

CRAWDAD Contribution Agreement

This CRAWDAD Contribution Agreement (Agreement), effective on _____, is made between Trustees of Dartmouth College (Dartmouth), a corporation organized under the laws of the State of New Hampshire, United States of America with a principal office located at Parkhurst Hall, Hanover, New Hampshire 03755, United States of America and _____ (Provider).

Recitals

The “Community Resource for Archiving Wireless Data At Dartmouth” (CRAWDAD) is a project established to archive and disseminate data about Wireless Computer Networks (defined below) and mobile devices in support of research and education. The Provider offers to provide Dartmouth with a copy of Contributed Data (defined below) and/or with Tools (defined below) to enable manipulation of data about Wireless Computer Networks, with the understanding that the purpose of the CRAWDAD project is to share the Contributed Data and Tools freely around the world and that the Contributed Data and Tools may be used by Users to further their own objectives.

Definitions

- **Agreement:** defined in the introductory paragraph.
- **Anonymization:** translation of sensitive information into another form that makes it difficult to discern the identity or origin of the information.
- **CRAWDAD:** See Recitals above.
- **Contributed Data:** the dataset named _____, including associated metadata, as updated by the Provider from time to time.
- **Dartmouth:** defined in the introductory paragraph.
- **Intellectual Property Rights:** all intellectual property rights worldwide arising under statutory or common law, whether or not registered or perfected, including without limitation all (i) rights associated with works of authorship, including copyrights, copyright applications and copyright registrations, (ii) rights associated with indicia of source, including trademarks, trade name and trade dress, (iii) rights relating to patents and patent applications, (iv) rights relating to the protection of trade secrets, know-how and information that is confidential, and (v) renewals and extensions or any of the foregoing, whether now existing or hereafter filed, issued or acquired.
- **Provider:** defined in the introductory paragraph.
- **Tools:** the software named _____, including associated metadata, as updated by the Provider from time to time.
- **Underlying Data:** all data from which the Contributed Data was created.
- **Users:** Individuals who access Tools and Contributed Data via CRAWDAD.
- **Wireless Computer Network:** a network using wireless technology, such as Wi-Fi (IEEE 802.11) or related technologies, for digital communications including data, voice, and video.

Terms

In consideration of the promises and conditions contained in this Agreement, and for good and valuable consideration, the parties agree as follows:

Effective Date

1. This Agreement shall begin on the last date signed by a party.

Provider Responsibilities, Representations and Warranties

2. The Provider will comply with any formatting requirements for the Contributed Data issued by Dartmouth from time to time.
3. The Provider represents and warrants to Dartmouth that (i) if applicable, the Provider obtained the approval of an institutional review board (IRB) or similar body to collect the Underlying Data, (ii) the Provider collected the Underlying Data in compliance with the approvals described in clause (i), any other ethical obligations applicable to the Provider, and applicable law, (iii) except as described in clause (i), no consent or approval of any person or entity, including without limitation, any governmental authority, is required in order for the Provider to contribute the Contributed Data to CRAWDAD, (iv) the contribution of the Contributed Data by the Provider to CRAWDAD will not violate any law applicable to the Provider, (v) all Underlying Data included in the Contributed Data has been processed in a manner such that, taking into account the means that are reasonably likely to be used to identify a natural person whose identity is included in such Underlying Data, renders such natural person unidentifiable, and (vi) the use and distribution by Dartmouth of any Tools provided by the Provider under this Agreement does not, and will not, violate any patent, copyright, or other proprietary right of any third party. For purposes of clause (v) of the preceding sentence, in ascertaining whether means are reasonably likely to be used to identify a natural person whose identity is included in any Underlying Data, account should be taken of all relevant objective factors, such as the costs and amount of time required for identification in light of the technology available, and anticipated technological developments, at the time of the processing of the Underlying Data.
4. The Provider will allow Dartmouth to make Contributed Data and/or Tools provided by the Provider under this Agreement available to Users without charge.

Dartmouth Responsibilities; Right to Remove Contributed Data and Tools; No Obligation to Continue Operation of CRAWDAD

5. Dartmouth will identify the Contributed Data and/or Tools provided by the Provider under this Agreement as having been contributed by the Provider and may announce the fact that the

Contributed Data and/or such Tools have been contributed by the Provider and are available for access.

6. Dartmouth shall have the right at any time in its sole discretion to remove the Contributed Data and/or Tools provided by the Provider under this Agreement from CRAWDAD, in which event it shall notify the Provider of same and destroy such Contributed Data and/or Tools.
7. Dartmouth shall have no obligation to continue operating the CRAWDAD project and Dartmouth may, at any time as it may determine in its sole discretion, cease operating the CRAWDAD project and either (i) destroy the Contributed Data and/or Tools provided by the Provider under this Agreement or (ii) assign this Agreement and deliver the Contributed Data and/or Tools to a person or entity who assumes the operation of the CRAWDAD project. Dartmouth will give the Provider notice of any action described in this Section 6 no later than 30 days following the date thereof.

Additional Terms Applicable to Users

8. The parties agree that the Provider may impose restrictions or other requirements upon Users regarding use of the Contributed Data and/or Tools provided by the Provider in addition to those set forth in the CRAWDAD User License between Dartmouth and such Users, provided that (i) such restrictions or other requirements are prominently posted by the Provider within the Contributed Data and/or Tools, as applicable, and (ii) Dartmouth shall have no obligations to enforce such restrictions or other requirements against any User.

