

## TravelTime Terms and Conditions

17<sup>th</sup> May 2020

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**AGREED TERMS:**

**1. INTERPRETATION**

1.1 The definitions and rules of interpretation in this clause or elsewhere in this Licence apply in this Licence.

<b>Analytics</b>	Means TravelTime Analytics and includes Monthly Analytics, Annual Analytics, Academic use, and Evaluation Licences, as the Licence requires
<b>Analytics API</b>	the API that enables the Licensee to execute the Analytics Functionality and which is accessed by the Licensee using the API Key authorised by TravelTime;
<b>Analytics API key</b>	the key provided by or authorised by TravelTime that uniquely identifies and authenticates the Licensee;
<b>Analytics Functionality</b>	the functions of the Analytics API as detailed on <a href="https://docs.traveltime.com/api/overview/introduction">https://docs.traveltime.com/api/overview/introduction</a> Functions may be varied from time to time.
<b>Analytics Licensed User</b>	An employee of the Licensee authorised by the Licensee to use the unique API Key associated with this Licence to access the Analytics API;
<b>Analytics Macros</b>	Macros are ‘plug ins’ built for TravelTime to facilitate the use of the Analytics API within third-party applications. By way of example only, third-party applications may include ArcGIS, alteryx and qgis.
<b>Analytics Service</b>	the combination of the Analytics API, the Support Materials, the Analytics Macros, and the Analytics Functionality;
<b>Analytics Support Materials</b>	the documents and code examples provided by TravelTime that assist the Licensee to use the Analytics API;
<b>Analytics Fair Usage Policy</b>	A maximum of 300 API calls to the Analytics API within a 60 second period, with a total of 100,000 API calls within a 24-hour period. An API call is detailed in the Support materials hosted on <a href="https://docs.traveltime.com/api/overview/introduction">https://docs.traveltime.com/api/overview/introduction</a> API calls shall be calculated on the basis of TravelTime’s records which shall be conclusive as to the number of API calls in the absence of manifest error.
<b>Search</b>	Means TravelTime Search or Evaluation Licences
<b>Search API</b>	the API that enables the Licensee to execute the Search Functionality and which is accessed by the Licensee using the API Key authorised by TravelTime;
<b>Search API key</b>	the API key provided by or authorised by TravelTime that uniquely identifies and authenticates the Licensee;
<b>Search API Calls</b>	the action(s) requested of the TravelTime Technology by the Licensee using the Search API, in order to satisfy the search initiated by the end user on the Licensee User Interface;
<b>Licensee Site</b>	the website or websites or applications identified in the Licence Confirmation upon which results from Search API calls are displayed;
<b>Licensee User Interface</b>	the page or pages on the Licensee Site that access the Search API;
<b>Search Functionality</b>	the functions of the Search API as detailed on <a href="https://docs.traveltime.com/api/overview/introduction">https://docs.traveltime.com/api/overview/introduction</a> Functions may be varied from time to time.
<b>Search Service</b>	the combination of the Search API, the Search Support Materials, and the Search Functionality;
<b>Search Support Materials</b>	the documents and code examples provided by TravelTime that assist the Licensee to use the Search API;

