

# COVER LETTER MEMORANDUM OF AGREEMENT LEAD RESEARCHER

**Thank you for your interest in using IMPACT data as a RESEARCHER.** In order for your application for access to Restricted IMPACT Resources to be considered, the attached Memorandum of Agreement (MOA) must be completed and submit it to the IMPACT Coordinating Center (ICC). In the case of student researchers, we recommend that the professor or project lead apply as the Lead Researcher and list students in the “Other Researchers” field of the online application.

**Instructions:**

1. Print the MOA.
2. Complete the Contact Information below.
3. Fill in the organization information on page 1 of the MOA.
4. Attachment A (Request Information) and Attachment B (Resource Terms) have been auto-filled with the information provided during the application process. Please review and confirm that the information is correct.
5. Sign the MOA as the Lead Researcher AND have a legally authorized representative from your organization sign. If you are a Lead Researcher with the authority to sign contracts on behalf of your organization, sign in both places. Note that signing exclusively as an individual is not permitted.
6. Scan and email it to [insert email address here]

Questions regarding this MOA or your request for IMPACT data may be directed to the ICC at [insert email address here]

Contact Information for the legally authorized representative who is signing

Name	<hr/>		
Title	<hr/>		
Organization	<hr/>		
Address	<hr/>		
Address 2	<hr/>		
City	State/Province	Postal Code	
Country	Email		<hr/>
Phone	Alt Phone	Fax	<hr/>

# Memorandum of Agreement

## Lead Researcher

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This Memorandum of Agreement (“MOA” or “Agreement”) is between [Coordinating Center name and address], which serves as the IMPACT Coordinating Center (“ICC”) and [Research organization name]’s Lead Researcher, having offices at [Researcher address] (“Lead Researcher”). The parties to this Agreement shall be referred to as “the Parties” or individually as “Party.” This Agreement is effective when signed by an authorized representative of the organization, the Lead Researcher, and [Coordinating Center name]. References throughout this document to “ICC” shall be deemed to refer to [Coordinating Center name].

The ICC supports the Information Marketplace for Policy and Analysis of Cyber-risk & Trust (“IMPACT”) program sponsored by the United States Department of Homeland Security (“DHS”). The ICC facilitates interaction between IMPACT participants, processes applications from Lead Researchers for access to Resources, maintains a metadata catalog, and develops policies and procedures for IMPACT operations and the use of IMPACT Resources.

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### General Terms and Conditions

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This Agreement consists of: the General Terms and Conditions, Attachments A (Request Information) and B (Resource Terms), and any subsequent Amendment(s) to this Agreement, if executed. The provisions of Attachment A and B shall be incorporated herein and shall be construed so as to be fully consistent with all of the provisions of the General Terms and Conditions of this Agreement. In the case of any conflict, the General Terms and Conditions shall prevail, except in regards to the Resource Terms in Attachment B, which shall control in any case involving use of Resource, unless superseded by a properly executed Amendment to this Agreement.

This Agreement is for the Restricted Resource Class. This Agreement must be signed by the Lead Researcher and a legally authorized representative of its organization (Lead Researcher will sign in both places if s/he has authority to bind the organization), and the ICC upon the initial request for Restricted Resource. Attachments A and B will be added for each Restricted Resource the user requests, and will be appended when and if a future Restricted Resource is requested.

The following definitions shall apply:

**Data** means all data provided by the RP or DASP to IMPACT Users.

**Data Provider (“DP”)** means an entity that provides data that it owns or has a right to control and disclose to Lead Researchers subject to the terms and conditions in this memorandum of agreement between it and the ICC.

**Decision Analytics-as-a-Service Provider (“DASP”)** means an entity that provides a research platform, service, technology or tool capable of accessing or provisioning data, tools, or analytic techniques that it owns or has a right to make available to Users, subject to the terms and conditions in an MOA between it and the ICC.

**DHS** means the U.S. Department of Homeland Security.

**IMPACT Advisory Council (IAC)** means designated persons who provide guidance and make recommendations to the IMPACT Program Management on strategic operations and issues relating to responsible innovation and the general direction of the IMPACT program.

