

Dated _____ 20____

(1) SURREY UNIVERSITY

&

(2) [_____]

**LICENCE FOR THE EXTENDED MULTIMODAL FACE DATABASE AND
ASSOCIATED DOCUMENTATION - XM2VTSdb**

AN AGREEMENT dated the _____ day of _____ 20____

BETWEEN:

- (1) **UNIVERSITY OF SURREY**, a not-for-profit organisation having a principal place of business at Guildford, Surrey GU2 5XH, represented by the Centre for Vision, Speech and Signal Processing ("the University")
and
- (2) The Licensee whose name and registered office or place of business appear in the Schedule to this Agreement ("the Licensee")

WHEREAS

The University through the Centre for Vision, Speech and Signal Processing (CVSSP) is the beneficial owner of CVSSP's software, multimedia face database and documentation known as the "Extended Multimodal Face Database - XM2VTSdb"

The Licensee wishes to evaluate and use this database for the purpose of its own internal research and seeks to regulate its relationship with the University through this Licence Agreement.

AGREEMENT

1. DEFINITIONS

In this Agreement the following expressions have the following meanings:

- 1.1 "the Equipment" means the Licensee's computer(s) in respect of which the Licence is granted, specified in the Schedule, and running under the operating system specified in the Schedule;
- 1.2 "the Licence" means the Licence granted by the University in clause 2 below;
- 1.3 "the Licensed Data" means the multimedia face data and documentation known as the "Extended Multimodal Face Database - XM2VTSdb"
- 1.4 "the Documentation" means the documentation which the University makes available to the Licensee in connection with the Licensed Data; and

- 1.5 "the Licence Period" means the Licence period specified in the Schedule.
- 1.6 "the Schedule" means the Schedule Annex 1 which is incorporated into this Agreement.

2. LICENCE

- 2.1 The University will grant to the Licensee a non-exclusive licence to load the Licensed Data into, and to store and run them on, the Equipment in accordance with the terms of this Agreement. The University will not provide any support, or assistance with maintenance in respect of the Licensed Data unless explicitly stated in this Agreement.
- 2.2 The Licensed Data and the Documentation may be used only for the purpose of evaluating the Licensed Data and for internal research. In particular they may not be used in a live environment or for production or development purposes without a prior exploitation arrangement with the Licensor.
- 2.3 The Licensee will not allow any third party to use the Licensed Data or the Documentation and the Licensee may not use them on behalf of, or for the benefit of, any third party in any way.
- 2.4 The Licensee may not transfer the Licensed Data, the Documentation, or the Licence, or any rights of the Licensee under this Agreement, to any third party. Also the Licensee may not ship or transmit by any means the Licensed Data or the Documentation to any other destination without the explicit written permission of the University.
- 2.5 The Licensee will ensure that all copies of the Licensed Data have been deleted from the Equipment before the Licensee disposes of the Equipment.
- 2.6 The Licence does not extend to any data, software or materials except the Licensed Data and the Documentation.
- 2.7 The Licensee agrees to make its students, employees and anyone else within the Licensees' company who may use their copy of the Licensed Data aware of the provisions of this Agreement.
- 2.8 The Licensee acknowledges that it is licensed to use the Licensed Data only in accordance with the express terms of this Agreement and not

further, or in any other way.

2.9 The Licence will begin on the delivery of the Licensed Data to the Licensee and will continue until the expiry of the Licence Period or until terminated earlier in accordance with clause 10 below.

3. PAYMENT

3.1 The Licensee will pay the licence fee specified in the Schedule on the signing of this Agreement

3.2 The licence fee and any additional charges payable to the University are exclusive of Value Added Tax or similar tax which will be paid by the Licensee at the rate and in the manner from time to time prescribed by law.

3.3 All charges payable by the Licensee under this Agreement will be paid, without deduction or set off when returning the signed agreement to the University prior to the receiving of the Licensed Data.

4. THE EQUIPMENT

The Licensee is responsible for ensuring that the Equipment is installed and is fully operational.