<b>TravelTime</b>	Means either  TravelTime Technologies Limited, or  TravelTime Analytics or TravelTime Search  as the Licence requires
<b>TravelTime API</b>	Either Search API or Analytics API as the Licence requires.
<b>TravelTime Area</b>	an isochrone created by the user, whose perimeter is an equal travel time from an origin.
<b>TravelTime Functionality</b>	Either Search Functionality or Analytics Functionality as the Licence requires.
<b>TravelTime Service</b>	Either Search Service or Analytics Service as the Licence requires.
<b>TravelTime Support Materials</b>	Either Search Support Materials or Analytics Support Materials as the Licence requires
<b>TravelTime Technology</b>	the Technology which enables the Analytics API or the Search API as the Licence requires to analyse location-specific information by travel time in the Territory only.
<b>Business Day</b>	any day which is not a Saturday, Sunday or public holiday in the UK;
<b>Confidential Information</b>	information that is proprietary or confidential and is either clearly labelled as such or identified as Confidential Information in clause 9;
<b>Data Protection Legislation</b>	means:  (a) the Data Protection Act 2018 (the “DPA”);  (b) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) including the recitals (the “GDPR”) or equivalent legislation;  (c) all other applicable laws (including judgments of any relevant court of law) and regulations relating to the processing of personal data, data privacy, electronic communications, marketing and/or data security,  in each case as amended, extended, re-enacted, replaced, superseded or otherwise converted, succeeded, modified or incorporated into law from time to time and all orders, regulations, statutes, instruments and/or other subordinate legislation made under any of the above in any jurisdiction from time to time;
<b>Effective Date</b>	the date set out in, or identified in accordance with, the Licence Confirmation;
<b>Evaluation Licence</b>	A brief non-exclusive, non-transferable licence to enable the Licensee to internally evaluate whether to purchase the TravelTime Service and for no other purpose.
<b>Licence Term and Initial Licence Term</b>	the term of this Licence as set out in the Licence Confirmation and as may be extended as set out in these Agreed Terms;
<b>Intellectual Property Rights</b>	patents, rights to inventions, copyright and related rights, moral rights, trademarks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, rights in designs, rights in computer software, database rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world;
<b>This Licence</b>	the Licence Confirmation if any, and the Agreed Terms, including the Schedule;
<b>Licence Confirmation</b>	the initial pages of this Licence setting out, among other things, the Licence Fee and Initial Licence Term;
<b>Agreed Terms</b>	The Agreed Terms which set out the terms under which the Analytics Service and the Search Service shall be used and which may be combined with the Licence Confirmation.

<b>Licence Fees</b>	the licence fees payable by the Licensee to TravelTime as set out in the Licence Confirmation;
<b>Licence Term</b>	has the meaning given in clause 12;
<b>Month</b>	One Month means that period of time elapsing between a given date in one month and 23.59 on the corresponding date less one day of the following month.
<b>Year</b>	One Year means that period of time elapsing between a given date in one year, and 23.59 on the corresponding date less one day of the following Year.
<b>Party</b>	TravelTime and/or the Licensee as the context requires;
<b>Territory</b>	as specified in the Licence Confirmation

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this Licence.
- 1.3 A person includes an individual, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors or permitted assigns.
- 1.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender shall include a reference to the other genders.
- 1.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.8 References to the Schedule and clauses are to the Schedule and clauses of this Licence.

## 2. LICENCE GRANT AND RESTRICTIONS

- 2.1 **TravelTime Analytics.** For a TravelTime Monthly Analytics Licence, a TravelTime Annual Analytics Licence, or an Academic Licence, as the Licence requires;
  - (a) **Analytics Functionality.** Subject to the terms and conditions of this Licence, TravelTime grants to the Licensee during the Term a non-exclusive, non-transferable, limited right and licence to the Analytics Functionality for use only as permitted by this Licence.
  - (b) **Analytics Support Materials.** Subject to the terms and conditions this Licence, TravelTime grants to the Licensee during the Term a non-exclusive, non-transferable, limited right and licence to use the Support Materials.
  - (c) **Analytics API key.** Subject to the terms and conditions of this Licence, TravelTime grants to the Licensee during the Term a non-exclusive, non-transferable, limited right and licence to use the Analytics API key to access the TravelTime Technology.
  - (d) **Analytics Macro.** Subject to the terms and conditions of this Licence, TravelTime grants to the Licensee during the Term a non-exclusive, non-transferable, limited right and licence to use the Analytics Macro to access the TravelTime Technology.
- 2.2 **TravelTime Search.** For a TravelTime Search Licence;
  - (a) **Search Functionality.** Subject to the terms and conditions of this Licence, TravelTime grants to Licensee during the Term a non-exclusive, non-transferable, limited right and licence to the TravelTime Functionality for use only on the Licensee User Interface.
  - (b) **Search Support Materials.** Subject to the terms and conditions this Licence, TravelTime grants to the Licensee during the Term a non-exclusive, non-transferable, limited right and licence to use the Support Materials to build pages of the Licensee User Interface on the Licensee Site.
  - (c) **Search API Keys.** Subject to the terms and conditions of this Licence, TravelTime grants to the Licensee during the Term a non-exclusive, non-transferable, limited right and licence to use the API Keys to access the Search API.
- 2.3 **Evaluation Licence;**
  - (a) This clause 2.3 shall apply if the TravelTime Service has been made available to Licensee free of charge by Licensor for evaluation purposes. In the event of conflict, the terms and conditions contained in this clause 2.3 shall override the terms and conditions of the rest of this Licence.