**ICC** means the IMPACT Coordinating Center that manages the IMPACT data catalog and operations, processes applications for IMPACT Resources, and handles administrative matters. The ICC does not store, maintain, or have access to any of the Resources.

**IMPACT Program Management** means the DHS IMPACT Program Manager, and the ICC when it acts under the direction of the IMPACT Program Manager.

**IMPACT Team** shall mean:

1. ICC personnel;
2. Resource Providers;
3. Contractors and third parties supporting or interacting with DHS IMPACT and/or other Cyber Division programs;  
and
4. The DHS, Cyber Security Division.

**IMPACT User** means an individual or organization who has been designated by the ICC as having a legitimate Research need for the Resource. A User who is an individual may also be a Lead Researcher.

**Lead Researcher** means the person who (a) requests the desired IMPACT Resource, (b) is the principal investigator or researcher leading the project using the Resource, and (c) is responsible for ensuring that all responsibilities for the receipt, security, oversight, and handling of the Resource are met.

**Metadata** is descriptive information about the Resource that is provided by the RP and recorded in the IMPACT Resource Metadata catalog.

**Research** means basic and applied research, and development supporting knowledge or operational and strategic advancement.

**Resource** means all Data and/or tools made available by Resource Provider to IMPACT Users for Research.

**Resource Category** is the designation given to a grouping of all Resources of a certain type.

**Resource Class** is a designation chosen by the RP that describes the level of approval and oversight associated with the sharing of the Resource. The Class is determined by the level of risk/sensitivity associated with the Resource. The Class determines the terms and conditions associated with the Resource, and the associated level of approval. IMPACT has three (3) Resource Classes:

- (1) Unrestricted – click-through agreement between the ICC and the Lead Researcher
- (2) Quasi-Restricted - click-through agreement between the ICC and the Lead Researcher that allows the RP to reject the Resource request; and
- (3) Restricted - bilateral signed agreement between the ICC and the Lead Researcher that allows the RP to reject the Resource request.

Only data provided in the Restricted category may include Provider-added terms and conditions, other than commercial licensing restrictions, and require the execution of a memorandum of agreement between the Lead Researcher and the ICC. For all Restricted and Quasi-Restricted Resources, the RP and the ICC must approve requests prior to the provision of Resource to Lead Researchers by a Resource Host. Unrestricted Resources may be provided to Researchers without the approval of the relevant RP(s) of the requested Resource.

**Resource Host** means an entity that maintains computing infrastructure to store resources received from one or more DP or DASP, and provides IMPACT Users access to such Resource.

**Resource Identifier** means a serial number or character string used to uniquely identify a particular Resource. It is generated by the ICC.

**Resource Provider (“RP”)** means an entity that is a Data Provider and/or a Decision Analytics-as-a-Service Provider, or a Resource Host.

### **Lead Researcher Rights, Obligations, and License**

In consideration of the license to the Researcher of the Resource described in Attachment A, the Lead Researcher agrees to the following terms and conditions:

1. Lead Researcher certifies that all information provided by Lead Researcher under this Agreement and Attachments A and B is accurate and complete.
2. Lead Researcher agrees that all information contained in this Agreement may be shared as necessary to facilitate ICC operations and comply with ICC operational policies and procedures, including the sharing of information in this Agreement with the IMPACT Team as necessary. The Lead Researcher further agrees and consents that the names, organizations, and email addresses of the Lead Researcher and research team members may be disclosed and publicly posted, including the general purpose for which the Resource was used. The Lead Researcher attests that s/he has obtained the consent for such disclosure and public posting from all research team members.
3. Upon approval of the Lead Researcher’s request for data from the RP, the RP has authorized the ICC to grant the Lead Researcher, a limited, non-exclusive, revocable, non-transferable, non-sublicenseable license to Lead Researcher to use the Resource for the term of this Agreement, and the Lead Researcher agrees not to exceed such license. The Lead Researcher agrees and understands that the commercial use of any Resource is subject to the RP use conditions, as detailed in Attachment B.

