



BY CLICKING ON THE "ACCEPT" BUTTON AT THE END OF THIS AGREEMENT, YOU ARE CONSENTING TO BE BOUND BY ALL OF THE TERMS OF THIS AGREEMENT. IF THE "ACCEPT" BUTTON IS NOT PRESENT OR OTHERWISE DISABLED, ACCESSING AND USING THE DATA ACCOMPANYING THIS LICENSE INDICATES YOUR ACCEPTANCE OF THESE TERMS AND CONDITIONS. IF YOU DO NOT AGREE TO ALL THE TERMS AND CONDITIONS OF THIS AGREEMENT, CLICK THE "DO NOT ACCEPT" BUTTON AND DISCONTINUE. IF THE "DO NOT ACCEPT" BUTTON IS NOT PRESENT OR OTHERWISE DISABLED, SIMPLY DO NOT PROCEED WITH ANY MORE STEPS OF THE PROCESS.

MASSACHUSETTS INSTITUTE OF TECHNOLOGY

END-USER LICENSE AND DATA USE AGREEMENT FOR OUTBOUND RESEARCH DATA

This Agreement is effective as of the date RECIPIENT accesses the DATA (the "Effective Date"), between the Massachusetts Institute of Technology, a nonprofit Massachusetts education corporation with an address at 77 Massachusetts Avenue, Cambridge MA 02139 ("MIT"), and the recipient individual or entity identified in Appendix A (the "RECIPIENT"). MIT and the RECIPIENT may hereinafter be referred to individually as a "Party," and/or collectively as the "Parties."

In connection with MIT making confidential, de-identified data available as described herein, the Parties hereby agree as follows:

WHEREAS, MIT has developed, and MIT owns, data known as "RF-Sleep Dataset Release" described in MIT Case No. 19859 by Tommi S. Jaakkola, Dina Katabi, Shichao Yue and Mingmin Zhao, and as further described in Appendix A (the "DATA"); and

WHEREAS, MIT desires to make the DATA available to RECIPIENT under the terms and conditions herein described;

NOW, THEREFORE, the parties agree as follows:

- 1. GRANT OF DATA.** MIT hereby grants use rights to the DATA to RECIPIENT for noncommercial research purposes only. The DATA are provided at no cost.
 - 1.1.** Neither RECIPIENT nor its RECIPIENT RESEARCHERS may further distribute DATA to others, including without limitation, to employees or representatives of RECIPIENT other than the RECIPIENT RESEARCHERS or to research collaborators at other institutions including MIT, without MIT's prior written consent.
 - 1.2.** For purposes of this Agreement, "RECIPIENT RESEARCHERS" means the RECIPIENT-affiliated individuals named in Appendix A. Only the RECIPIENT RESEARCHERS listed in Appendix A may use or receive the DATA. RECIPIENT represents and warrants that the RECIPIENT



RESEARCHERS are aware of and will comply with the terms, conditions, and restrictions of this Agreement.

2. USE OF DATA.

2.1. Subject to the terms and conditions of this Agreement, RECIPIENT may (i) use the DATA solely for internal noncommercial research purposes. RECIPIENT shall not use DATA except as authorized under this Agreement. MIT retains all rights it may have in the DATA. Specifically, RECIPIENT agrees:

- To not transfer, share, distribute, merge, reverse engineer, decompile, or reverse assemble the DATA or any portion thereof, including the weights of any neural network developed by using the DATA fully or partially to train or test the network.
- To not transfer, share, distribute, or extract parameters, features, or weightings derived from the DATA (“DERIVED DATA”) for the purpose of making, informing, or training a neural network that allows a third party to circumvent or avoid taking a license to the DATA.
- To not use DATA, or incorporate DATA into a commercial product or other commercial purpose, whether in whole or in part, directly or indirectly. For clarity, this includes using any DATA or Derived DATA to train neural networks being used commercially or for commercial purposes. For the avoidance of doubt, “commercial purposes” shall also include use of the DATA or DERIVED DATA to perform contracted research services.
- To not attempt to re-identify any personal or individual information from the DATA, if applicable.

