

Google Mutual Non-Disclosure Agreement

V032404C.2

This Mutual Non-Disclosure Agreement ("Agreement") is made and entered into between Google Inc., for itself and its subsidiaries and affiliates ("Google"), and "Participant" identified below, individually referred to as a "Party" and collectively referred to as the "Parties". The Parties wish to exchange Confidential Information (as defined below in Section 2) for the following purpose(s): reviewing immersive video visualization technologies and methods, for the purpose of applying immersive video environmental databases to existing or potential products, to the mutual benefit of both parties, for private and non-private business sector opportunities. Discussions may include the exploration of joint venture enterprise and investment opportunities.

the "Purpose"). The Parties have entered into this Agreement to protect the confidentiality of information in accordance with the following terms:

1. The Effective Date of this Agreement is March 31, 2006.
2. In connection with the Purpose, a Party may disclose certain information it considers confidential and/or proprietary ("Confidential Information") to the other Party including, but not limited to, tangible, intangible, visual, electronic, present, or future information such as: (a) trade secrets; (b) financial information, including pricing; (c) technical information, including research, development, procedures, algorithms, data, designs, and know-how; (d) business information, including operations, planning, marketing interests, and products; (e) the terms of any agreement entered into between the Parties and the discussions, negotiations and proposals related thereto; and (f) information acquired during an facilitated tour.
3. The Party receiving Confidential Information (a "Recipient") will only have a duty to protect Confidential Information disclosed to it by the other Party ("Discloser"): (a) if it is clearly and conspicuously marked as "confidential" or with a similar designation; (b) if it is identified by the Discloser as confidential and/or proprietary before, during, or promptly after presentation or communication; or (c) if it is disclosed in a manner in which the Discloser reasonably communicated, or the Recipient should reasonably have understood under the circumstances, including without limitation those described in Section 2 above, that the disclosure should be treated as confidential, whether or not the specific designation "confidential" or any similar designation is used.
4. A Recipient will use the Confidential Information only for the Purpose described above. A Recipient will use the same degree of care, but no less than a reasonable degree of care, as the Recipient uses with respect to its own information of a similar nature to protect the Confidential Information and to prevent (a) any use of Confidential Information in violation of this Agreement; and/or (b) communication of Confidential Information to any unauthorized third parties. Confidential Information may only be disseminated to employees, directors, agents or third party contractors of Recipient with a need to know and who have first signed an agreement with either of the Parties containing confidentiality provisions substantially similar to those set forth herein.
5. Each Party agrees that it shall not do the following, except with the advanced review and written approval of the other Party: (a) issue or release any articles, advertising, publicity or other matter relating to this Agreement (including the fact that a meeting or discussion has taken place between the Parties) or mentioning or implying the name of the other Party; or (b) make copies of documents containing Confidential Information.
6. This Agreement imposes no obligation upon a Recipient with respect to Confidential Information that: (a) was known to the Recipient before receipt from the Discloser; (b) is or becomes publicly available through no fault of the Recipient; (c) is rightfully received by the Recipient from a third party without a duty of confidentiality; (d) is independently developed by the Recipient without a breach of this Agreement; (e) is disclosed by the

Recipient with the Discloser's prior written approval; or (f) is required to be disclosed by operation of law, court order or other governmental demand ("Process"); provided that (i) the Recipient shall immediately notify the Discloser of such Process; and (ii) the Recipient shall not produce or disclose Confidential Information in response to the Process unless the Discloser has: (a) requested protection from the legal or governmental authority requiring the Process and such request has been denied, (b) consented in writing to the production or disclosure of the Confidential Information in response to the Process, or (c) taken no action to protect its interest in the Confidential Information within 14 business days after receipt of notice from the Recipient of its obligation to produce or disclose Confidential Information in response to the Process.

7. EACH DISCLOSER WARRANTS THAT IT HAS THE RIGHT TO DISCLOSE ITS CONFIDENTIAL INFORMATION. NO OTHER WARRANTIES ARE MADE. ALL CONFIDENTIAL INFORMATION DISCLOSED HEREUNDER IS PROVIDED "AS IS".

8. This Agreement shall remain in effect until it is terminated by either Party with thirty (30) days prior written notice. Notwithstanding the foregoing, this Agreement shall survive with respect to Confidential Information that is disclosed before the effective date of termination.

9. Unless the Parties otherwise agree in writing, a Recipient's duty to protect Confidential Information expires five (5) years from the date of disclosure. A Recipient, upon Discloser's written request, will promptly return all Confidential Information received from the Discloser, together with all copies, or certify in writing that all such Confidential Information and copies thereof have been destroyed. Regardless of whether the Confidential Information is returned or destroyed, the Recipient may retain an archival copy of the Discloser's Confidential Information in the possession of outside counsel of its own choosing for use solely in the event a dispute arises hereunder and only in connection with such dispute.

10. This Agreement imposes no obligation on a Party to exchange Confidential Information, proceed with any business opportunity, or purchase, sell, license, transfer or otherwise make use of any technology, services or products.

11. No Party acquires any intellectual property rights under this Agreement (including, but not limited to, patent, copyright, and trademark rights) except the limited rights necessary to carry out the Purpose as set forth in this Agreement.

12. Each Party acknowledges that damages for improper disclosure of Confidential Information may be irreparable; therefore, the injured Party is entitled to seek equitable relief, including injunction and preliminary injunction, in addition to all other remedies available to it.

13. This Agreement does not create any agency or partnership relationship. This Agreement will not be assignable or transferable by Participant without the prior written consent of Google.

14. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the agreement when a duly authorized representative of each party has signed the counterpart.

15. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes any prior oral or written agreements, and all contemporaneous oral communications. All additions or modifications to this Agreement must be made in writing and must be signed by the Parties. Any failure to enforce a provision of this Agreement shall not constitute a waiver thereof or of any other provision.

16. This Agreement shall be governed by the laws of the State of California, without reference to conflict of laws principles. The exclusive venue for any dispute relating to this Agreement shall be in the state or federal courts within Santa Clara County, California.

Google Inc.

By:


DeAnna Puppedis

Name:

DeAnna Puppedis

Title:

Contracts Adminstrator

Address:

1600 Amphitheatre Parkway, Mountain View, CA 94043

Date:

12/07/06

Participant: Immersive Media Corp.

By:


Myles M. McGovern

Name:

Myles M. McGovern

Title:

President & CEO

Address:

Suite 300, 513 - 8th Ave. SW, Calgary, Alberta T2P 1G3

Date:

3/31/06



CONTENT LICENSE AGREEMENT
(Immersive Media Company to Google Inc.)

This Content License Agreement (the "Agreement") is entered into by and between Google Inc. with an address at 1600 Amphitheatre Parkway, Mountain View, California, 94043 ("Google") and Immersive Media Company., a corporation formed under the laws of Oregon, with an address at 2407 SE 10th Avenue Portland, Oregon, 97214 ("Licensor"). This Agreement is effective as of December 15, 2005 (the "Effective Date").

1 DEFINED TERMS.

The following capitalized terms will have the meanings set forth below.

1.1 "Acceptance Date" means the date Google first accepts any Immersive Imagery Data, which in no event shall be later than June 15, 2007.

1.2 "Accepted Data" means Immersive Imagery Data which Google has irrevocably accepted in accordance with Section 3 of Exhibit A herein.

1.3 "Affiliate" means with respect to either Party, any entity that directly or indirectly controls, is controlled by, or is under common control with that Party. For these purposes, "control" includes control over greater than 50% of the voting rights or equity interests of a Party.

1.4 "Arterial Road" means (a) within an urban area, a major highway or roadway that no buildings or structures are directly accessible from except by exiting through off ramps onto other streets; (b) highways or roadways in rural areas (i.e. not within a legally designated municipal city or town).

1.5 "Blanket Exclusivity Period" means the period from the Effective Date until the earlier of (a) 18 months from the Acceptance Date; or (b) December 15, 2008.

1.6 "End Users" means end users who access or use the Google Services.

1.7 "Existing Library" means the imagery data already collected and processed by Licensor prior to the Effective Date as listed in Table 1 of Exhibit A.

1.8 "Exclusivity Period" means the earlier of (a) 3-years from the Acceptance Date (or 4-years from the Acceptance Date if Google pays 1 Extension Fee to Licensor or 5-years from the Acceptance Date if Google pays 2 Extension Fees to Licensor), or (b) June 15, 2010 (or June 15 2011 if Google pays 1 Extension Fee and June 15, 2012 if Google pays 2 Extension Fees) and shall apply to all Licensed Content. The Exclusivity Period shall survive any termination of the Agreement that occurs prior to the end of the Exclusivity Period.

1.9 "Extension Fee" has the meaning attributed to it in Section 2.2(b).

1.10 "Google Services" means Google's products and services that are accessible through and otherwise provided by various computer and electronic technologies, networks (syndicated and otherwise) and systems, including, without limitation, mobile wireless services and Internet-based services and products accessible through the Google Sites and any Google syndication partner sites.