Indemnification

9. The Provider agrees to indemnify, defend and hold harmless Dartmouth, its trustees, officers, employees, and agents from and against any and all actions, suits, proceedings, demands, assessments, judgments, damages, liabilities (except for income and other applicable taxes), and expenses relating thereto, including without limitation, interest, penalties, attorneys' fees and expenses, and any amounts paid in settlement of any of the foregoing, incurred by any of them arising out of or relating any third party claim arising out of relating to (i) the contribution of the Contributed Data and/or Tools provided by the Provider under this Agreement to CRAWDAD, (ii) any use of the Contributed Data and/or Tools provided by the Provider under this Agreement by Dartmouth or any User, in accordance with the terms of this Agreement and, in the case of any User, in accordance with any restrictions described in Section 8, or (iii) any breach by the Provider of its responsibilities, representations or warranties under this Agreement. Dartmouth shall notify the Provider in writing within thirty (30) days of the assertion of any third-party claim that is subject to indemnification under this Section 9. Failure to notify the Provider shall not result in the waiver of indemnity rights with respect to such claim unless such failure materially prejudices the ability of the Provider to defend such claim and only to the extent

thereof. The parties shall cooperate with each other in the defense and settlement of any such claim. In the event the Provider does not accept the defense of any claim, Dartmouth shall have the right to defend such claim at the Provider's expense. No party who has assumed the defense of any claim shall settle the matter without the consent of the indemnifying party or the party seeking indemnification, as the case may be, which consent shall not be unreasonably withheld, conditioned or delayed.

Independent Contractor

10. The parties do not intend to create any partnership or joint venture between themselves with respect to any provisions of this Agreement. Nothing herein shall be construed as appointing or authorizing either party or any of its agents, employees, or representatives to represent or bind the other in any manner whatsoever. In addition, neither party shall be deemed to be an employee or agent of the others. The parties agree and acknowledge that their relationship is one of independent contractor, and not as employee or agent of the other.

Publication

11. The Provider recognizes that Users will include individuals at institutions other than Dartmouth.
12. The Provider recognizes that Dartmouth may use multiple computer servers, possibly located at other institutions or in other countries, to host and distribute the Contributed Data and/or Tools provided by the Provider under this Agreement.
13. The Provider recognizes that the results of activities (by Dartmouth or others) involving the use of or including Contributed Data and/or Tools provided by the Provider under this Agreement may be publishable and agrees that Users shall be permitted to make presentations at symposia, national or regional professional meetings, and to publish in journals, theses, or dissertations, or works, results of such activities, including applicable research methodology, in each case as they shall choose in their sole discretion.

Intellectual Property

14. All Intellectual Property Rights arising from any User's use of the Contributed Data and/or Tools shall remain with such User or such User's institution.

Disputes

15. Prior to commencing litigation, both Dartmouth and the Provider will use all reasonable efforts to informally resolve any dispute under this Agreement. Any dispute hereunder shall be submitted to non-binding mediation before a mutually agreed mediator within 30 days of a claim by either party and the parties shall make good faith efforts to resolve the dispute within 90 days of the date presented to mediation.

Governing Law: Forum

16. This Agreement shall be interpreted and construed in accordance with the laws of the State of New Hampshire, United States of America. Each party agrees that the courts of competent jurisdiction of the State of New Hampshire, United States of America located in Grafton Court and the United States Federal District Court for the State of New Hampshire shall have exclusive jurisdiction over any proceeding or suit between the parties in law or equity arising from, or incident to, this Agreement and each party hereby consents to the jurisdiction of such courts for such purpose.

Modification: Waivers

17. Any Agreement to change the terms of this Agreement in any way shall be valid only if the change is made in writing signed by authorized representatives of the parties hereto. No waiver of any provision of this Agreement shall be valid or binding unless set forth in writing and duly executed by any party against which enforcement of the waiver is sought. No failure by a party to exercise, and no delay by a party in exercising, any right hereunder will operate as a waiver of such right, nor will any single or partial exercise by a party of any right hereunder preclude any future exercise of that right, or any other right, by that party.

Assignment: Binding Effect: No Third-Party Beneficiaries

18. The Provider shall neither assign nor transfer any rights or obligations under this Agreement without prior written approval from Dartmouth. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and permitted assigns. Nothing in this Agreement is intended to confer on any person or entity, other than the Parties and their respective successors and permitted assigns, any rights hereunder.

Entire Agreement: Severability

19. This Agreement constitutes the entire agreement of the parties, and supersedes any agreements, either oral or written, between the parties with respect to the subject matter hereof. If any term or condition of this Agreement is determined to be invalid or unenforceable in whole or in part for any reason, this Agreement shall be reformed to be valid and enforceable consistent with the intention of the parties as expressed herein to the greatest extent permitted by law.

Notices

20. Any notice or communication to either party hereunder shall be signed by the party giving it and shall be deemed to be delivered (i) upon deposit for overnight delivery with a bonded courier holding itself out to the public as providing such services, with charges prepaid, or (ii) four (4)

business days following deposit with the United States Postal Service or other postal service of any other jurisdiction in which a party has its principal place of business, postage prepaid, in each case addressed to the party's address set forth below, or to any other address that the party provides by notice, in accordance with this Section 19 to the other party:

To Dartmouth:

Sherrie J. Read
Office of Sponsored Projects
11 Rope Ferry Road #6210
Hanover, NH 03755-1404
sponsored.projects@dartmouth.edu

To the Provider:

Counterparts; Signatures

21. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. Signed documents transmitted via facsimile or other electronic means shall be afforded the same weight as documents with original ink signatures.

Signatures appear on the following page

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

PROVIDER

TRUSTEES OF DARTMOUTH COLLEGE

Sign_____

Sign_____

Name_____

Name_____

Title_____

Title_____

Date_____

Date_____