

ACTIVE TDM LMS SPECIFICATION
ROYALTY-FREE, PERPETUAL LICENSE AGREEMENT

This License Agreement, effective as of the date you click “Accept” (“Effective Date”), is a binding agreement between Kapsch TrafficCom IVHS Inc., a Delaware corporation, having an office at 8201 Greensboro Drive, Suite 1002, McLean, VA 22102 and its corporate affiliates (“Kapsch”), and the “Grantee”, which is the company that accepts this Agreement by clicking the “Accept” Button and provides his/her name, title, company name and address of the company.

This Agreement sets forth the terms under which Kapsch shall provide the Protocol, as defined below, to Grantees on an **open and royalty free basis in direct furtherance and support of national and industry-wide goals for Electronic Toll Collection open technology and interoperability**. By clicking the “Accept” Button, you: (i) represent that you are duly authorized by Grantee to enter into this Agreement; and (ii) accept the terms of this Agreement on behalf of Grantee. If Grantee does not agree to the terms of this Agreement, do not click the “Accept” Button and you will have no right to access or use the Protocol.

WHEREAS, Kapsch has developed an Active TDM LMS Specification (“Specification” as contained in Exhibit 1) that defines a Time Division Multiplex protocol (“Protocol”) and requirements for communication between transponders on moving vehicles and roadside reader equipment. The Protocol is used for intelligent transportation applications requiring high performance, location based identification of moving vehicles.

WHEREAS, Kapsch is the owner of all of the rights to the Protocol and hereby commits to and shall provide Grantees with the **open and royalty free rights** described herein to use the Protocol in perpetuity;

WHEREAS, Grantee desires to access and use the Protocol; and

NOW, THEREFORE, in consideration of the foregoing, the covenants set forth below, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Kapsch and Grantee hereby agree as follows:

1. Open License of Protocol.

1.1 Kapsch hereby grants to Grantee a perpetual, royalty free, fully paid-up, worldwide, nonexclusive right to use, publish, edit, modify, amend, supplement, improve, reproduce, distribute, and create, market and sell products in connection with and based on the Protocol.

1.2 Kapsch hereby grants to Grantee the right to sublicense the Protocol an unlimited number of times on the same basis as stated herein.

1.3 Each party hereto shall be the owner of any improvements, modifications, enhancements, upgrades or new versions of the Protocol, or derivative works relating thereto created by that party ("Amended Protocol"). The parties shall and hereby agrees to license and make available openly and on the same basis as this Agreement such Amended Protocol to any person or entity that indicates their consent to the same terms and conditions as described in this Agreement.

2. Ownership of the Protocol.

2.1 The parties agree and acknowledge that Kapsch is the owner of the Protocol.

3. Limitation on Liability.

3.1 Limitation on Liability. Kapsch makes no representation or warranty either express or implied with regard to the Protocol and hereby disclaims all such warranties, including reliability, suitability, accuracy, non-infringement, merchantability, fitness for a particular use or value. Grantee acknowledges that the right to use the Protocol is on an "as is" basis, that the Protocol may not have been fully tested, that the Protocol is not represented as complying with any state or federal regulations, laws or other requirements and that they may contain substantial defects. Any use of the Protocol is solely at Grantee's risk. It is understood and acknowledged by Grantee that problems may occur in connection with the application of the Protocol and Grantee shall have no claim against Kapsch in connection with any problems. In no event shall Kapsch's total liability under this agreement, whether in tort, contract or otherwise, exceed \$1,000 and in no event shall Kapsch be liable for any indirect, exemplary, incidental or consequential damages for any cause whatsoever, whether or not foreseeable.

4. Indemnification, Release and Covenant Not to Sue.

4.1 Grantee agrees to hold harmless, defend and forever release and discharge Kapsch, its directors, officers, employees, agents and representatives from and against any and all prosecutions, damages, losses, charges, claims, liabilities, actions and/or causes of action threatened or asserted against Kapsch or which could be asserted against Kapsch, proceedings, interest, penalties and reasonable costs and expenses (including, without limitation, reasonable attorneys' fees) (collectively, "Damages") imposed on, sustained, incurred or suffered by any of them relating to or arising out of or resulting from Grantee's possession, operation, control, or use of the Protocol.

4.2 Grantee hereby waives, releases and forever discharges Kapsch from any and all Damages which are directly or indirectly related to, caused by, or arise out of Grantee's use of the Protocol.

5. Miscellaneous.

5.1 Governing Law and Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of New York, without giving effect to principles of conflicts of laws.

5.2 Entire Agreement. This Agreement represents the entire agreement between the parties, and no modification hereof shall be effective unless contained in a writing executed by both parties.

5.3 Waiver. Waiver by either party of a breach of any provision hereof shall not be construed as a waiver of any subsequent breach thereof or of any other provision.

5.4 Other. The determination by a court of competent jurisdiction that any portion of this Agreement is invalid or unenforceable on any ground shall not affect the validity and enforceability of any other portion of this Agreement.

EXHIBIT 1

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