- (b) Licensor hereby grants Licensee a non-exclusive, non-transferable licence for a period of 30 days (save where a different period is specified by TravelTime in writing, in which case that different period shall apply) only from the Effective Date for the Licensee to internally evaluate the Service to determine whether or not to purchase the Service and for no other purpose.
- (c) Licensee expressly agrees and acknowledges that given that the Evaluation Licence is provided free of charge, it is fair and reasonable for it to be provided by Licensor “as is”, without warranty or condition of any kind, either express or implied, including, but not limited to, warranties of non-infringement, merchantability, satisfactory quality, use of reasonable skill and care or fitness for any particular purpose.
- (d) At the end of the Evaluation Period, Licensee must stop using the Service.

#### 2.4 Academic Licence;

- (a) Licensee may only use the TravelTime Service for teaching, research, education and learning and the preparation of course materials for instruction only. Without prejudice to clause 2.5, this excludes use relating to;
  - (i) consultancy work or services leading to the commercial exploitation (for the purposes of this clause 2.4 this means use of the Service for monetary gain either by the Educational Institution, employee, student or other individual) and
  - (ii) work of significant benefit to the employer of students on industrial placements or part-time courses.

#### 2.5 General Restrictions. The Licensee shall not:

- (a) have any rights whatsoever with respect to the TravelTime Service and shall not use the TravelTime Service or any portion of it except as expressly set forth in this Licence. Without limiting the generality of the foregoing, the Licensee shall not, and shall not knowingly or negligently cause, permit or assist any third party to, modify, reverse-engineer, decompile, disassemble, reverse compile, create derivative works of or attempt to derive the source code of the TravelTime Service or any other Intellectual Property of TravelTime;
- (b) sublicense (except as expressly permitted by any agreement in writing between TravelTime and the Licensee), lease, rent, assign, distribute, repackage, rebrand, or otherwise transfer or disclose any part of the TravelTime Service including but without limitation, the TravelTime API, the TravelTime API Keys, the TravelTime Support Materials, the TravelTime Technology, the Intellectual Property, or any portion of it, to any third party;
- (c) use the Search API on or in connection with any World Wide Web or intranet page, or mobile web page, or application other than the Licensee Site(s) specified in the Confirmation Agreement;
- (d) use the Analytics API on or in connection with any World Wide Web or intranet page, or mobile web page, or application except as may be agreed in the Confirmation Agreement;
- (e) use the TravelTime API to operate a service bureau (or any similar operation not integrated into the Licensee’s business), or to process or generate data for any third party (other than for end-users as expressly permitted by this Licence);
- (f) access the TravelTime Technology other than by use of the TravelTime API keys;
- (g) use the TravelTime API or the TravelTime Support Materials for any purpose not expressly permitted by this Licence;
- (h) use the TravelTime API, or TravelTime Support material for any purpose other than to access the TravelTime Technology;
- (i) use the TravelTime Support Materials for any purpose other than in association with the Search API or Analytics API;
- (j) grant the right to or permit (in the event that Licensee acquires the knowledge) any third party to include or integrate into any World Wide Web page any hypertext link to any Licensee Site for the primary purpose of retrieving TravelTime Functionality from the TravelTime Technology; nor
- (k) use the TravelTime API in connection with any pages containing unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive materials; or to facilitate illegal activity; or to depict sexually explicit images; or to promote unlawful violence; or to discriminate based on race, gender, colour, religious belief, sexual orientation, disability, or any other illegal activity.

#### 2.6 Other Restrictions and Rights of TravelTime

- (a) **Responsibility for TravelTime API Keys.** The API Keys are the confidential information and are the property of TravelTime. If TravelTime determines that third parties are accessing the TravelTime Technology through the TravelTime API Keys without proper authorisation to do so, or if Licensee exceeds the scope of the licence by using TravelTime API Keys to use the TravelTime Technology features that are not licenced by this Licence, the Licensee shall, in addition to other remedies available to TravelTime, be responsible for all charges incurred with such usage, as reasonably determined by TravelTime. TravelTime reserves the right in its sole discretion to change Licensee’s TravelTime API Keys as relevant to the Licence (with or without a fee), or terminate this Licence if such unauthorised usage is discovered.

- (b) **Expiration of API Keys.** The Licensee acknowledges that the API Keys will expire upon expiration of the Term, unless they are renewed in accordance with this Licence.
- (c) **No Exclusivity.** Unless otherwise agreed in this Licence, this Licence shall not prevent TravelTime from entering into similar licences or other agreements with third parties.