1.11 "Google Site" means any website located at a domain owned by Google or a Google Affiliate, including all subdomains and directories thereof, and all successor sites thereto.

1.12 "Government Applications" means the use of Immersive Imagery Data by any governmental body or agency. Notwithstanding Section 1.21, Government Applications shall include publicly available online display of imagery.

1.13 "Immersive Imagery Data" shall have the meaning indicated in Section 1(a) of Exhibit A.

1.14 "Internal Business Applications" means the use of Immersive Imagery Data by any business or person for use by its own employees and contracted service providers (i.e. internal use only) where the imagery or data is not relicensed to other third parties and is not posted on web pages available to the public (private internal only intranets are permitted).

1.15 "License Fees" means the fees provided for in Exhibit B.

1.16 "Licensed Content" means all Accepted Data which Google has paid Licensor for in accordance with this Agreement (and for which Google has not received a refund).

1.17 "Metro" means the core city and any surrounding cities of interest within 60 miles of the core city.

1.18 "Party" means a party to this Agreement.

1.19 "Private Domain Applications" means the use of Immersive Imagery Data of privately owned terrain, buildings (interior or exterior) and other structures or geographic locations ("Private Locations") by the owner or occupier of the Private Locations solely for display on the owner or occupier's own website.

1.20 "Prohibited Company" means Microsoft, MSN and all Microsoft properties, Yahoo and all Yahoo properties, MapQuest, AOL and all AOL properties, Amazon.com/A9, Ask.com and all Ask.com properties, Mappy.com, Map24, MapoRama, MultiMap, Skyline Software Systems, Inc., NASA World Wind, GeoPortal.ln, Blom ASA, Pictometry, DigitalGlobe, ESRI, GlobeXplorer NAVTEQ, TeleAtlas, AND, Telcontar (DeCarta), Autodesk Inc., Kivera, MapInfo, Maptuit Corp., Nebraska Mobile Technologies, GeoEye, SpotImage, InfoTerra, e-Globe, IGN, any websites providing business listings or online yellow pages, and their respective Affiliates, joint ventures, successors-in-interest or assigns. Google reserves the right to amend this list at any time upon written notice to Licensor.

1.21 "Prohibited Use" means Web Mapping Businesses and any publicly available online display of Immersive Imagery Data or any other Licensor street-level imagery (whether or not geo-referenced), collectively; provided however that use of Immersive Imagery Data for non-georeferenced publicly available online display for Private Domain Applications, and publicly available online display for Government Applications (in accordance with Section 2.2(a) below) shall not be considered Prohibited Uses.

1.22 "Web Mapping Businesses" means providing Immersive Imagery Data or geo-referenced data services (i.e. information concerning particular locations based on collected imagery) to end users online directly through the internet (i.e. for review through computer web browser programs, downloadable applications, or through mobile devices such as personal data assistants or cell phones) for any use including the production and distribution of maps, driving directions, inclusion of imagery in business listings, inclusion of Imagery in yellow pages



advertising, whether in a free consumer product or for a subscription fee.

2 LICENSED CONTENT

2.1 License. Subject to all the terms and conditions of this Agreement, Licensor hereby grants to Google a perpetual, worldwide license to (i) use, copy, distribute, create derivative works based on and perform and display (publicly or otherwise) the Licensed Content through the Google Services; and (ii) allow End Users to access and use the Licensed Content through the Google Services. Notwithstanding the foregoing, Google may not resell the Licensed Content. Google may use consultants and other contractors in connection with the performance of obligations and exercise of rights under this Agreement, provided that such consultants and contractors will be subject to the same obligations as Google. The license granted hereunder may not be sublicensed by Google, except to Google's Affiliates, Google's syndication partners and the syndication partners of any Google Affiliate and to End Users in connection with their use of the Google Services. Any display of the Licensed Content by Google shall include the copyright notice "© 20 Immersive Media" and will be determined at Google's discretion, provided that the copyright notice will at all times be displayed either in the blind-spot of the image (the position from which images are captured on the top of a car or person) or on/adjacent to the image; provided that in the case of display through mobile devices, Google shall provide the same form of attribution and notice that it provides to other similarly situated licensors.

2.2 Exclusivity Periods.

(a) **Exclusivity Period Conditions.** During the Blanket Exclusivity Period, Licensor shall not license any Immersive Imagery Data (whether accepted or rejected by Google), or any other Licensor street-level imagery (whether or not geo-referenced) to any Prohibited Company or any other 3rd party for any Prohibited Use. During the Exclusivity Period, Licensor shall not license any Licensed Content to any Prohibited Company or any other 3rd party for any Prohibited Use. Notwithstanding the foregoing, Licensor may at any time license Immersive Imagery Data and Licensed Content for Government Applications, Internal Business Applications, and Private Domain Applications in accordance with the conditions indicated below. Licensor shall require that all licenses for Government Applications (i) restrict the licensee from providing Immersive Imagery Data or Licensed Content publicly for any use other than viewing; (ii) prohibit licensee from making the Immersive Imagery Data or Licensed Content part of the public domain, or from allowing it to become part of the public domain; (iii) prohibit licensee from allowing Immersive Imagery Data or Licensed Content to be downloaded. Licensor shall submit a report substantially in the format indicated in Exhibit A Section 6 to Google in the event Licensor licenses imagery for more than two (2) Metros to the same Government Application licensee; provided that Licensor shall not be required to disclose the name of the Government Application licensee if it is contractually or legally prohibited from doing so. In the event Licensor wishes to license Immersive Imagery Data to a Private Domain Application licensee during the Blanket Exclusivity Period or Exclusivity Period, Licensor shall so inform Google, and Google shall have a ten (10) business day right of first refusal to either accept such Immersive Imagery Data (such Immersive Imagery Data subsequently becoming Licensed Content), or reject such Immersive Imagery Data. If Google rejects such Immersive Imagery Data, Licensor may license such rejected Immersive Imagery Data for a Private Domain Application. In the event Immersive Imagery Data licensed for a Private Domain Application is displayed by the licensee with a map, such map must be static (i.e., no interactive maps with

panning and zooming functionalities or maps that include nearby business listings). For avoidance of doubt, Immersive Imagery Data of a Private Location may be licensed only to the owner/occupier of the applicable Private Location only for a Private Domain Application. Notwithstanding the foregoing, Google shall not have a right of first refusal for Private Domain Applications where the Licensor's imagery is only of the interior of a privately owned building, or for Private Domain Applications where the Licensor's imagery is used for non-georeferenced publicly available online display. During the Blanket Exclusivity Period and Exclusivity Period, Google shall have the right to accept any Immersive Imagery Data which Google previously rejected.

- (b) **Extension of Exclusivity Period.** Google may, at its sole discretion, extend The Exclusivity Period over all Licensed Content for two (2) additional 1 year periods by providing written notice to Licensor at least thirty (30) days prior to the end of the current Exclusivity Period of its desire to extend and paying an additional fee to Licensor of \$500,000 ("Extension Fee") for each one-year extension. The Extension Fee shall be invoiced to Google no more than thirty (30) days prior to the end of the then-current Exclusivity Period.
- (c) **End of Exclusivity Period.** After the end of the Exclusivity Period (including any extensions, if applicable), all Immersive Imagery Data (including Licensed Content) may be licensed by Licensor to other third parties for any purpose without restriction. However, Google's license over any Licensed Content shall continue in perpetuity (on a non-exclusive basis). After the end of the Exclusivity Period, Google shall not be obligated to accept any Immersive Imagery Data and Licensor shall not be obligated to provide any Immersive Imagery Data.
- (d) **Right of First Refusal.** After the end of the Blanket Exclusivity Period while the Exclusivity Period continues, prior to licensing any Immersive Imagery Data which Google previously rejected or which was not completed during the Blanket Exclusivity Period to any third party for any purpose except Government and Internal Business Applications, Licensor shall first notify Google of Licensor's intent, and Google shall have 60 days from receipt of such notice to exercise a right of first refusal to accept such Immersive Imagery Data (such Immersive Imagery Data subsequently becoming Licensed Content).
- (e) **Breach of Exclusivity Provisions.** In the event of Licensor's breach of the exclusivity provisions in this Section 2.2 or 2.3, Licensor shall have 30 days from Google's delivery of notice of breach to cure ("Cure Period"). During the Cure Period, Google shall withhold any payments pending or due to Licensor until the breach is cured. Beginning from the first day after the end of the Cure Period, all payments due for Accepted Data, regardless of when the Accepted Data was delivered (e.g., prior to the breach, during the Cure Period, or after the Cure Period) shall be reduced by 5% per week (but not reducing to less than 25%) until Licensor cures the breach. For example, if Google owes \$1000 for NYC and Licensor has failed to cure an exclusivity breach during the Cure Period, Google would owe \$50 less for NYC for each week that passes from the end of the Cure Period until the exclusivity breach is cured, provided that in no event would Google owe less than \$250 for NYC regardless of how long the breach remains uncured.
- (f) **Reservation of Licensor Rights.** Except for the license granted hereunder for Licensed Content, Licensor retains all right, title and interest in and to the Immersive Imagery Data, provided that Google shall have the right to use Accepted Data in accordance with this Agreement from the date of acceptance.