4. The Lead Researcher agrees that the ICC and the RP shall have the right to use any feedback provided by the Lead Researcher during the license period, solely in furtherance of the IMPACT program or non-profit educational and/or research purposes.
5. The Lead Researcher agrees to use the Resource solely for the purpose described herein, including the terms and conditions specified in Attachment B.
6. The Lead Researcher agrees that Resources shall not be transmitted, sent, exported, or used in any country or location that is not on the Approved IMPACT Country List at [www.ImpactCyberTrust.org](http://www.ImpactCyberTrust.org).
7. The Lead Researcher shall not allow access to or use of Resource by any persons other than; (a) those employed by the Lead Researcher's institution who are assisting or collaborating with the Lead Researcher using the Resource, or (b) those who are official students in a legitimate educational course directed by the Lead Researcher, and all of whom who are identified in Attachment A. Other entities with whom the Lead Researcher is collaborating in research using the Resource must request access separately and directly from the ICC. The Lead Researcher shall ensure that all persons named in Attachment A comply with the terms of this Agreement. The Lead Researcher agrees to notify ICC via email of any changes to personnel who have access to a Resource within five (5) business days of the change in staff.
8. The Lead Researcher shall not impersonate any individual or entity, misrepresent any affiliation with another person, entity or association, use false information, or otherwise conceal the Lead Researcher's identity from ICC or the RP.
9. The Lead Researcher or his/her organization shall notify the ICC if s/he (i) moves to an organization different from the organization of record at the time the Resource was requested, (ii) is no longer affiliated or aligned with the organization of record, or (iii) is no longer the Lead Researcher for the research project using the Resource. The approval to use the Resource shall immediately be suspended for the Lead Researcher and all individuals named in Attachment A. In any such event, this MOA shall be deemed to be terminated. The Lead Researcher or his/her organization shall notify the ICC via email within ten (10) business days of such event and shall follow the ICC's directions regarding disposition of the Resource.

If a new Lead Researcher is proposed, a new online request shall be made, a replacement MOA will be drafted, and the ICC shall seek approval or denial from the appropriate RP. If a Lead Researcher is not proposed within the required timeframe, this MOA shall be deemed to be terminated and all access to the Resource shall cease immediately.

10. The Lead Researcher shall establish and maintain the appropriate administrative, technical, and physical safeguards to protect the confidentiality of the Resource and to prevent unauthorized use or access to the Resource, as may be specified in Attachment B. At a minimum, the Lead Researcher shall take reasonable care to protect the Resource against inadvertent disclosure or unauthorized use, but such care shall not be less than what the Lead Researcher would use to protect its own confidential or proprietary information. The foregoing confidentiality obligations do not apply to those Resources which Lead Researcher can establish: (a) at the time of disclosure, the Resource was lawfully in the public domain; (b) is excepted by prior written approval of the RP, the disclosure of which is permitted under this Agreement, or (c) is required by law to be disclosed; provided that prior to such disclosure, Lead Researcher notifies the RP of such requirement so that the RP may seek a protective order or other appropriate remedy.
11. The Lead Researcher shall immediately notify the ICC: (a) if the Lead Researcher receives any legal, investigatory, or other government demand to reverse engineer, decrypt, de-anonymize, de-identify or otherwise disclose sensitive data; and (b) if there is any access, use, or disclosure of the Resource other than as permitted by this Agreement. The Lead Researcher shall take reasonable steps to mitigate the effects of such improper access, use, or disclosure, including cooperating with all reasonable requests of the ICC, and documenting all such actions taken.
12. No findings, analysis, or information derived from the Resource may be released if it contains personally identifiable information or any combination of data elements that might reasonably allow for identification or the deduction of a person's identity unless such identification is both: (a) explicitly permitted under the terms and conditions in Attachment B incorporated herein; and (b) not in violation of applicable U.S. or state law.
13. The Lead Researcher shall submit to the ICC citations and links for all public releases, publications, or documents that pertain to the use of Resource to [\[insert email address here\]](#). The Lead Researcher authorizes the ICC and/or the RP to publicly post such citations and links. If the citations or links would reveal confidential or proprietary data (including U.S. Government sensitive/classified information) and cannot be redacted, such citations and links shall not be required.