### 3. CHARGES AND PAYMENT

- 3.1 The Licensee shall pay the Licence Fees to TravelTime on the Payment Terms in accordance with the Licence Confirmation.
- 3.2 Attribution
  - (a) **Search API.** If Licensee Site or mobile application can be accessed by users outside of Licensee's organisation (for example but without limitation, a site or application that consumers access), then TravelTime reserves the right in its sole discretion to make it a condition of accessing the Search API that the Licensee displays the TravelTime logo or name on Licensee's screen where information that has been generated or tailored by the Service is displayed and at a size to be agreed by TravelTime and with a link to [www.traveltime.com](http://www.traveltime.com). TravelTime will provide the logo or name in an appropriate form.
  - (b) **Analytics API.** If analyses generated by the user using the Analytics API can be accessed by users outside of Licensee's organisation (for example but without limitation, a report that the Licensee's customers or prospective customers access), then TravelTime reserves the right in its sole discretion to make it a condition of accessing the Analytics API that the Licensee displays the TravelTime logo or name on Licensee's screen or page where information that has been generated or tailored by the Service is displayed and at a size to be agreed by TravelTime, and with a link to [www.traveltime.com](http://www.traveltime.com). TravelTime will provide the logo or name in an appropriate form.
  - (c) **'without charge', or 'no Licence Confirmation'.** In the event that TravelTime provides access to the TravelTime API to the licensee without charging a fee, or in the absence of a Licence Confirmation which specifies to the contrary, the Licensee agrees to display the TravelTime logo or name, at a size to be agreed by TravelTime and with a link to [www.traveltime.com](http://www.traveltime.com), on the same page (whether a web page, or a printed page) as the information generated by the TravelTime API is displayed. TravelTime will provide the logo or name in an appropriate form.
  - (d) **Evaluation Licence or Academic Licence.** No attribution is required under an Evaluation Licence or Academic Licence.
- 3.3 If TravelTime has not received payment within 15 days after the due date of any amount payable to it under this Licence including Licence Fees, and without prejudice to any other rights and remedies of TravelTime:
  - (a) TravelTime may, without liability to the Licensee, disable the API Keys, and access to all or part of the TravelTime Functionality, and TravelTime shall be under no obligation to renew such access while the invoice(s) concerned remain unpaid; and
  - (b) interest shall accrue on such due amounts at an annual rate equal to 3% over the then current base lending rate of Lloyds TSB Plc in the UK at the date the relevant invoice was issued, commencing on the due date and continuing until fully paid, whether before or after judgment.
- 3.4 All amounts and fees stated or referred to in this Licence:
  - (a) shall be payable in pounds sterling or any other currency acceptable to TravelTime;
  - (b) are, non-cancellable and non-refundable;
  - (c) are exclusive of value added tax, which shall be added to TravelTime's invoice(s) at the appropriate rate;
  - (d) API calls shall be calculated on the basis of TravelTime's record of API Calls made, which shall be conclusive as to the number of API Calls received in the absence of manifest error.

### 4. REPRESENTATIONS AND WARRANTIES.

- 4.1 **Authority.** Each Party represents and warrants that it has the full corporate right, power and authority to enter into this Licence; the execution of this Licence and performance of its duties and obligations by this Licence do not and will not violate any agreement to which it is a party or by which it is otherwise bound; and when executed and delivered by it, this Licence will constitute its legal, valid and binding obligation, enforceable against it in accordance with its terms.
- 4.2 **TravelTime Functionality.** TravelTime warrants that, during the Term, the TravelTime Functionality shall perform substantially in accordance with the TravelTime Support Materials. As the Licensee's sole and exclusive remedy for a failure to comply with this warranty, and provided such non-compliance is reported to TravelTime in a timely manner, TravelTime will, in its sole discretion,

use commercially reasonable efforts to correct any verifiable errors so that the TravelTime Functionality complies with such warranty.

4.3 **Exclusions.** Notwithstanding the provisions of clause 4.2, TravelTime does not warrant that

- (a) the TravelTime Functionality or any Search API Functionality, or any Analytics API Functionality will meet Licensee's requirements;
- (b) there will be any specific outcome resulting from Licensee's use of the Service, and TravelTime is not responsible for decisions the Licensee, or the Licensee's end users make as a result of using the TravelTime Functionality;
- (c) the Licensee's or end user's use of the TravelTime Functionality will be uninterrupted, error-free, or available at all times;
- (d) any interruptions or errors identified by Licensee can or will be corrected; or
- (e) any API functionality (or the contents of it) is accurate, complete or correct.