2.4 Reservation of Google Rights. Notwithstanding anything to the contrary, Licensor understands and agrees that nothing in this Agreement will prevent or restrict Google from using data Google obtains from a source other than Licensor. Licensor acknowledges and agrees that Licensor will not have any right, title or interest in any other information, content, or data used by Google in conjunction or association with the Licensed Content, and Licensor shall not make any claim of ownership or interest in any such other information, content, or data. Google and/or its licensors retain all right, title and interest in and to the Google Services, the Google Sites and all content or data forming part of or displayed as part of or through the Google Services or Google Sites other than the Licensed Content.

2.5 Third Party Relations. Licensor shall be responsible for accepting and responding to any modification or removal requests initiated by a party that is listed in or otherwise has rights in the Licensed Content where such communication arises out of having its information on the Google Services and pertains to Licensor's Content.

2.6 Display. The rights granted to Google herein include the right to display the Licensed Content on Google Sites and Google syndication partner sites, all as determined by Google in its sole discretion; provided that, notwithstanding anything to the contrary, nothing in this Agreement obligates Google to make available to End Users any or all of the Licensed Content. Google will have the sole right to determine the placement and location of the selected Licensed Content through the Google Services. For the sake of clarity, each Party retains sole discretion with respect to the look-and-feel, display and operation of its respective services and websites.

2.7 Payment. Google shall pay to Licensor the License Fees and other amounts identified in Exhibit B.

3 DELIVERY, REVIEW AND ACCEPTANCE OF DATA

3.1 Deliveries; Access. During the Term, Licensor shall deliver all Immersive Imagery Data to Google in accordance with Exhibit A, Section 5. Without limiting the foregoing, any delivery mechanism will enable Google to securely and efficiently access and download all such Immersive Imagery Data.

3.2 Equivalent Access to New Data. During the Term, Licensor shall make new Immersive Imagery Data available to Google no later than Licensor makes the same data available to any other customer of Licensor.

3.3 Google Has No Obligation to Accept. Google has no obligation to accept any Immersive Imagery Data delivered to Google and may reject any Immersive Imagery Data in Google's discretion.

4 WARRANTIES AND DISCLAIMER

Each Party represents and warrants that it has full power and authority to enter into the Agreement. Licensor represents and warrants that: (a) the Licensed Content does not violate any applicable law or infringe any third party trademark or copyright or misappropriate any trade secret or violate any right of privacy or right of publicity or other proprietary right of any person; (b) Licensor has obtained and will maintain throughout the Term all rights, authorizations and licenses, if any, that are required in order for it to grant the rights and licenses granted hereunder and for Google to use the Licensed Content as permitted herein; and (c) the Licensed Content provided to Google will not contain any viruses, worms, Trojan horses or other similar harmful components. Except as expressly provided for herein, NEITHER PARTY MAKES ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE.

INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NON-INFRINGEMENT.

5 INDEMNIFICATION

Licensor will indemnify, defend, or at its option settle, any third party lawsuit or proceeding brought against Google, its Affiliates or syndication partners, and any of their respective officers, directors, employees and agents, based upon or otherwise arising out of: (1) a claim alleging facts that would constitute a breach of Licensor's warranties in Section 4, and (2) Google's use of any Licensed Content, provided that such use complies with the requirements of the Agreement. Google will: (i) promptly notify Licensor of such claim, (ii) provide Licensor with reasonable information, assistance and cooperation in defending the lawsuit or proceeding, and (iii) give Licensor full control and sole authority over the defense and settlement of such claim, subject to Google's approval of any such settlement, which approval will not be unreasonably withheld or delayed.

6 LIMITATION OF LIABILITY

EXCEPT FOR (I) LICENSOR'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 5, AND (II) BREACHES OF CONFIDENTIALITY UNDER SECTION 7, (A) NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOST DATA, LOST PROFITS, LOST REVENUE OR COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, INCLUDING BUT NOT LIMITED TO CONTRACT OR TORT (INCLUDING PRODUCTS LIABILITY, STRICT LIABILITY AND NEGLIGENCE), AND WHETHER OR NOT SUCH PARTY WAS OR SHOULD HAVE BEEN AWARE OR ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY STATED HEREIN, AND (B) IN NO EVENT SHALL EITHER PARTY'S LIABILITY FOR ANY CLAIM ARISING OUT OF THIS AGREEMENT EXCEED THE AMOUNT OF FEES PAID AND/OR DUE UNDER THIS AGREEMENT. The parties agree that (i) the mutual agreements made in this Section reflect a reasonable allocation of risk, and (ii) that each Party would not enter into the Agreement without these limitations on liability.

7 CONFIDENTIALITY

Disclosure of confidential and/or proprietary information disclosed hereunder, including the existence and content of the Agreement and any information provided pursuant to the Agreement, will be governed by the confidentiality provisions of the Google Standard Mutual Non-Disclosure Agreement, which has been executed by the Parties prior to or concurrently with this Agreement, (the "NDA"). The confidentiality provisions of the NDA are hereby incorporated by reference into this Agreement. Neither Party will issue any public announcement regarding the existence or content of this Agreement without the other party's prior written approval.

Notwithstanding the foregoing, Google may include the Licensor's marks, names and logos in presentations, marketing materials, and customer lists (which includes, without limitation, customer lists posted on Google's websites and screen shots of the Services). Upon Licensor's request, Google will furnish Licensor with a sample of such usage.

Notwithstanding the NDA, Google agrees that, if disclosure is required to be made under securities laws applicable to Immersive Media Corp., Licensor may, only to the extent required by such laws, disclose the existence of this Agreement and file a copy of this Agreement; provided that prior to any such disclosure or filing,



Licensor obtains Google's approval of the proposed disclosure or filing, such approval not to be unreasonably withheld.

8 TERM AND TERMINATION

8.1 Term. This Agreement will commence on the Effective Date and continue until terminated in accordance with Section 8.2 of this Agreement ("Term").

8.2 Termination. This Agreement may be terminated as follows:

- (a) by either Party immediately upon written notice to the other Party if the other Party files a petition for bankruptcy, becomes insolvent, or makes an assignment for the benefit of its creditors, or a receiver is appointed for the other Party or its business;
- (b) by Google for convenience at any time after July 1, 2007 upon 90 days prior written notice to Licensor;
- (c) by Google immediately upon written notice to Licensor in the event Licensor breaches its representations and warranties in Section 4 of this Agreement;
- (d) by either party immediately upon written notice in the event of material breach of this Agreement which breach has not been cured within thirty (30) days of delivery of written notice of breach by the non-breaching party.

8.3 Effects of Termination.

Upon the expiration or termination of this Agreement for any reason, Google's rights under Section 2.1 of this Agreement to use and allow access to all Accepted Data provided by Licensor up to the date of termination shall survive in perpetuity, provided that Licensor shall no longer be obligated to provide Updates to Immersive Imagery Data after termination except as provided herein. In the event Google rejects Immersive Imagery Data prior to termination but its requested modifications are not completed prior to termination, upon Google's request, Licensor shall deliver modified Immersive Imagery Data to Google after termination, and Licensor shall invoice Google after termination for any such Immersive Imagery Data accepted by Google after termination for the same License Fees as indicated in this Agreement. Any Immersive Imagery Data accepted and paid for by Google after termination shall be deemed Immersive Imagery Data governed by this Agreement as if it were accepted prior to termination. Sections 1, 2, and 4 through 9 will survive any termination or expiration of this Agreement. For the sake of clarity, nothing in this Agreement prohibits Google from using any data, information or other facts contained in the Immersive Imagery Data that has been independently verified.

9 MISCELLANEOUS

Each Party will comply with all laws, rules and regulations, if any, applicable to it in connection with the performance of its obligations under the Agreement.

All notices will be in English and in writing and (a) if sent to Licensor, to the address identified above and (b) if sent to Google, to: Google Inc., Attn: Legal Department, 1600 Amphitheatre Parkway, Mountain View, CA 94043. Notice will be deemed given (i) upon receipt when delivered personally, (ii) upon written verification of receipt from overnight courier, (iii) upon verification of receipt of registered or certified mail or (iv) upon verification of receipt via facsimile, provided that such notice is also sent simultaneously via first class mail.