14. The Lead Researcher must acknowledge the RP in all works (including web pages, papers published by a third party, and presentations) using the Resource with a reference in the text and list of citations for each dataset as follows: The [Provider] [Dataset Name or Resource identifier] - [dates used], <https://www.ImpactCyberTrust.org>, or any data identifier (e.g., DOI) if provided by IMPACT.
15. Unless re-identification of a Resource is required and was disclosed by the Lead Researcher in Attachment A regarding Proposed Use of Resource, the Lead Researcher shall not attempt to or actually unlock, override, reverse engineer, or otherwise take any steps to defeat any anonymization or obfuscation methods or tools that have been applied to any Resource by the RP, or otherwise attempt to translate anonymized Data back to the identity of a specific individual or to violate any of the terms of use associated with the Resource, including those in the Resource Terms specified in Attachment B.
16. Notwithstanding Paragraph 2 under “Joint Rights and Obligations,” the Lead Researcher agrees that in the event the ICC determines, or has a reasonable belief, that the Lead Researcher has violated any material terms of this Agreement, including those within any Attachment, the ICC may terminate this Agreement effective immediately. Upon such termination, the Lead Researcher shall dispose of the Resource and all copies or portions thereof in its possession that it has received from Data Host or created (or had others create). The Lead Researcher shall certify that such disposition of the Resource has been completed as instructed by signing and providing to the ICC a Certification of Disposal. The Lead Researcher agrees that the unauthorized disclosure of the Resource may cause the RP irreparable harm and the ICC and the RP are entitled to seek injunctive relief in addition to any other legal or equitable remedies available to it. The Lead Researcher understands that as a result of this determination or reasonable belief that a violation of this Agreement has occurred, the ICC may also refuse to release further Resource to the Lead Researcher. In addition, the ICC may report any misuse or improper disclosure of a Resource to the RP and Resource Host and to appropriate authorities as permitted or required by applicable Federal or state law.
17. The license to access Resource ends upon expiration or termination of this Agreement, and the Lead Researcher shall dispose of all copies of the Resource as described herein.
18. To the extent allowed by law, the Lead Researcher shall indemnify, defend, and hold harmless the ICC and the Resource Provider and their respective trustees/directors, officers, employees, and agents (“Indemnified Parties”) from all claims, losses, liabilities, costs, demands, damages, suits, judgments, or expenses, including, without limitation, reasonable attorneys’ fees and the assumption of the defense and its costs, as a result of any damage or injury to Indemnified Parties, including death or injury to property or to third parties, which is directly or indirectly caused by the Lead Researcher or their employees, officers, directors, or agents. The Lead Researcher shall hold Indemnified Parties harmless from any misuse of Resource or Metadata by a third party other than Indemnified Parties. The Indemnified Parties shall promptly notify the Lead Researcher of any claim against it or a third party of which they become aware and that is covered by this provision and the Lead Researcher shall, to the extent permitted by law, authorize representatives to settle or defend any such claim or suit and to represent Indemnified Parties in litigation. The Indemnified Parties, in their sole discretion and at their expense, may provide counsel to assist counsel for the Lead Researcher, or represent said Indemnified Parties. No settlement shall be made on behalf of an Indemnified Party, which admits the fault of the Indemnified Party, without that Party’s written consent, which shall not be unreasonably withheld.  
  
Notwithstanding the foregoing, if the Lead Researcher’s organization is a federal, state, or local government entity in the United States, its obligations shall be limited in substance by statutes and constitutional provisions designed to protect the Lead Researcher’s exposure and liability as an instrumentality of the government, so that the Lead Researcher’s liability shall not exceed what might have been its liability to a claimant if sued directly in the Lead Researcher’s jurisdiction by the claimant and all appropriate defenses had been raised by the Lead Researcher.
19. The Researcher agrees that, in the event of actual or threatened legal action involving the ICC, upon reasonable notice, the Researcher shall comply with all reasonable discovery requests related to this Agreement.