Without limiting the generality of the foregoing, TravelTime shall have no obligation or other liability with regard to any error or non-compliance with the warranty set forth in clause 4.2 that is caused, in whole or in part, by;

- (a) modifications to the TravelTime Functionality made by Licensee or any third-party;
- (b) use of the TravelTime Service other than as described in the Support Materials;
- (c) hardware, software or other products not provided by TravelTime; or
- (d) the negligence, misuse or improper use of TravelTime Functionality by Licensee or any third-party.

## 5. LIMITATION OF LIABILITY

5.1 This clause 5 sets out the entire financial liability of TravelTime (including any liability for the acts or omissions of its employees, agents and sub-contractors) to the Licensee:

- (a) arising under or in connection with this Licence;
- (b) in respect of any use made by the Licensee of the TravelTime Functionality; and
- (c) in respect of any representation, statement or tortious act or omission (including negligence) arising under or in connection with this Licence.

5.2 Except as expressly and specifically provided in this Licence:

- (a) the Licensee assumes sole responsibility for results obtained from the use of the TravelTime Functionality by the Licensee, and for conclusions drawn from such use. TravelTime shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to TravelTime by the Licensee in connection with the Licence, or any actions taken by TravelTime at the Licensee's direction;
- (b) all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Licence; and
- (c) the TravelTime Functionality and the TravelTime Support Materials are provided to the Licensee on an "as is" basis.

5.3 Nothing in this Licence excludes the liability of TravelTime:

- (a) for death or personal injury caused by TravelTime negligence; or
- (b) for fraud or fraudulent misrepresentation.

5.4 Subject to clause 5.2 and clause 5.3:

- (a) TravelTime shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Licence; and
- (b) TravelTime's total aggregate liability in contract (including in respect of the indemnity at clause 11.0), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Licence shall be limited to the total Licence Fees paid for the three months immediately preceding the date on which the claim arose or if paid in advance pro rata for 3 months.

## **6. DATA BACKUP**

TravelTime is not obliged to store, back-up, archive or otherwise record any data submitted to it by the Licensee during an API Call.

## **7. LICENSEE'S OBLIGATIONS**

The Licensee shall:

- (a) provide TravelTime with all necessary co-operation in relation to this Licence; and
- (b) comply with all applicable laws and regulations with respect to the use of the TravelTime Technology in accordance with this Licence.

## **8. PROPRIETARY RIGHTS**

- 8.1 The Licensee acknowledges and agrees that TravelTime owns all of the Intellectual Property Rights in the TravelTime Functionality and that other than as expressly stated in this Licence, this Licence does not grant the Licensee any rights to, or in, patents, copyrights, database right, trade secrets, trade names, trademarks (whether registered or unregistered), or any other rights or licences in respect of the TravelTime Functionality
- 8.2 TravelTime confirms that it has all the rights in relation to the TravelTime Functionality that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Licence.

## **9. CONFIDENTIALITY**

- 9.1 Each Party may be given access to Confidential Information of the other Party in order to perform its obligations or exercise its rights under this Licence. A Party's Confidential Information shall not be deemed to include information that:
  - (a) is or becomes publicly known other than through any act or omission of the receiving party;
  - (b) was in the other party's lawful possession before the disclosure;
  - (c) is lawfully disclosed to the receiving party by a third party without restriction on disclosure;
  - (d) is independently developed by the receiving party, which independent development can be shown by written evidence; or
  - (e) is required to be disclosed by law, by any court of competent jurisdiction or by any regulatory or administrative body.
- 9.2 Each Party shall hold the other's Confidential Information in confidence and, unless required by law, not make the other's Confidential Information available to any third party or use the other's Confidential Information for any purpose other than the implementation of this Licence.
- 9.3 Each Party shall take all reasonable steps to ensure that the other's Confidential Information to which it has access is not disclosed or distributed by its employees or agents in violation of the terms of this Licence.
- 9.4 Neither Party shall be responsible for any loss, destruction, alteration or disclosure of Confidential Information caused by any third party.
- 9.5 This clause 9 shall commence on the Effective Date, and survive termination of this Licence, however arising.

## **10. DATA PROTECTION**

- 10.1 The Parties agree that where either party Processes Personal Data under or in connection with this Licence, the provisions of Schedule 1 will apply.