During the Term of this Agreement, Licensor will not assign or otherwise transfer its rights or delegate its obligations under the Agreement, in whole or in part, without the prior written consent of Google; provided, however, that up to December 31, 2007,

Licensor may assign this Agreement in connection with any merger, consolidation, or sale of all or substantially all of Licensor's assets upon Google's prior written consent, such consent not to be unreasonably withheld or delayed, provided that the third party entity involved in such merger, consolidation, or sale of assets is not a Prohibited Company or a company providing online search, online mapping, or online business listings competitive to Google. After December 31, 2007, Licensor may, upon 30 days prior written notice to Google, assign this Agreement in connection with any merger, consolidation, or sale of all or substantially all of Licensor's assets without Google's prior written consent, provided that the third party entity involved in such merger, consolidation, or sale of assets is not a Prohibited Company or a company providing online search, online mapping, or online business listings competitive to Google. Notwithstanding the foregoing, after June 15, 2010 (or June 15, 2011 if Google pays 1 Extension Fee and June 15, 2012 if Google pays 2 Extension Fees), Licensor may, upon 30 days prior written notice to Google, assign this Agreement in connection with any merger, consolidation, or sale of all or substantially all of Licensor's assets without Google's prior written consent. Any attempt to assign this Agreement other than in accordance with this provision shall be null and void. Any assignment or other transfer of rights or delegation by Licensor, other than an assignment in connection with any merger, consolidation or sale of all or substantially all of Licensor's assets, shall not operate to relieve Licensor of its responsibilities under this Agreement. Licensor will require its assignees, transferees, or delegates to agree, in writing, to the terms and conditions of this Agreement. Subject to the foregoing, this Agreement will be binding upon, enforceable by, and inure to the benefit of the parties and their respective successors and assigns.

This Agreement and any claim or dispute of whatever nature arising out of or relating to this Agreement will be governed by and construed in accordance with the laws of the State of California and applicable federal U.S. laws, without giving effect to any choice of law principles that would require the application of the laws of a different state. Each Party agrees to submit to the personal and exclusive jurisdiction of the courts located in Santa Clara County, California.

The parties specifically exclude from application to the Agreement the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act.

Except for the NDA, the Agreement supersedes any other prior or collateral agreements, whether oral or written, with respect to the subject matter hereof.

Any amendments or modifications to the Agreement must (i) be in writing; (ii) refer to the Agreement; and (iii) be executed by an authorized representative of each Party.

The failure to require performance of any provision will not affect a Party's right to require performance at any time thereafter; nor will waiver of a breach of any provision constitute a waiver of the provision itself.

If any provision is adjudged by a court of competent jurisdiction to be unenforceable, invalid or otherwise contrary to law, such provision will be interpreted so as to best accomplish its intended objectives and the remaining provisions will remain in full force and effect.

The parties hereto are and will remain independent contractors and nothing herein will be deemed to create any agency, partnership, or joint venture relationship between the parties. Neither Party will be deemed to be an employee or legal representative of the other nor will either Party have any right or authority to create any obligation on behalf of the other Party.



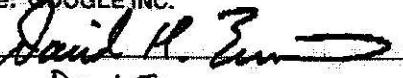
Neither Party will be liable for failing or delaying performance of its obligations (except for the payment of money) resulting from any condition beyond its reasonable control, including but not limited to, governmental action, acts of terrorism, earthquake, fire, flood or other acts of God, labor conditions, power failures, and Internet disturbances.

The Agreement is not intended to benefit, nor will it be deemed to give rise to, any rights in any third party.

IN WITNESS WHEREOF, the parties have executed this Agreement by persons duly authorized as of the Effective Date.

Licensee: GOOGLE INC.

By:



Print Name: David Eun

Title: Vice President Content Partnerships

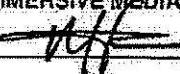
Date: December 19, 2006

The Agreement will be binding on and inure to the benefit of each of the parties and their respective successors and permitted assigns.

This Agreement may be executed in counterparts, including facsimile counterparts, each of which will be deemed an original and all of which when taken together will constitute one and the same instrument.

Licensor: IMMERSIVE MEDIA COMPANY

By:



Print Name: Myles M. McGovern

Title: President & C.E.O.

Date:

12/19/06

By execution of this agreement, Immersive Media Corp. (a corporation incorporated under the Business Corporations Act (Alberta) and listed on the TSX Venture Exchange), which is the 100% parent corporation and affiliate of Immersive Media Company hereby guarantees all of the obligations of Immersive Media Company under this Agreement.

Guarantor: IMMERSIVE MEDIA CORP.

By:



Print Name: Myles M. McGovern

Title: President & C.E.O.

Date:

12/19/06



EXHIBIT A

IMMERSIVE IMAGERY DATA

1. IMMERSIVE IMAGERY DATA

- (a) The Immersive Imagery Data shall be comprised of: (i) all street-level geo-referenced imagery created by Licensor for the Metros indicated in the Metro List below during the Term; (ii) the Existing Library; and (iii) any other street-level geo-referenced imagery of Metros, points of interest, terrain, or exteriors of buildings and other structures created by Licensor during the Term, regardless of whether such imagery is collected via a camera attached to an automobile or to an apparatus connected to a person. At Google's request, Licensor shall use commercially reasonable efforts to revise its schedule for collection of Immersive Imagery Data. Immersive Imagery Data shall be at least as current as the corresponding imagery data that Licensor delivers to any of its other customers. In the event Licensor fails to deliver Immersive Imagery Data within thirty (30) days after its scheduled delivery date, Google shall be entitled to cancel its order for such Immersive Imagery Data, and Google shall not be invoiced for such Immersive Imagery Data.
- (b) Licensor shall provide the following Immersive Imagery Data to Google within fifteen (15) days after the Effective Date: (a) Complete imagery for Denver, Orlando, Tampa, NYC and Las Vegas; and (b) the Existing Library (collectively, the "Initial Delivery"). Google shall not be charged for imagery of Arterial Roads in the Existing Library. Google will have until June 15, 2007 to accept or reject the Initial Delivery in accordance with the acceptance process described in Section 3 below. When Licensor revisits the 24 Metros in the Existing Library to gather complete Immersive Imagery Data for the Metro, Licensor shall be required to recollect Immersive Imagery Data for the portions of the Metro for which it previously delivered sample imagery to Google under this section, and Licensor shall credit Google \$160 for each mile of Existing Library Immersive Imagery Data it accepted for a Metro towards any License Fees due for the completed Metro. In the event that, for any Metro listed below in Table 1, by June 15, 2007 (i) Licensor has not redriven, or is not in the process of driving, the Metro to complete collection of Immersive Imagery Data; or (ii) Google elects not to make Immersive Imagery Data available to End Users for the Metro, Licensor shall credit License Fees paid for the Existing Library Immersive Imagery Data for such Metro towards future License Fees.
- (c) Beginning calendar Q3 2007, provided that Licensor delivers no less than 1500 miles of Immersive Imagery Data that meets the specifications in Section 4 below per calendar quarter, Google shall accept and pay for no less than 1500 miles of Immersive Imagery Data per calendar quarter during the Exclusivity Period until Google accepts a total of 25,000 miles. During the Term, provided that Licensor delivers during the Exclusivity Period 25,000 miles of Immersive Imagery Data to Google that meets the specifications in Section 4 below, Google shall accept and pay for 25,000 miles of Immersive Imagery Data during the Exclusivity Period (provided that some of these miles may be accepted after termination of the Agreement in accordance with Section 8.3 of the Agreement). Google may, at its sole discretion, accept more than 25,000 miles during the Exclusivity Period. For avoidance of doubt, although the Exclusivity Period shall survive any termination of the Agreement that occurs prior to the end of the Exclusivity Period, Google shall not be obligated to accept any Immersive Imagery Data, and Licensor shall not be obligated to provide any Immersive Imagery Data, after termination of this Agreement.

Table 1. Existing Library

City	Combined Route Length Including Arteries (in Miles)	Combined Route Length Downtown Core (in Miles)	Date of Collect
Atlanta	138	97	Oct-05
Austin	321	102	Oct-05
Baltimore	117	132	Sep-05
Boston	68	68	Sep-05
Chicago	211	67	Aug-05
Dallas	581	136	Nov-05
Denver	308	121	
Detroit	232	56	Aug-05
Houston	299	174	Nov-05
Las Vegas	598	143	Nov-05
Los Angeles	690	233	Jan-06

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Louisiana	416	0	
Nashville	252	11	Oct-05
New York	194	112	Sep-05
Orlando	417	0	Oct-05
Philadelphia	97	66	Sep-05
Phoenix	726	57	Nov-05
Portland	60	57	
San Antonio	117	12	Nov-05
San Diego	339	146	Jan-06
San Francisco	500	111	Feb-06
San Jose	28	23	Feb-06
Seattle	83	65	Aug-05
Wash DC	215	101	
Total mileage	7007	2090	

(d) Metro List. Licensor shall deliver Immersive Imagery Data to Google for at least the Tier 1 and Tier 2 Metros indicated in the Metro List below. The drive schedule in the Metro List may be amended upon mutual agreement of the parties from time to time based on weather conditions, government restrictions or other variables. Amendments may be made to the Metro List upon mutual agreement of the parties via e-mail or other means as agreed upon by the parties from time to time.

