provided in an uninterrupted manner or that the VDOT Traffic Information, including but not limited to the data and video will be free of errors. User understands and agrees that all VDOT Traffic Information, including but not limited to data and video, are provided "as is" and "with all faults", with the entire risk as to quality and performance being borne by the User. User shall at all times, indemnify, defend, and hold harmless the Commonwealth, VDOT and Iteris, as well as their officers, agents and employees from and against any and all claims, actions, liabilities, losses, damages, costs and disbursements, including but not limited to legal fees, arising out of or relating to any breach or alleged breach of any representation, warranty, covenant or agreement of the User hereunder, including but not limited to any claims by third parties relating to or arising out of User's broadcast or dissemination of VDOT Traffic Information, including but not limited to images or data offered pursuant to this Agreement. This provision shall survive the expiration or the termination of this Agreement.

Consequential Damages

22. In no event shall VDOT, Iteris and/ or any suppliers be liable for any damages, claim or loss incurred by the User, (including, without limitation, compensatory, incidental, indirect, special, consequential or exemplary damages, lost profits, lost sales or business, or loss of goodwill)

resulting from loss of or inability to use VDOT Traffic Information, including but not limited to any data or video, irrespective of whether VDOT and its suppliers have been informed of, knew of, or should have known of the likelihood of such damages, claim or loss. This limitation applies to all causes of action in the aggregate, including, but without limitation, breach of contract, breach of warranty, negligence, strict liability, misrepresentation and any other causes of action.

Disclaimer of Warranties

23. Both VDOT and Iteris make no warranties, whether express, implied, oral or written, including but not limited to warranties of merchantability and fitness for a particular purpose, with respect to the service or services covered or furnished, and the VDOT Traffic Information provided pursuant to this Agreement.

Assignment of Agreement

24. The User may not assign, transfer, convey, or otherwise dispose of the Agreement or any part thereof without the prior written consent of Iteris. User agrees that Iteris may, or may be required by VDOT, to assign this Agreement to VDOT, or to a VDOT contractor, and that, in such event, the User's access to VDOT Traffic Information will be subject to User's written agreement to said assignment.

Compliance with Laws and Regulations

25. User at all times shall observe and comply with all federal, state and local laws, regulations, ordinances, orders, and decrees applicable to these services and the VDOT Traffic Information, and shall indemnify, defend and hold harmless Iteris, the Commonwealth of Virginia, VDOT, and all of their officers, agents and employees against any and all claims of liability, actions, liabilities, losses, damages, costs and disbursements, including but not limited to legal fees, arising from or based on User's violation of any such law, regulation, ordinance, order or decree, whether by User or anyone associated with User, in performing the services or in using the VDOT Traffic Information as provided under the terms of this Agreement. This Agreement shall be governed and construed under the laws of the Commonwealth of Virginia.

Term of Agreement

26. This Agreement shall remain in effect for a term of one (1) year from the date first written above and shall automatically renew for one year intervals, subject to the rights and limitations set forth herein and any right of cancellation or termination as set forth in this Agreement. Any Party seeking non-renewal of this Agreement shall notify the other Party in writing, not less than 30 days prior to the date that the then-current one year term is due to expire, of its intent to not renew the Agreement. This Agreement shall expire if the service is permanently discontinued.

Termination

27. Iteris, at its sole determination may terminate this Agreement at any time by providing a minimum of sixty (60) days written notice to the USER if Iteris elects to cease providing access to the VDOT Traffic Information or any portion thereof. Upon termination of this Agreement, USER shall remove all of its equipment, or any telecommunications connections used under this agreement within thirty (30) days following termination of this Agreement. In addition, USER shall inform its customers, partners and the public, for up to sixty (60) days after cessation of service, of Iteris' plans (if any) for reinstating the service.

Communications

28. Both Parties recognize the value and importance of clear, accurate and consistent public communications regarding the transactions contemplated by this Agreement. Accordingly, the Parties agree to provide each other opportunity to review and comment on the timing and content of any public announcement regarding the cooperative relationship described in this Agreement. In addition, Iteris and USER shall jointly prepare written material for use in responding to anticipated questions that each Party will likely receive from the press and the public about their relationship.

Modification of Agreement/Miscellaneous Terms

29. This Agreement constitutes the entire agreement between the Parties and supersedes all other agreements regarding the subject matter herein between the Parties and between VDOT and User. This Agreement may not be modified except in writing signed by both Parties. Any disputes arising from the terms of this Agreement shall be subject to adjudication in a Virginia court of competent jurisdiction. Controversies or questions with respect to this Agreement shall be determined in accordance with the law of the Commonwealth of Virginia.

30. This Agreement and all amendments thereto shall be governed by the laws of the Commonwealth of Virginia applicable to agreements made and wholly performed therein.

31. No covenant or condition of this Agreement shall be waived except by the prior written consent of Iteris. Forbearance or indulgence by Iteris in any regard whatsoever shall not constitute such a waiver.

32. Any notice, request, demand, consent, waiver, or other item required or permitted under this Agreement or applicable law must be in writing, and shall be deemed duly given or made only if personally delivered, sent by messenger, overnight mail or facsimile transmission to the address of the Party set forth hereinafter or to such other address as the Party shall notify the other in writing from time to time; such notice shall be deemed effective upon receipt.

If to User:

Attn: _____
Company: _____
Street Address: _____
City, State, Zip: _____
Phone: _____
Fax: _____

If to Iteris:

Attn: _____
Iteris, Inc. _____
Street Address: _____
City, State, Zip: _____
Phone: _____

Fax: _____

33. If any provision of the Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of the Agreement will be unimpaired and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law. Any waiver or failure to enforce any provision of the Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written, by and through their duly authorized representatives or officers, intending to be bound thereby.

Iteris, Inc.

Company: _____

By: _____

By: _____

Name of Signatory

Name of Signatory

Title of Signatory

Title of Signatory

Date: _____

Date: _____

Witness:

Witness:

Date: _____

Date: _____

Agreement Number: _____
(Assigned by Iteris)

ITERIS
VIDEO and TRAFFIC DATA SHARING PARTNERSHIP AGREEMENT
Commercial Entity

Attachment A

Attribution Guide

Attachment B
System Interface Details

Attachment C

Application