#### **IMPACT Coordinating Center (ICC) Agreements, Rights, and Obligations**

1. The ICC shall notify Lead Researcher of:
  - a. Approval or denial of permission to use requested Resource;
  - b. Freedom of Information Act (“FOIA”) or other legal requests for access to Resource regarding this Agreement; and
  - c. Data disposition requirements upon expiration or termination of this Agreement.

2. The ICC shall: (a) process applications for access and use of Resource from Lead Researchers to the RP and/or Resource Host; (b) obtain approval or denial of permission to use; (c) coordinate communications between the Resource Host and the Lead Researcher; and (d) act on behalf of the RP in extending to an approved Lead Researcher the right to access and use Resource solely for the purposes, and under the terms and conditions in effect at the time of request, as described in the Restriction section of Attachment B.
3. The ICC shall provide the Lead Researcher the current and accurate Terms and Conditions for Access to and Use of Resource as established and made effective by the RP and/or Resource Host.
4. The ICC has the right to terminate the Lead Researcher's access to and/or use of the Resource, or a particular RP's Resource, when it deems such action is in the best interests of the IMPACT program. The ICC shall refrain from such action except in circumstances that threaten the integrity, reputation, or operations of the Lead Researcher, the ICC, the RP, the IMPACT project, or DHS. In such event, the ICC shall provide the Lead Researcher written notice of such termination and, when possible, shall provide such notification to Lead Researcher ten (10) business days prior to termination; however, the ICC reserves the right to immediately terminate access to or use of such Resource. The ICC shall initiate a unilateral amendment to this Agreement to effect such termination and the Lead Researcher shall cooperate with the ICC regarding termination of access to and/or use of such Data by Lead Researcher and research team.
5. The ICC has the right to assign this Agreement to an entity granted the right and authority by agreement with DHS to perform a similar role for IMPACT, provided further, that such entity shall expressly assume all of the rights, obligations, and liabilities of the assigning Party under this Agreement.
6. The ICC shall obtain a written agreement from all RPs that (i) all Resources that it makes available through IMPACT complies with all restrictions specified by the ICC and all requirements applicable to the RP through laws, regulations, or governing or regulating bodies and/or contractual agreements, and (ii) that all Resources it provides to Resource Host are consistent with the RP's privacy, security, or other policies and procedures applicable to the Resource.

#### **Joint Rights and Obligations**

1. This Agreement primarily describes the terms and conditions between the Lead Researcher and the ICC; however, a violation of these rights and obligations by the ICC or the Lead Researcher may threaten or cause harm to the RP and/or Resource Host. The RP and Resource Host are therefore deemed, to the extent permitted by law, third party beneficiaries under this Agreement, and ICC and the Lead Researcher hereby acknowledge their third party beneficiary rights.
2. Either Party may terminate this Agreement by providing thirty (30) days written notice to the other Party. Upon any termination or the expiration of this Agreement, the Lead Researcher shall dispose of the Resource as described herein and/or upon instructions from the ICC.
3. The terms and conditions of this Agreement, including the license granted herein, are in effect for one (1) year from the effective date. Subsequent requests for any additional Restricted Resource, not described in Attachment A and B on the effective date of this Agreement, can be made by means of a click-through agreement that will serve as an amendment to this Agreement. Parties agree that the terms and conditions of this Agreement shall be extend to cover such subsequent Restricted Resource for a period of one (1) year from their click-through acceptance.

All other amendments to this Agreement shall be in writing and signed by an authorized representative of each Party. Amendments shall be explicitly communicated to the Lead Researcher via Lead Researcher's registered email address. If the amendment is not executed by the Lead Researcher within fifteen (15) business days after electronic transmission by the ICC, the ICC will take steps to terminate this Agreement.

4. This Agreement shall be construed and interpreted in accordance with the laws of the state of Arizona (where [Coordinating Center name]'s lawyers are located). The Parties agree that all disputes regarding this Agreement shall be resolved in the Superior Court of Maricopa County, Arizona. The Parties hereby consent to this venue and the personal jurisdiction of this court. If the Lead Researcher has a dispute with a RP or Resource Host, the Lead Researcher must address that problem directly with that party.
5. Other than the limited license granted to the Lead Researcher under "Lead Researcher Rights, and Obligations, and License" nothing contained herein shall be construed as conferring by implication, estoppel, or otherwise any license or right in favor of any Party or any third party in any patents or other intellectual property rights of any other Party.

