Data Transfer and Use Agreement

This Data Transfer and Use Agreement (the "Agreement"), entered into on the last date of signature on this Agreement (the "Effective Date"), is between _____, a _____ with an office at _____("Recipient") and the University of Southern California ("Provider") located at 1150 South Olive Street, Suite 2300, Los Angeles, California 90015, each of which is a "Party" and together are the "Parties." This Agreement governs an arrangement through which Provider shall make available certain data described below to Recipient and Recipient Investigator.

In consideration of the mutual promises and covenants contained herein, the Parties agree as follows:

Article 1 - Definitions

1.1 <u>Data</u> means biometric images of individuals' face collected in 2019 under USC IRB approved protocol #UP-17-00304.

1.2 <u>Recipient Investigator</u> means _____.

1.3 <u>Project</u> means the research project described below:

1.4 <u>Provider Investigator</u> means Dr. Wael Abd-Almageed, Research Associate Professor, Electrical and Computer Engineering Department.

Article 2 – Transfer and Use of Data

2.1 <u>Transfer of Data.</u> Provider shall provide Data in compliance with any and all local, state, or federal rule or regulation applicable to the transfer of the Data.

2.2 <u>Use of Data</u>. Recipient will use the Data solely in the performance of the Project and for no other use without the written approval of Provider and execution of an amendment to this Agreement. Recipient will comply with all applicable laws, rules and regulations pertaining to its use of the Data.

2.3 <u>Permitted Users</u>. The Data will be used solely by Recipient Investigator and those under his/her direct supervision.

2.4 <u>Security.</u> Recipient will store and process Data in accordance with reasonable practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure Recipient's own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved.

2.5 <u>No Transfer</u>. Except as specifically provided herein, neither Recipient nor Recipient Investigator will distribute or transfer the Data to any other investigator at the Recipient or to any third party for any reason without the prior written consent of an authorized representative of Provider.

2.6 <u>No Commercial Use</u>. Recipient Investigator will not use the Data in any research that is subject to consulting or licensing obligations to any for-profit organizations.

Article 3 – Results; Publication

Recipient may generate certain data, analyses, or other information in the performance of the Project using the Data ("Results") and agrees to provide a summary of the Results to Provider Investigator upon request. Recipient reserves the right to publish the Results. Recipient agrees that the Data shall not be published, presented or annotated in a way that can cause embarrassment, discomfort or anguish to the original subject. Recipient further agrees that biometric face images shall not be published or displayed in public. Recipient agrees to acknowledge Provider for its contributions in any such publication by citing the following papers.

> *Mohammad Rostami, Leonidas Spinoulas, Mohamed Hussein, Joe Mathai, and Wael AbdAlmageed, "Detection and Continual Learning of Novel Face Presentation Attacks", in Proceedings of the IEEE/CVF International Conference on Computer Vision (ICCV), 2021, pp. 14851-14860*

> *Leonidas Spinoulas, Mohamed Hussein, David Geissbühler, Joe Mathai, Oswin G. Almeida, Guillaume Clivaz, Sébastien Marcel, and Wael AbdAlmageed, "Multispectral Biometrics System Framework: Application to Presentation Attack Detection", in IEEE Sensors Journal, vol. 21, no. 13, pp. 15022-15041, July 2021, doi: 10.1109/JSEN.2021.3074406*

Article 4 - Confidentiality

Recipient agrees to maintain the confidentiality of any information provided hereunder by the Provider that is related to the Data and that has been marked by the disclosing Party as "confidential" ("Confidential Information"). Notwithstanding the foregoing, Recipient agrees that the Data is the Confidential Information of Provider, whether or not the Data is marked by Provider as "confidential." In addition, Recipient agrees not to use, except as needed for the purposes of this Agreement, any Confidential Information without first obtaining the written consent of Provider. Recipient shall not have any obligation to Provider with respect to information which:

    a)   is or later becomes generally available to the public by use, publication or the like, through no fault of Recipient; or

b)   is obtained from a third party who had the legal right to disclose the same to the Recipient; or

c)   is already in the possession of Recipient at the time of disclosure, as evidenced by the parties' business records; or

d)   was developed by or for employees or agents of Recipient without reference to the Confidential Information.

Recipient may disclose Confidential Information if required to be released under law or court order, provided that Recipient gives reasonable prior notice to Provider to allow it to seek protective or other court orders.