## **11. INDEMNITY**

- 11.1 The Licensee shall defend, indemnify and hold harmless TravelTime against claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with the Licensee's use of the Analytics Service or Search service, provided that:
  - (a) the Licensee is given prompt notice of any such claim;

- (b) TravelTime provides reasonable co-operation to the Licensee in the defence and settlement of such claim, at the Licensee's expense; and
- (c) the Licensee is given sole authority to defend or settle the claim.

11.2 TravelTime shall defend the Licensee, its officers, directors and employees against any claim that this Licence infringes any United Kingdom patent effective as of the Launch Date, copyright, trade mark, database right or right of confidentiality, and shall indemnify the Licensee for any amounts awarded against the Licensee in judgment or settlement of such claims, provided that:

- (a) TravelTime is given prompt notice of any such claim;
- (b) the Licensee provides reasonable co-operation to TravelTime in the defence and settlement of such claim, at TravelTime's expense; and
- (c) TravelTime is given sole authority to defend or settle the claim.

11.3 In the defence or settlement of any claim, TravelTime may procure the right for the Licensee to continue using the TravelTime Service, replace or modify such TravelTime Service so that it becomes non-infringing or, if such remedies are not reasonably available, terminate this Licence on two Business Days' notice to the Licensee without any additional liability or obligation to pay liquidated damages or other additional costs to the Licensee.

11.4 In no event shall TravelTime, its employees, agents and sub-contractors be liable to the Licensee to the extent that the alleged infringement is based on:

- (a) a modification of the TravelTime Service by anyone other than TravelTime; or
- (b) the Licensee's use of the TravelTime Service in a manner contrary to this Licence; or
- (c) the Licensee's use of the TravelTime Service after notice of the alleged or actual infringement from TravelTime or any appropriate authority.

11.5 The foregoing and clause 5 state the Licensee's sole and exclusive rights and remedies, and TravelTime's (including TravelTime's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.

## **12. TERM AND TERMINATION**

12.1 Notwithstanding any other provision of this Licence, TravelTime may in its sole discretion terminate this Licence without liability, provided always that TravelTime gives the Licensee one months' written notice of such termination and prior to termination refunds any Licence Fees previously paid for the period to be terminated.

12.2 For a Search Licence, or an Annual Analytics Licence

- (a) this Licence shall, unless otherwise terminated as provided in this clause 12, commence on the Launch Date and shall continue for the Initial Licence Term (subject to any contrary provision set out in the Licence Confirmation) and, thereafter, this Licence shall be automatically renewed for successive periods of 12 months (each a "Renewal Period"), unless:
- (b) either Party notifies the other Party of termination, in writing, at least 60 days before the end of the Initial Licence Term or any Renewal Period, in which case this Licence shall terminate upon the expiry of the applicable Initial Licence Term or Renewal Period; or
- (c) Is an Academic Licence in which event it has the fixed Term as specified in the Licence Confirmation unless otherwise terminated as provided in this clause 12; or
- (d) Is an Evaluation Licence in which event it can be terminated by TravelTime in its sole discretion, without liability, at any time and without notice; or
- (e) Is a Monthly Analytics Licence in which event it shall commence on the Launch Date and shall terminate at the end of the Licence Term as set out in the Licence Confirmation, unless otherwise terminated as provided in this clause 12; or
- (f) Is otherwise terminated in accordance with the provisions of this Licence;

and the Initial Licence Term together with any subsequent Renewal Periods if any, shall constitute the "Term".

12.3 Without prejudice to any other rights or remedies to which the parties may be entitled, either Party may terminate this Licence without liability to the other and subject to TravelTime's right to terminate under clause 12.1, if:

- (a) the other Party commits a material breach of any of the terms of this Licence and (if such a breach is remediable) fails to remedy that breach within 30 days of that Party being notified in writing of the breach; or
- (b) an order is made or a resolution is passed for the winding up of the other Party, or circumstances arise which entitle a court of competent jurisdiction to make a winding-up order in relation to the other Party; or
- (c) an order is made for the appointment of an administrator to manage the affairs, business and property of the other Party, or documents are filed with a court of competent jurisdiction for the appointment of an administrator of the other Party, or notice of intention to appoint an administrator is given by the other Party or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986); or
- (d) a receiver is appointed of any of the other Party's assets or undertaking, or if circumstances arise which entitle a court of competent jurisdiction or a creditor to appoint a receiver or manager of the other Party, or if any other person takes possession of or sells the other Party's assets; or
- (e) the other Party makes any arrangement or composition with its creditors, or makes an application to a court of competent jurisdiction for the protection of its creditors in any way; or
- (f) the other Party ceases, or threatens to cease, to trade; or
- (g) the other Party takes or suffers any similar or analogous action in any jurisdiction in consequence of debt.