Table 2. Metro List

Metro Area	Qtr Driving	Qtr for Update Drive	Tiers
Albuquerque			3
Atlanta	2007q1	2008 q1	1
Austin	Sample available; Full Covg = ?		3
Baltimore	Sample available; Full Covg = ?		3
Boston	2007q2	2008 q3	1
Calgary	2006 q3		3
Charlotte			3
Chicago	2007q2	2008 q2	1
Cleveland – Akron	2007q2		2
Columbus OH			3
Dallas – Fort Worth	2007 q1	2008 q1	1
Denver	2006 q4 (downtown cores)		2
Detroit	2007q2		2
Houston	2006 q4 / 2007 q1		2
Indianapolis			3
Kansas City MO			3
LA	2007 q1 / q2	2008 q1	1
Las Vegas	2006 q4	2008 q1	1
Miami	2006 q4 / 2007 q1		2
Minneapolis			3
Milwaukee			3
Montreal/Quebec City			3



Nashville	Sample available; Full Covg = ?		3
NYC	2006 q3	2007 q3	1
Orlando	2006 q3		2
Ottawa	2006 q3		3
Philadelphia	2007q2	2008 q3	1
Phoenix	2007 q1 / q2		2
Pittsburgh			3
Portland			3
Raleigh - Durham			3
San Antonio	Sample available; Full Covg = ?		3
San Diego	2007 q1 / q2		2
Seattle / Tacoma	2007q2		2
SF / Oakland / San Jose	2007 q1 / q2	2008 q1	1
St. Louis MO			3
Tampa / St. Petersburg	2006 q3		2
Toronto	2006 q4		3
Vancouver	2006 q4		3
Washington D.C.	2007q2	2008 q3	1

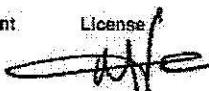
(e) **Updates.** Google may, at its sole discretion, require that Licensor perform Update drives in the quarters indicated in the Metro List above to collect Updates for previously accepted Immersive Imagery Data. Google may require Licensor to reasonably adjust the scheduling for such Update drives. Google shall notify Licensor of its desire to have Licensor perform any Update drive at least sixty (60) days prior to the earlier of the scheduled or desired date for such Update drive. Updates shall be considered Immersive Imagery Data subject to the acceptance process indicated in Section 3 below, and Google shall pay License Fees for accepted Updates in accordance with Exhibit B. In the event additional Metros are added to the Metro List, Google may decide in its sole discretion when an Update drive should be performed by Licensor for such Metros, but in no event shall Licensor be required to perform an Update drive for a Metro less than 12 months from when the first drive was performed for such Metro.

2. SHAPEFILE APPROVAL PROCESS

Prior to acquiring Immersive Imagery Data for any Metro (except for Metros that have already been acquired), Licensor shall provide Google with a shapefile describing the coverage areas of the Metro. Google shall have ten (10) business days from receipt of the proposed shapefile to indicate whether such shapefile is acceptable, or requires modification. If Google fails to indicate acceptance or rejection within the ten (10) business day period, the shapefile shall be deemed approved by Google. If the shapefile requires modification, Licensor shall deliver the modified shapefile to Google for approval within five (5) business days of Google's request for modification. Google shall approve or reject the modified shapefile within five (5) business days of receiving such modified shapefile from Licensor. If Licensor rejects the modified shapefile, the approval process described above shall be repeated until Google accepts the shapefile.

3. IMMERSIVE IMAGERY DATA ACCEPTANCE PROCESS

(a) **Acceptance Process.** Google will have 90 days from delivery of Immersive Imagery Data (or until June 15, 2007 in the case of the Initial Delivery) to accept or reject the Immersive Imagery Data ("First Acceptance Period"). In the event Immersive Imagery Data for a given Metro is delivered in separate stages, the First Acceptance Period shall begin from the delivery of the last portion of the Immersive Imagery Data for the Metro. Google will reject frames that do not meet the specifications in Section 4 below by rejecting the entire mile associated with the unacceptable frames. If Google rejects any mile of the Immersive Imagery Data, Google shall inform Licensor of its reasons for rejection, and the parties shall agree on necessary corrections. Licensor shall modify the rejected mile of the Immersive Imagery Data so that it conforms with the specifications in Exhibit A within thirty (30) days of Google's notice of rejection, and redeliver the modified Immersive Imagery Data to Google. Google shall then have an additional inspection period of (90 days [180 days for the Initial Delivery]) x (the percentage of Immersive Imagery Data that is rejected) from delivery of the modified Immersive Imagery Data in which to accept or reject the modified Immersive Imagery Data ("Second Acceptance Period"). For example, Licensor delivers Immersive Imagery Data for the Atlanta



Metro to Google, but Google rejects 20% of such Immersive Imagery Data during the First Acceptance Period. Licensee delivers the modified Immersive Imagery Data for the Atlanta Metro to Google within 30 days of Google's rejection. Google shall have a Second Acceptance Period of 18 days from delivery of the modified Immersive Imagery Data [90 days x 20%] to approve or reject the modified Immersive Imagery Data for the Atlanta Metro.

(b) Various Rejection Outcomes:

- (1) In the event Google neither accepts nor rejects Immersive Imagery Data during the First or Second Acceptance Period, such Immersive Imagery Data shall be deemed accepted. Google shall only pay for Accepted Data. In the event Google offers Immersive Imagery Data to end users, such Immersive Imagery Data shall be deemed accepted.
- (2) Non-compliance with Steps 1, 2, 4-In the event Google rejects the same miles of Immersive Imagery Data for a given Metro more than once for failure to conform with the specifications described in Step 1, Step 2 or Step 4 in Exhibit A, Google shall be entitled to reject 100% of the Immersive Imagery Data for such Metro, and such rejected Immersive Imagery Data shall still be subject to the Blanket Exclusivity provisions in Section 2.2(a) of the Agreement. In the event Google rejects all Immersive Imagery Data for a Metro, Google shall be entitled to license Immersive Imagery Data for other Metros from Licensee's archives at the same price.
- (3) Non-compliance with Step 3--In the event Google rejects miles of Immersive Imagery Data for a given Metro for failure to conform with the specifications described in Step 3 of Exhibit A, Google shall pay only for the Accepted Data. If more than ten (10%) percent of the Immersive Imagery Data for a given Metro is rejected for failure to conform with the specifications described in Step 3 of Exhibit A, Google may reject one-hundred percent (100%) of the Immersive Imagery Data for such Metro.

4. IMMERSIVE IMAGERY DATA SPECIFICATIONS. Google will inspect Immersive Imagery Data in accordance with the steps outlined below. If Immersive Imagery Data does not meet the specifications of Step 1, Immersive Imagery Data may be rejected and Google will not continue to inspect the Immersive Imagery Data until the Immersive Imagery Data is modified. If Step 1 specifications are met, Google will then inspect the Immersive Imagery Data for compliance with Step 2 specifications. If Step 2 specifications are not met, Google may reject the Immersive Imagery Data and will not continue to inspect the Immersive Imagery Data until it is modified. If Step 2 specifications are met, Google will continue to inspect the Immersive Imagery Data for compliance with the specifications in Steps 3 and 4. Google may reject any Immersive Imagery Data that does not comply with all of the specifications outlined in Steps 1-4 below.

Step 1: Fundamental:

1. Weather—no rain/ snow / fog / haze
2. Must have natural lighting conditions.
3. No imagery of suburban, residential areas

Step 2: Technical:

1. Vector Location Accuracy – best available accuracy, but in no event less than sub 1m accuracy
2. Resolution – must be best available.
3. Sun angle not lower than an average of 20 degrees above horizon.
4. Licensee must at all times use the most recent model camera that it uses for any of its other customers.
5. Must have true color
6. Stitching –Must have aligned, seamless mosaics
7. Must have continuous coverage (no missing sections of roads) (with the exception of long-term obstructions that cannot be avoided such as construction crews)
8. Landmarks:
--Image of the front of the landmark cannot be more than 10% obscured



--Every image of the same landmark must be taken from a contiguous road

9. No inappropriate imagery

Step 3: Misc:

1. Non-Landmark facades cannot be more than 40% obscured (with the exception of long-term obstructions that cannot be avoided such as construction crews or billboards)
2. No Pixel blur
3. No Lens Flare
4. No compression artifacts

Step 4: Downtown core, key commercial area – If an entire city block of Immersive Imagery Data fails to conform with the specifications in this Step 4, Licensor shall recollect the non-conforming areas and provide modified Immersive Imagery Data to Google.

1. No sun in lens / no blooming
2. No long stretches obscured (e.g., buses)
3. No shadows covering entire street side

5. IMMERSIVE IMAGERY DATA & DELIVERY FORMAT: All Immersive Imagery Data shall be formatted in AVI with motion JPEG compression. All Immersive Imagery Data shall be delivered to Google at the address below as individual (not RAID) SATA drives, ext3 formatted with 750GB (or greater) capacity per drive.