5. WARRANTIES

5.1 As the Licensed Data and the Documentation are supplied solely for the purpose of evaluation and internal research, the University gives no warranty in respect of their quality, functionality or performance, therefore the product is provided "AS IS" without any warranty of any kind, either express or implied.

5.2 The Licensee acknowledges that the Licensed Data has not been prepared to meet the Licensee's individual requirements and that it is, therefore, the responsibility of the Licensee to ensure that the facilities and functions described in the Documentation meet its requirements.

5.3 THE EXPRESS TERMS OF THIS AGREEMENT ARE IN LIEU OF ALL WARRANTIES, CONDITIONS, TERMS, UNDERTAKINGS AND OBLIGATIONS IMPLIED BY STATUTE, COMMON LAW, CUSTOM, TRADE USAGE, COURSE OF DEALING OR OTHERWISE INCLUDING, WITHOUT LIMITATION, IMPLIED WARRANTIES AS TO QUALITY OR FITNESS FOR PURPOSE, ALL OF WHICH ARE EXCLUDED FROM THIS AGREEMENT TO THE FULLEST EXTENT

PERMITTED BY LAW.

- 5.4 The University makes no representation and gives no warranty that the Licensed Data will be free from error or that their use will be uninterrupted. The Licensee acknowledges that the Licensed Data cannot be tested in advance in every possible operating combination and environment.
- 5.5 The Licensee agrees to defend at its own expense any claim, suit or proceeding brought against the University or the Licensee insofar as it arises from the Licensee's use of the Licensed Data, Documentation or any derivative works, and shall indemnify and hold the University harmless for all claims, damages, costs and expenses awarded to the Licensee or third parties arising from any such claim, suit or proceeding.
- 5.6 In the event any claim, suit or proceeding is brought against the Licensee based on a claim that any portion of the Licensed Data, and any derivative works constitutes an infringement of a patent, copyright, or other proprietary rights of any third party, the University will have the right, at its option, to assume the defence for such action. In such event, the University shall pay all damages, costs and expenses finally awarded to such third parties against the Licensee but will not be responsible for any compromise made without its consent. The University will have the right, at its option, either to obtain for the Licensee the right to continue the use of the Licensed Data and Documentation, or modify the Licensed Data and Documentation so that they are no longer infringing. In the event that neither of the above options are reasonably available, the sole and exclusive remedy available to the Licensee will be to terminate this Agreement, to cease using and return to the University all copies of the Licensed Data and Documentation on the terms laid out in clause 10 of this Agreement.

6. PROPRIETARY RIGHTS

- 6.1 The copyright and all other intellectual property rights in the Documentation and in the Licensed Data, the audio-visual out-put resulting from use of the Licensed Data as between the University and the Licensee, are and will remain the property of the University. The University reserves the right to grant licences to use the Licensed Data and the Documentation to third parties. The Licensee acquires no rights in the Licensed Data or in the Documentation, except the Licence. The Licensee is not permitted to make copies of the Documentation. All proprietary and copyright notices are precautionary only and do not imply publication.

- 6.2 The Licensee will notify the University immediately if the Licensee becomes aware of any unauthorised use of the Licensed Data or of the Documentation by any person.

7. CONFIDENTIALITY OF THE LICENSED DATA

- 7.1 The Licensee will treat as confidential all information contained or embodied in the Licensed Data or any associated Documentation and all information conveyed to the Licensee by the University ("the Information").
- 7.2 The Licensee will not, without first obtaining the written consent of the University, divulge any part of the Information to any person except to the Licensee's own employees and then only to those of the Licensee's employees who need to know it in order to use the Licensed Data in accordance with this Agreement.
- 7.3 The Licensee undertakes to ensure that its employees are made aware, before the disclosure of any of the Information, that it is confidential and that they owe a duty of confidence to the University. The Licensee will indemnify the University against any and all loss and damage which the University may sustain or incur as a result of the Licensee or any person to whom the Licensee divulges any of the Information failing to comply with the undertakings in this Clause 7.
- 7.4 The Licensee will promptly notify the University if the Licensee becomes aware of any breach of confidence by any person to whom the Licensee divulges any of the Information and will give the University all reasonable assistance in connection with any proceedings which the University may institute against that person for breach of confidence.
- 7.5 The Licensee is permitted to publish external and internal research reports which result from the Licensee's internal research using the Licensed Data on the condition that the Licensee shall ensure that there is a clear acknowledgement on the research report in the form of paragraph D in the Schedule.
- 7.6 The foregoing obligations of this clause 7 will remain in full force and effect and continue indefinitely, even if the Licence or this Agreement is terminated or expires.

