



SUPPLEMENTAL TERMS OF USE FOR MICROSOFT BING MAPS SERVICES (G600)

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1. **Microsoft Terms of Use and Privacy Statement.** If Licensee accesses and uses Web Services sourced and provided by Microsoft, which includes Bing Maps Services, in addition to the terms of the Esri/Licensee Agreement (Esri Master License Agreement [E201/204, E300], the General Web Site and Service Terms of Use [G577], and this Supplemental Terms of Use for Microsoft Bing Maps Services [G600]), Licensee expressly agrees that use of any data and/or imagery and Web Services provided by Microsoft Bing Maps Services shall, in addition to the Agreement between Licensee and Esri, be governed by the terms and conditions of the Microsoft Terms of Use and Privacy Statement.

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3. Licensee's access to and use of Bing Maps Services in a staging environment shall be for development, testing, and maintenance purposes only and not for a commercial release product.
4. For all Applications developed by Licensee that access and use Bing Maps Services sourced and provided by Microsoft, Licensee must prominently display or hypertext link Microsoft's Privacy Statement and MapPoint Terms of Use on the bottom of each Web page containing Microsoft data and/or imagery, in the About section for desktop applications or in the end user's terms and conditions for mobile applications, as set forth above.
5. Licensee and Licensee's end user may not use Bing Maps Services (a) to copy, store, archive, and create a database of Bing Maps Services-generated content, except that geocodes may be stored locally when used in conjunction with the Esri software; (b) in violation of local, state, federal, or equivalent privacy or other laws or regulations; (c) to create routes by optimizing the order waypoints for multiple vehicles at the same time; (d) to deliver individual maneuvers of a calculated route such that the maneuvers are presented to the end user, or the end user is alerted to the maneuvers, in any manner synchronized with the end user's sensor-based position along such route, including, for example, calculating the end user's position as the end user traverses the route and communicating a maneuver to the end user as the end user approaches the location pertaining to such maneuver; or (e) in any manner that threatens the integrity, performance, or availability of Bing Maps Services.
6. Licensee is prohibited from using or providing access to any bird's-eye imagery (or associated metadata).
7. Road traffic data in Bing Maps Services ("Road Traffic Data") may only be used to calculate and/or derive Traffic Transactions (defined in this section below) to deliver and display such Traffic Transactions on Internet-based Web pages (or WAP or substantially similar wireless protocol-based pages, excluding messaging protocols such as e-mail, SMS, MMS, or other plain text or rich text messaging), subject to the following restrictions:
 - Road Traffic Data may only be used in combination with Bing Maps Services and not separately. Licensee may not deconstruct or mix and match Road Traffic Data with traffic data from another supplier or associate or add any traffic data to or in combination with Road Traffic Data. Licensee may only make the Road Traffic Data available for free and for the personal use of end users.
 - Road Traffic Data may not be licensed to or used (i) by radio/television stations; (ii) by newspaper Web services; (iii) by any Web sites owned by (i) and (ii); (iv) by any government-sponsored traveler information services, including, without limitation, 511 services, consumer Web sites, or variable message signs on roads; (v) for television or radio broadcast; (vi) as part of or in conjunction with weather-related

- services; (vii) for animation; (viii) for storing or the provision of continuously updated traffic data or alerts to end users; or (ix) to develop a stand-alone (traffic only) traffic application.
- Road Traffic Data may not be used or made available by Licensee to its end users for use on an Accurate Positioning Device. "Accurate Positioning Device" means a device or system with the capability to determine its physical location within a positioning accuracy of two hundred (200) meters or less. If a device that is not an Accurate Positioning Device based on the foregoing definition has the capability to transmit the data to an Accurate Positioning Device, then such device will be considered an Accurate Positioning Device. "Traffic Transaction" means the provision of any one of the following: (i) presentation of the Road Traffic Data on or related to a map that is presented through icon(s), text, or voice; (ii) presentation of the Road Traffic Data in connection with driving directions, direct or indirect use of the Road Traffic Data to determine travel time for all or any portion of a route, and presentation of available traffic information along a route, all through icon(s), text, or voice; (iii) direct or indirect use of the Road Traffic Data to calculate or create routes or alternate routes; and (iv) audio or textual presentation of the Road Traffic Data in a manner that does not involve use of a map or map information and that does not include items (i)–(iii) listed above.
8. Licensee and Licensee's end users shall not use Bing Maps Services to monitor or track the location or movement of Asset(s). "Asset" means one of any of the following classes: person, vehicle, device, or other mobile object.
 9. Licensee shall not perform or facilitate any act to defeat or remove any of the following items from the Bing Maps Services-generated content: (i) proprietary notices and logos of Microsoft or its suppliers or (ii) the digital watermark on any image or derivative image.
 10. Microsoft data and/or imagery is provided *as-is* without warranty, and use of such data and/or imagery accessed by Licensee shall be at Licensee's sole risk.
 11. If Licensee or Licensee's end user licenses any application that contains any Microsoft data and/or imagery accessed as part of the Microsoft Bing Maps Services to the U.S. Government, the following terms shall apply:
 - a. *Cost or Pricing Data/Commercial Item.* Microsoft represents that Bing Maps Services is a "Commercial Item" as defined in FAR Part 2.101. Licensee acknowledges that Microsoft will not, under any circumstances, accept service orders under this Agreement that would require the submission of cost or pricing data as defined by 48 CFR 15.4 or the submission of noncommercial items.
 - b. *Clauses Incorporated by Reference.* The following FAR clauses are incorporated by reference into this Agreement for any orders that are placed on behalf of the United States Federal Government. The version of each clause shall be that version incorporated into Licensee's prime contract with a United States Federal Government customer.

FAR Clause	Title
52.219-8	Utilization of Small Business Concerns
52.222-26	Equal Opportunity
52.222-35	Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era
52.222-36	Affirmative Action for Workers with Disabilities
52.222-39	Notification of Employee Rights Concerning Payment of Union Dues or Fees
52.222-41	Service Contract Act of 1965
52.222-50	Combating Trafficking in Persons
52.222-51	Exemption from Application of Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment—Requirements
52.222-53	Exemption from Application of the Service Contract Act to Contracts for Certain Services—Requirements
52.247-64	Preference for Privately Owned U.S.-Flag Commercial Vessels

- c. *Disputes under a Government Contract.* Regarding any claims, controversies, or disputes concerning matters that are subject to the Contract Disputes Act applicable to the prime contract between Licensee and a United States Federal Government customer, the parties' rights shall be determined in accordance with that Act. In the event that Microsoft is affected by a decision of the U.S. Government under the prime

- contract and Licensee does not elect to take Microsoft's claim forward on Licensee's own, Microsoft will have a right of indirect claim and appeal to include Licensee's reasonable cooperation in filing and sponsoring a claim against the United States Federal Government customer, which right may be exercised within fifteen (15) business days of Licensee's notice to Microsoft that the Licensee will not proceed with a claim. Any election by Microsoft to pursue a claim shall be at Microsoft's sole expense, and Microsoft will be responsible for all activities associated with prosecution of Microsoft's appeal.
- d. *Disclosure of Confidential Information.* Licensee may disclose Microsoft confidential information contained in this Agreement or Addendum to a United States Federal Government customer solely as required under Licensee's prime contract with the United States Federal Government customer, provided Licensee identifies such confidential information in writing as being subject to 18 U.S.C. Section 1905 (Trade Secrets Act) and 5 U.S.C. Section 552 (Freedom of Information Act).