(a) Metadata / data organization: AVIs should all be under 2GB in size and come with an associated Metadata text file containing GPS information for all frames, as well as corresponding street addresses.

(b) Individual MJPG AVI files can be stored in a folder hierarchy of Licensor's choice. Metadata file will have records for each image containing:
1) <relative path of image file> : Location of the image
2) <lat,lng,pose information> : GPS information
3) <camera information: focal length, radius used for spherical projection, etc.>

(c) Delivery Address:

Material In Motion
c/o Ezra Gorman
3600 Crates Way, Building 2
The Dalles, OR 97058

6. REPORTS:

(a) Reports. Licensor shall deliver bi-monthly reports to Google in a shapefile or KML detailing the areas driven during the month. After 12 months from the Effective Date, the parties will discuss the frequency of reports, and Google shall determine in its sole discretion if any change to the frequency of reports is agreeable.

(b) Government Application Reports. Per Section 2.2 of the Agreement, Licensor shall submit a report to Google in substantially the format below in the event Licensor licenses imagery for more than two (2) Metros to the same Government Application licensee.

Quarter	Government Applications - Customer Name	Cities Licensed
Q1-07	i.e., "Department of Energy", or "Customer #1" if Licensor is restricted from disclosing	i.e., NYC, Chicago, etc.

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Content

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name

(c) Dashboard. Within forty-five (45) days of the Effective Date, Licensor shall deliver to Google a webpage dashboard of the imagery driven, with the associated imagery. The dashboard is to be used for Google's internal use only and not for public display.

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Content

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A handwritten signature in black ink, appearing to read "M. J." or "Mark J."

EXHIBIT B
FEES

1. License Fees: Google shall pay \$160 per mile of Accepted Data (unless discounted in accordance with Section 2.2(e) of the Agreement) that it accepts during the Term of this Agreement.

- A. Initial Delivery—Licensor shall invoice Google \$640,000 (4000 miles x \$160/mile) upon Licensor's delivery to Google of the Initial Delivery. \$584,000 of this initial payment shall be a non-refundable payment ("Initial Fee"). In the event Google does not accept 4000 miles of Immersive Imagery Data by June 15, 2007, Licensor shall credit Google [\$640,000 less \$160/mile of Accepted Data], such credit to be applicable starting June 30, 2007 towards future License Fees. Fees due during the Term for Accepted Data shall be credited first against the Initial Fee, and thereafter against the remainder of the \$640,000 payment.
- B. On March 31, 2007, Licensor shall invoice Google \$240,000 (1500 miles x \$160/mile). In the event Google does not accept 1500 miles of Immersive Imagery Data during calendar Q1 2007, Licensor shall credit Google [\$240,000 less \$160/mile of Accepted Data], such credit to be applicable towards future License Fees.
- C. On June 30, 2007, Licensor shall invoice Google \$480,000 (3000 miles x \$160/mile), less any credits due, as applicable. In the event Google does not accept 3000 miles of Immersive Imagery Data during calendar Q2 2007, Licensor shall credit Google [\$480,000 less \$160/mile of Accepted Data], such credit to be applicable towards future License Fees.
- D. Beginning calendar Q3 2007, Licensor shall invoice Google for Accepted Data as it is accepted by Google. Provided that Licensor delivers no less than 1500 miles of Immersive Imagery Data that meets the specifications in Section 4 of Exhibit A per calendar quarter, beginning calendar Q3 2007, Google shall accept and pay for no less than 1500 miles of Immersive Imagery Data per calendar quarter during the Exclusivity Period until Google accepts a total of 25,000 miles.

In the event, upon termination of this Agreement, Google has not accepted a quantity of Immersive Imagery Data equal to the amount of Immersive Imagery Data Google has pre-paid for, Google shall be refunded any amount paid that exceeds the actual fees (based on a maximum of \$160/mile) due for the Immersive Imagery Data accepted up to the date of termination, provided that in no event shall any portion of the Initial Fee be refundable, regardless of whether Google has accepted \$584,000 worth of Accepted Data prior to termination.

2. Payment:

All invoices shall be payable by Google net forty-five (45) days from the date of receipt of invoice.





July 24, 2007

Mr. John Hanke
Director, Google Earth and Google Maps
Google Inc.
1600 Amphitheater Parkway
Mountain View, CA 94043

Via Email and Overnight Courier

Re: Relationship with Immersive Media

Dear John:

As you know, Immersive Media Company (IMC) continues to work under its agreement with Google to deliver Street View imagery for a series of North American cities, subject to the Mutual Non-Disclosure Agreement both companies entered into late last year (collectively, the "Agreement"). While we are pleased about our relationship with Google, which is key for IMC, a series of recent developments have caused us to question whether Google is acting in good faith to uphold its side of the Agreement.

Our Agreement, and associated discussions with Google, has revolved around the collection and delivery of Street View imagery data for numerous additional North American cities. On July 17, 2007, we were asked to stop sending additional plans for such cities as contemplated under the Agreement. We have been asked instead to deliver plans for European cities. Our concerns are heightened by reports that Google has 30 vehicles mounted with cameras for capturing Street View data in North America.

It seems to us that Google is signaling a major change in the nature of its relationship with IMC. We are surprised, therefore, that no one has contacted us to discuss it. In fact, our recent efforts at meaningful communication with Daniel Lederman have gone unanswered.

We would like to meet with you as soon as possible to discuss our relationship. In particular, fairness dictates that you immediately explain Google's plans for further development of North American Street View data, and how Google intends to work with IMC in implementing its plans. IMC has made significant investments to fulfill its contractual obligations to Google, and it is critical for us to have specific clarifications and better ongoing communications with Google in this regard.

We would also like to learn your thoughts about how to improve the level of trust between our two companies. We have shared our information, methods and prospects with Google in a spirit of cooperation and common enterprise. Recent developments (including the discussions with Disney) have caused us to question whether Google is operating in the same spirit.

Finally, it is necessary to confirm that IMC reserves all rights relating to its intellectual property and all rights under and relating to the Content License Agreement and the Mutual Nondisclosure Agreement. This letter is intended solely to foster a meaningful dialogue so we can learn Google's plans and clarify our role under the Agreement.

Your prompt reply will be greatly appreciated. Please let me know when you are available to meet.

Sincerely,
IMMERSIVE MEDIA CORP.



Myles M. McGovern

Cc: Kent Walker, VP and GC



August 3, 2007

Mr. John Hanke
Director, Google Earth and Google Maps
Google Inc.
1600 Amphitheater Parkway
Mountain View, CA 94043

Via Email and Overnight Courier

Re: Request for Assurances & Information

Dear John:

We have received no response to my July 24, 2007 letter, which addressed our request for assurances regarding the stability of the relationship between Google and Immersive Media Company and the continued undertakings between our companies.

In particular, we are concerned with the email of July 17, 2007 from Julie Sohn, a Google employee in its Strategic Partner Management department (see attached). The email stated that Google would like IMC to focus on European cities and, importantly, removed the eight remaining North American cities from the schedule IMC was to produce based on the delivery schedule in Exhibit A of the Content License Agreement, as dictated by Google. Section 1(d) of Exhibit A of the Agreement says "Licensor shall deliver Immersive Imagery Data to Google *for at least* the Tier 1 and Tier 2 Metros indicated in the Metro List. Amendments may be made to the Metro List *upon mutual agreement of the parties.*" IMC was not asked to consent, nor did it agree, to this fundamental change, and the reasonably expected benefits of the Agreement will be fundamentally frustrated by such a change.

We are also concerned that the confidential information IMC shared with Google may be have been misappropriated. The Mutual Non-Disclosure Agreement (NDA) between IMC and Google clearly states that the confidential information will be used only for the purposes described in the NDA. This did not include the unauthorized use of IMC's proprietary information by any other party or by Google for purposes beyond the scope of the Content License Agreement. We are also concerned that equipment being used by Google to collect street imagery data including the "Ladybug" camera and the method by which it is employed may conflict with Google's obligations under the NDA and with IMC's intellectual property rights beyond the NDA.

Considering the limited information we have regarding Google's technology used to collect its imagery data and the recent deployment of its own fleet of equipped vehicles, we are asking for further information and assurances that the promises made in the NDA are being honored. I am willing to meet anytime to clarify these issues. The standards of good faith and fair dealing dictate that we act in a fair and equitable manner, and we ask that Google cooperate and honor

this obligation. We would like to know exactly what Google's intentions are regarding our continued relationship.

IMC values its relationship with Google and believes it is in the interest of both parties to resolve these issues now. Without adequate assurances from Google, IMC must consider all of its alternatives in light of the considerable time, expense, and opportunity costs it has incurred. Accordingly, please let us know in writing if you wish to meet and if Google intends to provide information and assurances as requested by IMC, no later than Noon PDT, August 8, 2007.

Sincerely,

IMMERSIVE MEDIA CORP.