12.4 On termination of this Licence for any reason:

- (a) this Licence shall immediately terminate;
- (b) each Party shall return and or destroy all documentation (and all copies of them) belonging to the other Party; and
- (c) the accrued rights of the Parties as at termination, or the continuation after termination of any provision expressly stated to survive or implicitly surviving termination, shall not be affected or prejudiced.

### **13. FORCE MAJEURE**

TravelTime shall have no liability to the Licensee under this Licence if it is prevented from or delayed in performing its obligations under this Licence, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of TravelTime or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Licensee is notified of such an event and its expected duration.

### **14. EQUITABLE REMEDIES**

The Licensee acknowledges and agrees that monetary damages would be insufficient to compensate TravelTime for an actual or anticipated breach of this Licence by Licensee. Licensee agrees that in such circumstances TravelTime shall be entitled to equitable remedies (including preliminary and permanent injunctions), in addition to any other remedies available to TravelTime at law or by this Licence.

### **15. WAIVER**

- 15.1 A waiver of any right under this Licence is only effective if it is in writing and it applies only to the party to whom the waiver is addressed and to the circumstances for which it is given.
- 15.2 Unless specifically provided otherwise, rights arising under this Licence are cumulative and do not exclude rights provided by law.

### **16. SEVERANCE**

- 16.1 If any provision (or part of a provision) of this Licence is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.
- 16.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with whatever modification is necessary to give effect to the commercial intention of the parties.

**17. ENTIRE AGREEMENT**

- 17.1 This Licence, and any documents referred to in it, constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter they cover.
- 17.2 Each of the Parties acknowledges and agrees that in entering into this Licence it does not rely on any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this Licence or not) relating to the subject matter of this Licence, other than as expressly set out in this Licence.

**18. ASSIGNMENT**

- 18.1 The Licensee shall not, without the prior written consent of TravelTime, assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Licence.
- 18.2 TravelTime may at any time assign, transfer, charge, sub-contract or deal in any other manner with all or any of its rights or obligations under this Licence.

**19. NO PARTNERSHIP OR AGENCY**

Nothing in this Licence is intended to or shall operate to create a partnership between the Parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

**20. THIRD PARTY RIGHTS**

This Licence does not confer any rights on any person or party (other than the parties to this Licence and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

**21. NOTICES**

- 21.1 Any notice required to be given under this Licence shall be in writing and shall be delivered:
- (a) by hand, or
  - (b) sent by pre-paid first-class post or recorded delivery post to the other party at its address set out in this Licence, or such other address as may have been notified by that party for such purposes, or
  - (c) sent by fax to the other party's fax number as may have been notified by that party for such purposes, or
  - (d) sent by email to the email address of the other party as may have been notified for such purposes.
- 21.2 A notice delivered
- (a) by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first business day following delivery).
  - (b) A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post.
  - (c) A notice sent by fax shall be deemed to have been received at the time of transmission (as shown by the timed printout obtained by the sender).
  - (d) A notice sent by email to the recipient's correct email address shall be deemed to be received at the time sent unless the contrary is proven.

**22. COUNTERPARTS**

This Licence may be executed in any number of counterparts and by the parties on separate counterparts, each of which when executed and delivered shall constitute an original of This Licence, but all the counterparts shall together constitute the same agreement. The

expression “counterpart” shall include any executed copy of This Licence transmitted by fax or scanned into printable PDF, JPEG, or other agreed digital format and transmitted as an e-mail attachment.

**23. GOVERNING LAW AND JURISDICTION**

- 23.1 This Licence and any disputes or claims arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) are governed by, and construed in accordance with, the law of England.
- 23.2 The parties irrevocably agree that the courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Licence or its subject matter or formation (including non-contractual disputes or claims).

**Schedule 1**  
**DATA PROCESSING PROVISIONS**

**1. DEFINITIONS**

- 1.1 “**controller**”, “**processor**”, “**personal data**”, “**personal data breach**”, “**data subject**”, and “**processing**” have the meanings given to these terms in the Data Protection Legislation.
- 1.2 Except as set out in this Schedule 1, defined terms used in this Schedule 1 shall have the meaning given to them in the Agreement.