Article 5 – Privacy

Recipient will not attempt to identify the subjects whose information is included in the Data. Recipient will not use, publish or disclose such information in any manner whatsoever. Recipient shall comply with applicable state and federal laws and regulations relating to the confidentiality and privacy of such individually identifiable information. Recipient agrees to notify Provider and Provider Investigator orally and in writing within twenty-four (24) hours of Recipient's discovery of any such individually identifiable information in its possession and any such information which is improperly used, copied, or removed by anyone except an authorized representative of Provider or Recipient. Recipient shall cooperate with Provider and Provider Investigator in taking such steps as are deemed appropriate by Provider to enjoin the misuse, regain possession of such individual identifiable information, and otherwise protect Provider's rights and subjects' privacy.

Article 6 - Term and Termination

6.1 <u>Term</u>. The Agreement shall begin on the Effective Date and shall continue until completion of the Project (the "Term") unless earlier terminated pursuant to this Article 6.

6.2 <u>Termination</u>. Either Party may terminate this Agreement with or without cause at any time upon the receipt of thirty (30) days prior written notice to the non-terminating Party.

6.3 <u>Effect of Termination</u>. Recipient agrees to return Confidential Information and all copies thereof upon termination of this Agreement, or upon earlier request by Provider Investigator.

6.4 <u>Survival of Obligations</u>. The rights and obligations that would, by their nature, survive expiration or termination of this Agreement or that have accrued prior to termination shall survive expiration or termination of this Agreement, including without limitation the obligations of confidentiality and privacy.

Article 7 - Disclaimer of Representations and Warranties

PROVIDER NEITHER MAKES ANY REPRESENTATIONS NOR EXTENDS ANY WARRANTIES EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS OF THE DATA FOR A PARTICULAR USE. WITHOUT LIMITATION OF THE FOREGOING GENERALITY, NOTHING CONTAINED HEREIN SHALL BE CONSTRUED AS EXTENDING ANY REPRESENTATION OR

WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE RESEARCH CONDUCTED USING THE DATA HEREOF OR THAT USE OF THE DATA WILL NOT INFRINGE ANY PATENT OR OTHER PROPRIETARY RIGHT.

Article 8 – Limitation of Liability

NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL PROVIDER BE RESPONSIBLE FOR ANY INCIDENTAL DAMAGES, CONSEQUENTIAL DAMAGES, EXEMPLARY DAMAGES OF ANY KIND, LOST GOODWILL, LOST PROFITS, LOST BUSINESS AND/OR ANY INDIRECT ECONOMIC DAMAGES WHATSOEVER REGARDLESS OF WHETHER SUCH DAMAGES ARISE FROM CLAIMS BASED UPON CONTRACT, NEGLIGENCE, TORT (INCLUDING STRICT LIABILITY OR OTHER LEGAL THEORY), A BREACH OF ANY WARRANTY OR TERM OF THIS AGREEMENT, AND REGARDLESS OF WHETHER PROVIDER WAS ADVISED OR HAD REASON TO KNOW OF THE POSSIBILITY OF INCURRING SUCH DAMAGES IN ADVANCE.

Article 9 - Miscellaneous

9.1   Amendments. Amendments to this Agreement must be made in writing and signed by authorized representatives of both Parties.

9.2   Assignment. The Agreement shall be binding on the Parties hereto and upon their respective heirs, administrators, successors and permitted assigns. This Agreement may not be assigned by either Party or by operation of law without the prior written consent of and authorized individual of the other Party.

9.3   Independent Parties. The Parties to this Agreement are independent contractors and not agents of the other. This Agreement shall not constitute a partnership or joint venture, and neither Party may be bound by the other to any contract, arrangement or understanding except as specifically stated herein.

9.4   Use of Name. Neither Party will use other Party's name or logo in any advertising or other form of publicity without the prior written consent by an authorized individual of the other Party.

        IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized representatives to execute this Agreement as of the Effective Date.

(Signature page follows)

[INSERT RECIPIENT INSTITUTION]   **UNIVERSITY OF SOUTHERN CALIFORNIA**

By _____   By _____

_____   _____
            Print Name   Judy Genovese

_____   _____
            Title   Sr. Transactions Officer, USC Stevens

_____   _____
            Date   Date

Recipient Investigator, by affixing his/her signatures below, acknowledge that he/she has read and understood the terms of this Agreement.

Recipient Investigator

By: _____

Name: _____

Title: _____

Date: __