Myles M. McGovern
President & CEO

CC: Kent Walker, VP and GC

The GIS Business Problem



- Google is giving everything away for free
- Not going to get another \$160/mile portal
- Advertising models have dominated media and continue to do so on the web
- Mapquest, Yahoo, Nokia, Navteq, Tom Tom and others are preparing to get into the game
- There are a variety of network touch points: web sites, blogs, social networking sites, mobile devices and other emerging platforms....gaming and set top



**Privacy Commissioner
of Canada**

112 Kent Street
Ottawa, Ontario
K1A 1H3
Tel : (613) 995-8210
Fax: (613) 947-6850
1-800-282-1376
www.privcom.gc.ca

**Commissaire à la protection
de la vie privée du Canada**

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Ottawa (Ontario)
K1A 1H3
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Télec : (613) 947-6850
1-800-282-1376
www.privcom.gc.ca

AUG 09 2007



Myles M. McGovern
President, CEO and Director
Immersive Media Corp.
224 - 15th Avenue SW
Calgary, AB T2R 0P7

Dear Mr. McGovern:

Re: 3D online mapping technology

I am writing to express concerns regarding developments in 3D online mapping technology, and in particular, photographic images that your company has collected and is selling commercially.

Your website indicates that your company's Geolmmsive Database consists of more than 40,000 miles of imagery in North America and that your company is expanding its collection of Geolmmsive imagery to include additional North American cities as well as major European locations. I understand that the images contained in the database were collected using high-resolution video cameras affixed to vehicles as they proceeded along city streets. Your website specifically refers to Vancouver, Calgary, Toronto, Ottawa, Montreal and Quebec City having been imaged.

I understand that your company is making the images contained in the database commercially available, and that images from the United States are available on the worldwide web through the Google Street View application. As you are likely aware, Street View was launched in the United States in May 2007, and allows viewers to navigate within street-level imagery which was captured at an earlier date. The imagery includes major arteries of urban centers, downtown cores, tourist attractions, business or commercial centers, airports, high growth and developing neighborhoods, sports facilities and arenas. Significantly, there are also numerous images of individuals contained in the Street View application. Many of the images are of sufficient resolution and close enough to allow individuals to be identified, to discern what activities they are engaged in and to situate their geographic whereabouts.



-2-

The mandate of my Office is to oversee compliance with Canada's privacy legislation. The *Personal Information Protection and Electronic Documents (PIPEDA)* Act is Canada's private sector privacy law, which came fully into effect on January 1, 2004. Pursuant to PIPEDA, businesses that wish to collect, use or disclose personal information about people generally require individuals' consent, and they may only use or disclose that information for the purpose for which individuals gave consent. Even with consent, businesses are required to limit the collection, use and disclosure of personal information to purposes that a reasonable person would consider appropriate under the circumstances. Finally, individuals have a right to see the personal information that businesses hold about them, and to correct any inaccuracies.

The provinces of British Columbia¹, Alberta² and Quebec³ have laws that are recognized as substantially similar to *PIPEDA*. These laws regulate the collection, use and disclosure of personal information by businesses and other organizations and provide individuals with a general right of access to, and correction of, their personal information. As well, the provinces of Quebec, Alberta, Saskatchewan, Manitoba and Ontario have legislation that deals with the protection of personal information in the health sector.

Our Office considers images of individuals that are sufficiently clear to allow an individual to be identified to be personal information within the meaning of *PIPEDA*. The images contained in your Geolmmsive Database appear to have been captured largely without the consent and knowledge of the individuals who appear in the images. Your company is now making the images commercially available, presumably to anyone who wishes to enter into a licensing agreement. This would appear to run counter to the basic requirements of knowledge, consent, and limited collection, use and disclosure as set out in *PIPEDA*.

¹ *Personal Information Protection Act*, S.B.C. 2003, c. 63.

¹ *Personal Information Protection Act*, S.A. 2003, c. P-6.5.

¹ *An Act Respecting the Protection of Personal Information in the Private Sector*, R. S.Q. c. P-39.1.



-3-

I would appreciate your response to the concerns that I have raised as soon as possible, given the importance of protecting Canadians' privacy rights. Please contact me if you have any questions.

Sincerely,

Jennifer Stoddart
Privacy Commissioner of Canada

c.c. David C. Drummond, Senior Vice President, Corporate Development and Chief Legal Officer, Google
David Loukidelis, Information and Privacy Commissioner for British Columbia
Frank Work, Information and Privacy Commissioner of Alberta
Jacques Saint-Laurent, Président, Commission d'accès à l'information du Québec



THE LAW OFFICE OF
KRIS KLEIN

September 15, 2007
via fax (503.231.2655)

Myles McGovern
President, CEO and Director
Immersive Media Corp.
224 – 15th Avenue SW
Calgary, AB
T2R 0P7

Dear Mr. McGovern

I am Kris Klein. On Wednesday of this upcoming week, I will have formally completed my contract with the Office of Privacy Commissioner of Canada (OPC). Throughout my tenure with the office, I made sure that I was not involved in any way with the Commissioner's concerns about your company's technology or its use by Google.

I am writing to express my willingness to help advise you and to help prepare your response, if any, to the Commissioner's public letter issued to you on August 9, 2007 but made public more recently. I was not aware of the letter to you until it was made public.

My separation from the file within the OPC allows me, from an ethical point of view, to help you if you wanted. I could play any number of different roles for you, including, if you wished, to simply refer you to other very capable lawyers in Canada who specialize in privacy issues. What is clear is that my tenure as a contractor at the OPC and my experience as someone who provided strategic and legal advice on other high profile matters provide me with a particular insightful perspective that could be useful to you.

Please feel free to get more information about me at www.krisklein.ca. I also would obviously be willing to speak to you if you wished. I am traveling this upcoming week, so I suggest trying my cell number (613.720.2907) or using email (kklein@krisklein.ca) if you wanted to get in touch with me.

Regardless of whether or not you want to engage me to help, I hope your dealings with the OPC go well.

Sincerely,

Kris Klein

Burnet,
Duckworth
& Palmer LLP
Law Firm

Reply to: James T. Swanson
Direct Phone: (403) 260-5712
Direct Fax: (403) 260-0337
jts@bdplaw.com

Assistant: Janice Ariyanayagam
Direct Phone: (403) 260-9477
Our File: 59989-6

September 21, 2007

Privileged and Confidential

**Via Facsimile to: 613-943-5652
Original to follow via Canada Post**

Office of the Privacy Commissioner of Canada
112 Kent Street
Ottawa, Ontario
K1A 1H3

Attention: Ms. Jennifer Stoddart, Privacy Commissioner of Canada

Dear Madam:

Re: "Street View" Imagery; Immersive Media Corp.

Further to our correspondence of September 17, 2007, as you know, we represent Immersive Media Corp. with respect to this matter. Following is our more detailed response.

Background

Fundamentally, there appears to be unfortunate confusion concerning certain content available in Google's Street View application. It is true that our clients have prepared some street level content for Google. However, not all the content available through Google originates with our clients, nor is our clients' technology the only technology used by Google.

Your publication on your website, dated September 11, wherein you say "Street View, while not currently deployed in Canada, uses technology and imagery developed by Immersive Media, a company based in Calgary, Alberta" implies that all Street View content is made by our clients, when such is not the case. Street View in some cases may use our clients' technology, in others it does not.

Proprietary and Confidential Information

Before providing your offices with a great level of detail concerning our clients' technology and operations, I must express my concern that some of the information you are likely going to want is proprietary and confidential to my clients and, if widely circulated or improperly made available, my clients' could be harmed as a result. They operate in a highly competitive and fast-changing environment. This correspondence is accordingly to be considered privileged and confidential, and is not to be published, blogged or otherwise disseminated without my consent.

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1400, 350-7th Avenue S.W., Calgary, Alberta, Canada T2P 3N9 | Phone: (403) 260-0100 Fax: (403) 260-0332 www.bdplaw.com
Frank L. Burnet Q.C. (1890-1982) | Thomas J. Duckworth Q.C., Counsel | The Hon. W. Kenneth Moore C.M., Q.C., LL.D., Counsel

I am not saying we will not provide the information you seek, but I am saying we would like some assurances that the information that needs to be kept confidential remains so and will not be disseminated. I am also not saying that you cannot publish or disseminate anything in this letter, but I am saying that I want to discuss with you first what you are going to publish or disseminate, so that what goes out is not proprietary or confidential information of my clients, and is not subject to any misunderstanding. Together, we can resolve this matter quite quickly.

Perhaps you can advise as to what assurances your offices can provide with respect to confidential and proprietary information. Further, if you have concerns with my position pursuant to the foregoing, please do not hesitate to contact me to discuss as it is our intent to arrive at a conclusion in this matter that addresses the requirements of, and is acceptable to, all parties.

