

## **Agreement for Access to and Use of the Iowa Real Time Network**

User, in consideration for user's access to and/or use of the Iowa Real Time Network, a real-time global positioning system (GPS) network intended to provide spatial information to a diverse user community, the services thereof and any data created by or passing there through ("the IaRTN"), agrees that User's access to and/or use of the IaRTN is subject to the following terms and conditions:

Use of the IaRTN is at User's sole risk. The IaRTN is provided on an "as is" basis; it is User's sole responsibility to determine the quality, accuracy or suitability of the IaRTN for User's intended purpose. The State of Iowa, the Iowa Department of Transportation, and its or their officers, employees, agents, vendors, or third-party service providers (hereinafter "Provider") do not represent, promise, or warrant that the IaRTN is or will be free from defects or that uninterrupted access to or use of the IaRTN is or will be available. Provider makes no representations or warranties as to the accuracy or integrity of the the IaRTN. Provider makes no warranties, express or implied, that the IaRTN is fit for any particular purpose. Provider makes no representations or warranties, express or implied, that the IaRTN meets any applicable law, rule, regulation or standard, or that IaRTN meets any applicable law, rule, regulation or standard for accuracy or precision. Provider makes no warranties, express or implied, that the IaRTN will continue in operation for any set or defined period of time, and Provider retains the right to suspend or terminate operation of or User's access to the IaRTN at any time and for any reason without notice, or to modify the IaRTN or User's access to the IaRTN at any time and for any reason without notice. PROVIDER DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, FOR THE IaRTN, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE.

User expressly releases and agrees to defend, indemnify, and hold harmless Provider from and against all claims and expenses, including attorney fees, arising out of or related in any way to User's access to or use of the IaRTN, in reference to any claim however caused and on any theory of liability, including but not limited to contract, strict liability, or tort (including but not limited to negligence), and including but not limited to losses or damages arising out of or related in any way to mistakes, omissions, interruptions, losses of data or files, errors, defects, viruses, delays in operation or transmission, failures, suspension, termination, or modification of the IaRTN or access to the IaRTN. User agrees that this is a comprehensive agreement to release, defend, indemnify and hold harmless that applies to all losses and damages of any kind, including but not limited to compensatory, punitive, direct, indirect or consequential damages; loss of data, income or profit; and losses or damages to third-parties.

User represents and warrants that User has requested use of the IaRTN for User's own use, and not for the use of any third party. User represents and warrants that User is proficient in the use GPS systems of the type useable with the IaRTN and will independently assess the accuracy and value of any data derived from the IaRTN. User represents and warrants that User will comply with all laws, codes, rules, and regulations

relating to User's use of the IaRTN, and that User has obtained all necessary licenses, permits, training and authorizations necessary for access or use of the IaRTN. User will not access or use IaRTN for any unlawful purpose.

User agrees that the Iowa Department of Transportation may monitor its access and use of the IaRTN, may record and keep records of such activity, and may use such records and information for the Iowa Department of Transportation's purposes, and may also supply evidence of possible criminal activity identified through such monitoring to appropriate law enforcement officials. User acknowledges that such records and information may be public information.

To facilitate access to the IaRTN, User will be given information, including a user name, password, and the Internet Protocol (IP) address of the IaRTN. User agrees to keep this information confidential and agrees User will not disclose this information to any third party. User agrees that User will maintain as confidential usage information regarding IaRTN positioning data, and any other data obtained by User through authorized use of the IaRTN, and that such information and data shall remain the exclusive property of Provider.

User agrees that if any part of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Agreement will remain in full force and effect and will in no way be affected, impaired, or invalidated.

Nothing contained in this Agreement is intended to, nor shall be construed to, create any rights in any third-party, or form the basis for any liability by Provider to any third-party.

This agreement shall be governed and construed in accordance with the laws of the State of Iowa. User consents to personal jurisdiction in the State of Iowa, and agrees that the Iowa District Court for Story County, Iowa shall be the exclusive venue for any action arising from or related to this Agreement.

As used in this Agreement, "User" means any natural person accessing or using the IaRTN via an authorized user name and password, his, her, or their heirs, beneficiaries, successors and assigns, and any entity on whose behalf the IaRTN is accessed or used, its, his, hers, or their officers, employees, agents, directors, parents, subsidiaries, affiliates, shareholders, managers, members, partners, trustees, beneficiaries, successors and assigns.

**BY ACCESSING AND/OR USING THE IaRTN, USER CONVEYS USER'S KNOWING AND VOLUNTARY AGREEMENT TO AND ACCEPTANCE OF THESE TERMS AND CONDITIONS.**