2.2. RECIPIENT agrees to use the DATA in compliance with all applicable laws and regulations.

3. TERM. The Term of this Agreement commences on the date the RECIPIENT is given access to the DATA (“the Effective Date”) and ends on the tenth (10th) anniversary of the Effective Date, unless terminated earlier under this Agreement.

4. CONFIDENTIALITY AND SECURITY.

4.1. RECIPIENT (i) will use reasonable care, consistent with accepted industry standards, to protect the security of the DATA but in all events will ensure that the DATA are encrypted at rest and in transit; (ii) will limit access to the DATA to the RECIPIENT or RECIPIENT RESEARCHERS; (iii) will not at any time during or after the term of this Agreement disclose DATA to any other



person without first obtaining MIT's prior written consent (except as otherwise required by law in which case RECIPIENT shall, unless prohibited by law, notify MIT prior to such disclosure so that MIT may seek a protective order or similar remedy); (iv) will not present, submit for publication, publicly post or publish any information contained in or derived from the DATA; (v) will not attempt to re-identify any de-identified DATA by any means; and (vi) will promptly notify MIT in the event of unauthorized access to or disclosure of the DATA.

4.2. Notwithstanding the foregoing, in no event is information considered DATA if it (a) was lawfully in the possession of RECIPIENT before receipt from MIT, other than under a prior agreement with MIT; (b) is or becomes publicly available through no fault of RECIPIENT; (c) is received by RECIPIENT, without restriction as to further disclosure, from a third party having an apparent bona fide right to disclose the information to RECIPIENT; or (d) can be demonstrated as being independently developed by RECIPIENT.

5. USE OF NAMES. Except as expressly authorized in this Agreement, neither MIT nor RECIPIENT may use (alone or as part of another name) any names, logos, seals, insignia or other words, symbols or devices that identify the other Party or any unit, division or affiliate of the other Party ("PROTECTED NAMES") for any purpose in connection with this Agreement except with the prior written approval of, and in accordance with restrictions required by, the other Party. In the case of MIT, such written approval must be obtained from MIT's Technology Licensing Office. Without limiting the foregoing, each Party shall cease all use of PROTECTED NAMES of the other authorized under this Agreement on the termination or expiration of this Agreement, except as otherwise expressly provided herein.

6. NO REPRESENTATIONS OR WARRANTIES.

6.1. All DATA ARE PROVIDED "AS IS." MIT MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. THERE ARE NO EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR THAT THE USE OF THE DATA WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS. RECIPIENT ASSUMES ALL LIABILITY FOR CLAIMS FOR DAMAGES AGAINST IT BY THIRD PARTIES THAT MAY ARISE FROM ITS USE, STORAGE OR DISPOSTAL OF THE DATA.

6.2. IN NO EVENT SHALL EITHER PARTY, MEMBERS OF ITS GOVERNING BOARDS, OR ITS OFFICERS, EMPLOYEES, FACULTY, FELLOWS, STUDENTS OR AFFILIATES BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING ECONOMIC DAMAGES OR LOST PROFITS, REGARDLESS OF WHETHER THE PARTY WAS ADVISED, HAD OTHER REASON TO KNOW OR IN FACT KNEW OF THE POSSIBILITY OF THE FOREGOING.

7. TERMINATION.

7.1. This Agreement shall expire as of the date described in Section 3, unless extended by agreement of the Parties or terminated earlier under this Section 7. All provisions of this



Agreement that are intended to survive expiration or termination of this Agreement, including but not limited to Sections 4 (“Confidentiality”), 5 (“Use of Names”), 6 (“No Representations or Warranties”), 8 (“Notice”), and 9 (“Miscellaneous Provisions”), shall survive such termination or expiration.

7.2. RECIPIENT may terminate this Agreement without cause by providing thirty (30) days’ prior written notice to the other Party. Either Party may terminate this Agreement if the other Party breaches any material term or condition of the Agreement and fails to cure such breach within 30 days after receipt of written notice of such breach.