For example, while my clients' technology as applied in this case results in a fairly low-resolution display, we do not want to give the false impression that resolutions are exceedingly low, or low quality, or that other applications cannot result in higher resolution displays, which are available in appropriate cases where things like privacy are not a concern, and the ability to deliver higher resolutions is or will be a key factor in my clients' business success. If we gloss over that point, a reader may well be left with the false impression that our clients' technology means low quality. This is certainly not the case and as an example, our clients were recently contracted by Adidas to film David Beckham's first game in the United States with the LA Galaxy. In this instance, David Beckham is under contract with Adidas, the filming was clearly in compliance with privacy laws, and the capture process and techniques our clients employed for that commercial project resulted in a product that showcases Mr. Beckham and Adidas' products on a higher resolution basis.

Detailed Response to Your Inquiries

Let us begin with the fundamental fact that our clients' technology, as applied in this case, does not operate at a sufficiently high resolution to capture recognizable facial features of individuals in the first place, nor can other potential identifiers such as license plate numbers be made out. That level of detail is simply not in the data to begin with. As mentioned previously by my clients, higher image quality results are possible, but are not a result in this case for a number of reasons, including *inter alia* the fact that my clients do not wish to collect personal information inappropriately. Higher image quality or close up recordings can be obtained where a customer requires it, for example for detailing inventory, surveying assets, verifying operations of equipment or physical plant, and any number of other potential and fully legal applications in applications such as manufacturing, oil refineries, shipping and logistics and so on.

Accordingly, regardless of what processing occurs thereafter, there has been no personal information captured in the first place in this case. Our clients' technology in this case is a full-motion video technology, with comparatively lower resolutions. Other technologies, including the other variants of the Street View application to which you have referred, appear to use still photography, which has higher resolutions available, and consists of individual photos taken closely together. I have viewed the other technology pertinent in this case and I can indeed make out facial features and license plates, but, as mentioned, my clients' results in this case are not the same. My clients have no involvement with that other technology, and no responsibility in relation thereto.

With respect to specific inquiries made by your offices, please note the following.

Please explain how Immersive Media "scrubs" the GeoImmersive images.

My clients use the term a bit differently than you may interpret it. "Scrubbing" in this particular case referred to a result of the recording, post-production, delivery and viewing process.

The resolutions are not high to begin with, but once processing is complete, the resolutions have been further reduced, which is what my clients meant by "scrubbing".

What is the original resolution?

The original recording procedure uses a camera with eleven 640 x 480 resolution CCD imagers, recording most of a spherical field of view at 30 frames per second with an average pixel density of about 6.4 pixels per degree in every direction.

Are individuals identifiable in the original imagery?

This is not sufficient resolution to identify individuals on the street.

To what resolution is the imagery reduced during post processing?

In the Post Production process, the recorded image information from each sensor is stitched together, through a proprietary process, into a series of stitched spherical compressed JPEG frames measuring 2400 pixels x 1200 pixels each in their entirety, which are then turned into a compressed AVI movie for delivery.

The original recording is compressed, the stitched image is interpolated and assembled from different sensor images, and compressed again, and the final AVI is compressed once again.

All of these compression steps reduce the amount of clarity in the image, as does the pixel interpolation necessary to warp and stitch the images together.

The final display method used currently in Street View content as provided by my clients also reduces the resolution.

Is the imagery retained in its higher resolution format and if so, for how long and for what purposes?

The imagery is retained as raw data in its original resolution format, but, as mentioned, even the original camera resolution is below the threshold of the ability to recognize individuals. The imagery taken in this case cannot be retained in a higher resolution format than what is contained the original resolution.

Is the reduced resolution product the only product that Immersive provides to its customers?

No, although product may be the wrong word – The product is the same, but the capture process would involve capturing more detail or close-up images at the outset, with the result being a higher resolution image. Immersive can and does provide such other results or outputs in response to customer demand provided that they comply with applicable laws. Please see our comments above with respect to Adidas and Mr. Beckham and other applications. Customers may also be provided with equipment for their own use, in which case it is not the responsibility of my clients to police the conduct of their customers any more than it is for Sony or other manufacturers to do so with their cameras.

"...you claim that it is impossible to "reverse engineer" a low resolution image to a higher resolution one. Has this claim been verified by an accredited independent body? If so, would a copy of the evaluation report be available for review?"

This is a highly technical question and you may wish to consult your own sources. Our information is that information sampling theory suggests that missing image information cannot be created or recreated once it is

lost, or if it has never been captured in the first place, because any creation or recreation of image pixels is at best an educated guess.

Researchers examining the issue of pixel density for facial recognition have not reached any conclusive findings; however the range cited for pixel height needed for a face for recognition suggests a minimum pixel height of 38 to 320 pixels is necessary. Our Clients' technology generates a pixel height of 15 pixels or less for a face, which is not sufficient for facial recognition. An example of the research in this area can be found at:

http://www.incits.org/tc_home/m1.htm/docs/m1030114.pdf (page 16).

Other papers and references can be provided if needed.

Therefore even if you take a low resolution image and blow it up or enlarge it, you are not actually creating more detail, you are interpolating the existing pixels and creating new ones according to some method or guess, which is not the same thing as actually recording more pixels in the first place. For example, it is our understanding that one cannot zoom in and read a license plate across the street from a blurry security camera image, unlike what is seen on TV shows, because there is just not enough information there in the original image.

Regarding GeolImmersive imagery meeting all international standards for public domain image distribution. What standards are these, specifically? Are copies available for review?

My clients were referring to their belief that, given the resolutions used, and the inability to recognize individuals, privacy laws were being respected. Further, they were referring to their understanding that government bodies in England, Ireland, and France have already seen their GeolImmersive Imagery (which is what is at issue here) as having a resolution acceptable for public use, and in the United States, after millions of hits viewing the street imagery produced by our clients, there has not been one complaint of invasion of privacy related to their technology and content. As to whether there have been specific and formal complaints regarding the other higher-resolution technologies and content, there may or may not be any, but we are not aware of any other than this matter.

I look forward to discussing this matter with you in detail once you have had a chance to review. I will be in the office Monday but I am travelling to Toronto on Tuesday where I will be for the balance of next week. I can certainly make arrangements to speak with you from Toronto, with the added advantage that we will be in the same time zone, and the best method to contact me in that regard is via email to my Blackberry at jts@bdplaw.com.

Thank you for your attention.

Yours truly,

BURNET, DUCKWORTH & PALMER LLP

James T. Swanson

cc:

cc. Mr. Raymond D'Aoust, Assistant Privacy Commissioner of Canada
cc. Ms. Lisa Campbell, Senior Legal Counsel, Privacy Commissioner of Canada
cc. Mr. Steven Johnston, Senior Security and Technology Advisor, Privacy Commissioner of Canada
cc. Immersive Media Corp.

Burnet,
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September 26, 2007

VIA FACSIMILE

Office of the Privacy Commissioner of Canada
112 Kent Street
Ottawa, Ontario K1A 1H3

Attention: Mr. Colin McKay

Dear Sir:

Re: "Street View" Imagery, Google, Immersive Media

I am wondering why you apparently have recently stated, as published at the following URL:

<http://canadianpress.google.com/article/A1eqM5jjZDOo57V5O2X6SoQuaPZTYXtfvQ>

Under the heading "Privacy commissioner hopeful about Google proposal to blur Street View" that:

"Privacy commissioner hopeful about Google proposal to blur Street View
15 hours ago

OTTAWA - The office of Canada's privacy commissioner likes what it's hearing from Google about ensuring its new Street View imaging service doesn't infringe on privacy laws.

Earlier this month, privacy commissioner Jennifer Stoddart raised concerns with Google and Calgary-based Immersive Media that the Street View service unveiled in the United States could breach Canada's Privacy Act if employed in Canada.

Commission spokesman Colin McKay says the two companies have yet to respond formally to a request for information."

I sent a fax, in fact two faxes, which is obviously a formal response, to your offices last week, but you appear to be ignoring those. Surely you must be aware of my prior correspondence, but I have attached a copy of both my prior faxes for your reference. If you are not aware, I am surprised by that, if you are aware, I have to wonder just what is going on in this case.

Please advise. All of these public comments are having a negative effect on my client, making it appear that they are non-responsive when that is not true, and I would hope that is not your intent.

Please note that, as mentioned in my prior correspondence, I am in Toronto. I have not as yet checked my voice mail so perhaps you have recently called, but that does not excuse the above being stated in the press.

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While I am in cross examinations, I can be reached on my cell other than during those periods, at 403-681-5712. I would, however, prefer a response by email to my Blackberry at jts@bdplaw.com.

I look forward to hearing from you.

Thank you.

Yours truly,

BURNET, DUCKWORTH & PALMER LLP

"Dictated but not read at 7:00 a.m MDT"

James T. Swanson

JTS\jpa

cc: Mr. Raymond Daoust, Assistant Privacy Commissioner of Canada
Ms. Lisa Campbell, Senior Legal Counsel, Privacy Commissioner of Canada
Mr. Steven Johnston, Senior Security and Technology Advisor, Privacy Commissioner of Canada