**2. DATA SHARING**

- 2.1 Each of the Parties acknowledges and agrees that in order for TravelTime to provide the Licensee with the TravelTime Functionality as set out in this Agreement, it is necessary for Personal Data to be shared by the Licensee to TravelTime, and by TravelTime to the Licensee, in relation to business contact and invoicing data (“**Shared Data**”).
- 2.2 Access to the Shared Data is necessary to coordinate and invoice for the delivery of the TravelTime Functionality (the “**Agreed Purpose**”).
- 2.3 The Parties agree the Shared Data may only be used for the Agreed Purpose.
- 2.4 The Parties agree that each Party will be a separate and independent controller in relation to Shared Data that is processed by each Party respectively.

**3. WARRANTIES AND UNDERTAKINGS**

- 3.1 Each party warrants to the other that:
- (a) it has no reason to believe that it is prohibited from receiving, or that the Licensee is prohibited from sharing, the Shared Data in accordance with this Agreement;
  - (b) it will not process the Shared Data for any purposes other than the Agreed Purpose;
  - (c) it will at all times ensure that it processes the Shared Data in compliance with the Data Protection Legislation and provides all necessary notices to data subjects and procures all necessary consents, or satisfies another legal basis, for it to process the Shared Data in compliance with the Data Protection Legislation.

**4. OBLIGATIONS**

- 4.1 The parties will comply with the requirements of the Data Protection Legislation in respect of the activities involving Shared Data which are the subject of this Schedule 1 and will not knowingly do anything or permit anything to be done in respect of or in connection with any Shared Data which might lead to or cause a breach by either party of the Data Protection Legislation.
- 4.2 The parties will:
- (a) apply appropriate security mechanisms to the Shared Data to ensure its security in transit and at rest in accordance with the Data Protection Legislation.
  - (b) ensure that access to the Shared Data is limited to:
    - i. those representatives who need access to the Shared Data to meet the parties’ obligations under this Schedule 1 and who are bound by contractual or statutory confidentiality obligations in relation to the shared Data; and
    - ii. such part or parts of the Shared Data and to the extent and manner as is strictly necessary for performance of that representative’s duties pursuant to this Schedule 1;
  - (c) ensure it has in place:
    - i. processes and procedures to ensure that its representatives comply with appropriate procedures and guidelines in relation to the processing of Shared Data, and will ensure that all its representatives who have access to any Shared Data are aware of and have undertaken training in applicable laws relating to handling such Shared Data (including the Data Protection Legislation) and are bound by confidentiality obligations in relation to the Shared Data;
    - ii. measures and procedures to respond to requests by any data subject to exercise any data subject rights in relation to any Shared Data;
    - iii. measures and procedures to deal with a Data Breach in respect of any Shared Data including processes compliant with the requirements of the Data Protection Legislation; and
    - iv. data storage and retention policies and procedures for the Shared Data consistent with the Data Protection Legislation.
  - (d) only transfer Shared Data to an international organisation or any country (other than the UK) outside the European

Union if it has implemented appropriate safeguards as required by the Data Protection Legislation;

- (e) implement appropriate security mechanisms to the Shared Data to ensure its security at all times in accordance with the Data Protection Legislation;
- (f) provide to the other party such reasonable assistance as is necessary to enable that party to comply with any data subject rights exercised in relation to any Shared Data;
- (g) promptly notify the other party in writing of any complaint, request, notice or communication that party (or any of its processors) receives from any third party which relates to the processing of any Shared Data;
- (h) provide such co-operation to the other party as may be reasonably required, without undue delay and in any event within the timescales specified by that party, to enable them to comply with any request from a data subject or regulator or to complete any data protection impact assessment;
- (i) if it becomes aware that it (or any processors that are processing Shared Data) has suffered an actual or suspected personal data breach, notify the other party in writing within thirty-six hours of becoming aware of the same. Each Party shall provide all reasonable co-operation and information to the other party to assist them with handling any such personal data breach;
- (j) only appoint, replace or substitute any third party to process Shared Data on its behalf (each a “**processor**”) in accordance with obligations required by Article 28 GDPR;
- (k) except to the extent required for legal, regulatory or compliance purposes, cease to use and delete the Shared Data upon termination for any reason or expiry of the Agreement.