8. COPYING AND AMENDMENTS

- 8.1 The Licensee may make only as many copies of the Licensed Data as are reasonably necessary for back-up purposes and use of the Licensed Data in accordance with this Agreement. Those copies, and the media

on which they are stored, will be the property of the University and the Licensee will ensure that all copies of the Licensed Data and/or the Documentation bear the proprietary and other notices contained in or on the original copy of the Licensed Data supplied to the Licensee. The terms and conditions of this Agreement will apply to all copies as it applies to the Licensed Data.

8.2 The Licensee will not alter or modify the Licensed Data in any way, nor will the Licensee allow the Licensed Data to be combined with, or to become incorporated in, any other Data except as specifically provided for in the Documentation.

8.3 As the Licence is for evaluation and internal research purposes only, the Licensee acknowledges that it will have no reason to modify or merge it with any other data except as expressly provided in this Agreement and the Licensee undertakes not to do so.

9. SECURITY AND CONTROL

9.1 The Licensee will:

9.1.1 effect and maintain adequate security measures to safeguard the Licensed Data and the Documentation from access or use by any unauthorised person;

9.1.2 retain the Licensed Data and the Documentation and all copies of either or both under the Licensee's effective control; and

9.1.3 maintain a full and accurate record of the Licensee's copying and disclosure of the Licensed Data and produce that record to the University on request from time to time.

9.2 The provisions of clause 9.1 will remain in full force and effect and continue indefinitely even if the Licence or this Agreement is terminated.

10. TERMINATION

10.1 This Agreement shall become effective on the date given above and continue in effect until the end of the Licence Period stated in the Schedule, unless otherwise earlier terminated in accordance with this Clause 10.

10.2 Either party may terminate this Agreement if written notice of at least one month has been given to the other party of either a desire to

terminate or a substantial or persistent breach which cannot or will not be remedied by the other party. If the University gives notice of termination, where the Licensee is not in breach, within one year from the start of the Licence Period then the Licence Fee will be refundable.

10.3 Immediately on the termination of the Licence, the Licensee will return at their own expense and by secure means to the University the Licensed Data, the Documentation, all copies of the Licensed Data and of the Documentation (or, if requested by the University, the Licensee will delete the Licensed Data and the Documentation from the Equipment and any magnetic media on which they are stored and will certify in writing to the University that they have been deleted).

10.4 Any termination of the Licence (however it happens) will not affect any accrued rights or liabilities of either party, nor will it affect the coming into force, or the continuing in force of any provision of this Agreement which is expressly, or by implication, intended to come into or to continue in force on or after termination.

11. LICENSEE'S WARRANTY

The Licensee warrants to the University that the Licensee has not been induced to enter into this Agreement by any prior representations, whether oral or in writing or in any other form, except as specifically contained in this Agreement and (except in the case of fraudulent misrepresentations) the Licensee waives any claim for breach of any representation or any misrepresentation which is not specifically contained in this Agreement.

12. LIABILITY

12.1 As the Licence is granted for evaluation and internal research purposes only, the University will have no liability for any loss or damage, whether in contract or in tort, including but not limited to negligence, or arising in any other way, and whether or not foreseeable by the University.

12.2 In any case the University will not be liable to the Licensee for loss of profits, loss of business, loss of savings, loss of opportunity or any kind of direct, indirect or consequential loss or damage, whether in contract or tort, including but not limited to, negligence, or arising in any other way, and whether or not foreseeable by the University.