7.3. Upon the earlier to occur of completion of the RECIPIENT’s research involving the use of the DATA, or termination of this Agreement by MIT for material breach under Section 7.2, RECIPIENT shall destroy the DATA in its possession, and any notes, analyses, documents, or other materials in its possession containing personally identifiable information, and shall certify to MIT as to such destruction, within a reasonable time, not to exceed thirty (30) days from the earliest to occur of completion of the research, or termination or expiration of this Agreement, as the case may be (“Destruction Date”); provided, however, that RECIPIENT may retain a copy of the DATA to the extent necessary to comply with records retention obligations of a federal governmental agency or as set forth in any other sponsored research agreement. Following the Destruction Date, and to the extent permitted by law, MIT shall reasonably accommodate requests of RECIPIENT for access to the DATA for purposes of scientific validation of the research, upon the DATA requestor’s execution of a data use agreement reasonably acceptable to MIT.

8. NOTICES. Any notices to be given under this Agreement (excluding the actual provision of DATA) shall be in writing and addressed to the Parties in care of their respective primary contacts listed in Appendix A. Notices may be delivered in hand or given by certified mail, commercial courier, electronic mail or facsimile transmission.

9. MISCELLANEOUS PROVISIONS.

9.1. Independent Contractors; Non-Exclusive. The Parties are independent contractors and do not intend that any agency, partnership, joint venture, or exclusive relationship is created between the Parties by this Agreement. Neither Party is authorized to act on behalf of the other or to incur any obligations in the name of the other. Nothing in this Agreement shall be construed as obligating the Parties to enter into any subsequent agreement or relationship.

9.2. Entire Agreement; Amendment. This Agreement contains the entire understanding of the Parties with respect to the transactions that are the subject matter hereof and supersedes all prior agreements relating to the transactions. This Agreement may be amended or modified only by a written instrument signed by an authorized representative of each Party.



The terms of this Agreement govern only the disclosure and use of the DATA as defined herein and do not apply to any other exchange of data between the Parties.

- 9.3. **Assignment.** This Agreement and rights and obligations hereunder may not be assigned by either Party without the other Party's prior written consent.
- 9.4. **Severability.** The provisions of this Agreement are severable. In the event any provision of this Agreement is determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining provisions hereof.
- 9.5. **Waiver.** Any waiver of compliance with the terms of this Agreement must be in writing, and any waiver in one instance shall not be deemed a waiver in any future instance.
- 9.6. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original, but all of which together constitute one and the same instrument.
- 9.7. **Governing Law and Language.** This Agreement will be governed by, and construed in accordance with, the substantive laws of the Commonwealth of Massachusetts, without giving effect to any choice or conflict of law provision.

[On web page place the following buttons:

AGREE

DISAGREE

If "DISAGREE", user must be popped out of the page and not allowed to download the software.]



Appendix A

DATA:

DATA shall mean de-identified data from the Study on the Effect of Human Motion on Radio Signals conducted at MIT. This data consists of (1) wireless signals during sleep which contain information about breathing and heart rate; and (2) associated labels during sleep (e.g., sleep stages) which are measured from a commercialized EEG monitor. No personal identifying information or biometric data will be provided. No information regarding the date of the measurements will be included. The file will consist of only the wireless signals and information captured from the sleep monitoring device, and data derived therefrom, for each volunteer. The data sets will be numbered "Volunteer 01", "Volunteer 02", etc. where the numbers have been randomized and do not indicate the order of measurements and are otherwise uncorrelated to the specific measurement data.

RECIPIENT: _____

RECIPIENT RESEARCHERS (Identify primary investigator(s), if any):

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

Name: _____

PRIMARY CONTACTS:

For MIT:

Name: Dina Katabi
Title: Professor, Electrical Engineering and Computer Science
Address: 77 Massachusetts Avenue, Cambridge, MA 02139, Rm. 32-G936
Phone: 617-452-6027
Email: dina@csail.mit.edu



Massachusetts Institute of Technology
77 Massachusetts Avenue, 10-370
Cambridge, Massachusetts 02139

For RECIPIENT:

Name: _____

Title: _____

Address: _____

Phone: _____

Email: _____