6. Absent agreement otherwise, neither Party shall reference or cause to be referenced the trade names, trademarks, service marks, or any other indicia of origin owned by the other Party, or any members of the IMPACT Team, nor indicate that its operations are in any way sponsored, approved, or endorsed by the other Party or any members of the IMPACT Team.
7. Neither this Agreement nor the receipt of Resource by Lead Researcher shall constitute or imply any promise or intention by Lead Researcher to evaluate, process, or make use of the Resource either now or in the future.
8. **NO PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OR LOSSES OF ANY KIND (INCLUDING LOST REVENUES OR PROFITS, OR LOSS OF BUSINESS) IN ANY WAY RELATED TO THIS AGREEMENT, REGARDLESS OF WHETHER IT WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF.**
9. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each remaining provision shall be valid and enforceable as permitted by law.
10. Neither this Agreement nor any interest herein may be assigned, in whole or in part, by either Party without the prior written consent of the other Party; provided, however, that without securing such prior consent, the ICC shall have the right to assign this Agreement: (i) to any successor of the ICC by way of merger or consolidation or the acquisition of substantially all of the assets of the ICC relating to the subject matter of this Agreement, or (ii) to an entity granted the right and authority by agreement with DHS to perform similar obligations for the IMPACT Program, provided further, that such successor or entity shall expressly assume all of the rights, obligations, and liabilities of the assigning Party under this Agreement.
11. This Agreement contains the entire agreement of the Parties hereto and supersedes all prior agreements, negotiations, and discussions between the Parties hereto. Any representation, inducement, or agreement that is not contained in this Agreement shall not be of any force or effect.
12. The Parties may execute counterparts of this Agreement, and the two signed copies shall constitute an original copy of this Agreement. A scanned, imaged, facsimile, or photocopy of this Agreement or amendment to this Agreement as executed by the Parties shall be deemed to be an original executed copy for all purposes.
13. This Agreement shall not be considered accepted or effective until signed by all Parties indicated below.

**AGREED TO AND ACCEPTED BY:**

[Coordinating Center name] <b>IMPACT Coordinating Center</b>	<b>LEAD RESEARCHER</b>	<b>Authorized Legal Representative</b>
<b>Signature</b>	<b>Signature</b>	<b>Signature</b>
<b>Name</b>	<b>Name</b>	<b>Name</b>
<b>Title</b>	<b>Title</b>	<b>Title</b>

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**Organization**

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**Organization**

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**Organization**

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**Date**

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**Date**

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**Date**

**Signing Instructions:**

Signing exclusively as an individual is not permitted. Authorized Legal Representative must be signed by an individual who has the authority to enter into legal agreements on behalf of his/her organization. If Lead Researcher has this authority (e.g., department head) then s/he should sign in both locations.

## Resource Request: [Resource Name]

### Attachment A Request Information

<b>ID:</b>	
<b>Description:</b>	
<b>Status:</b>	
<b>Request Date:</b>	<b>Needed Date:</b>
<b>Lead Researcher:</b>	<b>Research Organization:</b>
<b>Email:</b>	
<b>Office Phone:</b>	
<b>Cell Phone:</b>	
<b>Other Researchers / Users of the Data:</b>	<b>Research Locations:</b>
<b>How Will The Data Be Used?:</b>	
<b>Federally Funded:</b> false	<b>Fed. Agency Name:</b>
	<b>Fed. Project Mgr.:</b>

### Attachment B Resource Terms

<b>Name:</b>	<b>Date Range:</b>
<b>Author:</b>	<b>Available:</b>
<b>Record Type:</b>	<b>Anonymized:</b>
<b>Category:</b>	<b>Size (in bytes):</b>
<b>Summary:</b>	
<b>Description:</b>	

#### Restriction

<b>Commercial Allowed:</b>
<b>Restriction Type:</b>
<b>Possible Use:</b>
<b>Provisions:</b>
<b>Restriction Summary:</b>
<b>Terms of Use:</b>