12.3 The above limitations on and exclusions of the University's liability do not apply in respect of death or personal injury arising solely from the negligence of the University or of its employees acting in the course of their employment.

12.4 The Licensee acknowledges that the limitations on and exclusions of the University's liability in this Agreement have been drawn to the Licensee's attention.

12.5 The University will not be liable to the Licensee for any loss arising out of or contributed to by any failure by the Licensee to keep full and up to-date security copies of the Licensed Data and data it uses, in accordance with best practice.

13. WAIVER OF REMEDIES

No forbearance, delay or indulgence by either the University or the Licensee in enforcing the provisions of this Agreement will prejudice or restrict its rights, and no waiver of any right will operate as a waiver of any subsequent breach. No right, power or remedy conferred in this Agreement on, or reserved to, either the University or the Licensee is exclusive of any other right, power or remedy available to it and each of those rights, powers and remedies including, but not limited to injunctive relief is cumulative.

14. ENTIRE AGREEMENT

This Agreement supersedes all earlier agreements, arrangements and understandings between the University and the Licensee relating to the Licensed Data. It constitutes the entire agreement between them in respect of its subject matter. No addition to, or modification of, any provision of this Agreement will be binding on the University or on the Licensee unless it is made by a written instrument signed by a duly authorised representative of each of them.

15. NOTICES

All notices to be given under this Agreement must be in writing and sent to the address or fax number of the intended recipient set out in the Schedule to this Agreement or to any other address or fax number in England which the intended recipient may designate by notice given in accordance with this clause. Any notice may be delivered personally or sent by first class pre-paid letter or by fax, and it will be deemed to have been served: if by hand, when delivered; if by first class post, 48 hours after posting; and if by fax when despatched provided the sender's fax machine produces automatic receipt of error free transmission to the intended recipient's fax number.

16. HEADINGS

The headings to the clauses of this Agreement are for ease of reference only and do not affect the interpretation or construction of this Agreement.

17. **LAW**

This Agreement is governed by and to be construed in accordance with the laws of England and Wales and the Licensee will submit to the jurisdiction of the English Courts or, at The University's' discretion, to the courts of any other jurisdiction.

Signed for and on behalf of the University by its duly authorised representative:

Signed for and on behalf of the Licensee by its duly authorised representative:

Signature: _____

Printed: _____

ANNEX 1

THE SCHEDULE

- A. The Licensee:
- (i) Company Name: _____
(same as cover page)
 - (ii) Registered Office/ _____
Place of Business: _____

 - (iii) Address for service: _____
in England if _____
address given above _____
is outside England _____
and Wales: _____
 - (iv) Fax Number: _____
- B. The Equipment:
- (i) Recommended Hardware: _____
 - (ii) Operating System: _____

The Licensee is free to install or re-install the Licensed Data on only one piece of Equipment for the duration of this Licence Period

C. The Licensed Datasets:

D. The acknowledgement that should be used for the purposes of Article 7 is:

“The research on which this (report) is based acknowledges the use of the Extended Multimodal Face Database and associated documentation. Further details of this software can be found in; K. Messer, J. Matas, J. Kittler, J. Luettin and G. Maitre; “XM2VTSbd: The Extended M2VTS Database, Proceedings 2nd Conference on Audio and Video-base Biometric Personal Verification (AVBPA99)” Springer Verlag, New York, 1999. CVSSP URL: <http://www.ee.surrey.ac.uk/Research/VSSP/xm2vtsdb>”.

E. The University’s address and fax number for the purposes of clause 15:

**University Of Surrey,
Guildford,
Surrey. GU2 5XH.
UK.**

Fax: +44 (0) 1483 300803 (NOT TO BE USED TO PLACE ORDERS)

F. **The Licence Period begins from the date of delivery of the Licensed Data at the Licensees’ address given above and lasts indefinitely unless otherwise terminated in accordance with Article 10.**

G. **The Licence Fee: £/ \$/ € plus VAT (circle appropriate currency)**