

SOFTWARE USER LICENSE AGREEMENT

THIS AGREEMENT is made and entered into as of this day, by and between Emory University, a non-profit Georgia corporation with offices located at 1599 Clifton Road N.E., 4th Floor, Atlanta, Georgia 30322 USA (hereinafter referred to as "EMORY") and _____, a non-profit institution with offices located at _____ (hereinafter referred to as "INSTITUTION").

WHEREAS, INSTITUTION and INSTITUTION's SCIENTIST (defined below) desire to receive, and EMORY in furtherance of its public interest mission is willing to provide, SOFTWARE (defined below) for academic, non-commercial research purposes.

NOW THEREFORE, in consideration of the foregoing mutual benefits, the parties hereby agree to the following:

I. Definitions:

1. **SOFTWARE:** The computer software and products related to Cluster Fix, including any source code and/or object code therein contained, any portion or subset thereof, and any copies or duplicates of the foregoing.
2. **PURPOSE:** The following academic, non-commercial research purpose: Cluster Fix globally evaluates the whole scan path at once, detects fixations and saccades, and then locally re-evaluates each fixation and saccade pair in order to identify small, short saccades as well as precisely identify the start and end of saccades.
3. **DERIVATIVES:** Any changes, extensions, additions, or deletions introduced into the SOFTWARE or otherwise based on or derived from the SOFTWARE. DERIVATIVES may include, but are not limited to, corrections of program errors, translations and stylistic restructuring of the SOFTWARE, addition or deletion of functions or enhancement of existing functions of the SOFTWARE, changes or additions required to integrate the SOFTWARE into other applications or to allow the SOFTWARE to run under alternative operating systems or computer hardware configurations, and other adaptations of the SOFTWARE.
4. **COMMERCIAL PURPOSES:** The sale, lease, license, or other transfer of the SOFTWARE to a for-profit organization. COMMERCIAL PURPOSES shall also include uses of the SOFTWARE by any organization, including INSTITUTION, to perform contract research, to produce or manufacture products for general sale, or to conduct research activities that result in any sale, lease, license, or transfer of the SOFTWARE to a for-profit organization. However, industrially sponsored academic research shall not be considered a use of the SOFTWARE for COMMERCIAL PURPOSES per se, unless any of the above conditions of this definition are met.

5. INSTITUTION'S SCIENTIST:

Name: _____

Email Address: _____

Laboratory Address: _____

II. Terms and Conditions of this Agreement:

1. Subject to the terms and conditions of this Agreement, EMORY hereby grants to INSTITUTION a non-exclusive, non-transferable, royalty-free license to use the SOFTWARE solely for the PURPOSE.
2. All installation of the SOFTWARE for use by INSTITUTION will be by and at the sole expense of INSTITUTION. EMORY has no duty at any time to provide technical support, or to debug, maintain, customize, or enhance the SOFTWARE.
3. EMORY retains ownership of the SOFTWARE.
4. INSTITUTION shall not copy or duplicate the SOFTWARE without the prior written consent of EMORY. At EMORY's request, INSTITUTION will provide EMORY with a listing of the number of such copies of the SOFTWARE currently in possession of INSTITUTION. INSTITUTION shall retain in the SOFTWARE and copies thereof any proprietary notices and legends as provided by EMORY, including without restriction any and all copyright, trademark, and patent notices and legends pertaining to attribution, source of developments, funding sources, disclaimers, sponsorship and license rights, and other identifications, and, at the request of EMORY, shall promptly modify or allow EMORY to modify such proprietary notices and legends to conform to EMORY's reasonable requirements.
5. Without the prior written consent of EMORY, INSTITUTION shall not create DERIVATIVES, or attempt to reverse-engineer, analyze, and/or disassemble the SOFTWARE.
6. INSTITUTION agrees that the SOFTWARE is to be used only at the INSTITUTION organization and only in the INSTITUTION'S SCIENTIST's laboratory address specified above under the direction of the INSTITUTION'S SCIENTIST or others working under his/her direct supervision, and will not be transferred to anyone else within the INSTITUTION organization.
7. INSTITUTION shall not sublicense, sell, transfer, allow to be transferred, assign, distribute, or otherwise make available the SOFTWARE, in whole or in part, to third parties.
8. INSTITUTION shall not use the SOFTWARE for COMMERCIAL PURPOSES.
9. Except as provided in this Agreement, no express or implied licenses or other rights are provided to the INSTITUTION under any patents, patent applications, copyrights, trade

secrets or other proprietary rights of EMORY. In particular, no express or implied licenses or other rights are provided to use the SOFTWARE or any related patents of EMORY for COMMERCIAL PURPOSES.

10. EMORY MAKES NO REPRESENTATIONS AND EXTENDS NO WARRANTIES REGARDING THE SOFTWARE OF ANY KIND, EITHER EXPRESSED OR IMPLIED. EMORY EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ANY OTHER REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE CAPABILITIES, SAFETY, UTILITY, OR APPLICATION OF THE SOFTWARE, OR THAT THE USE OF THE SOFTWARE WILL NOT INFRINGE ANY PATENT, COPYRIGHT, TRADEMARK, OR OTHER PROPRIETARY RIGHTS.
11. The SOFTWARE has been developed at EMORY and is provided as a courtesy. The SOFTWARE is experimental in nature and is provided AS IS, without obligation by EMORY to provide INSTITUTION services or support. Except to the extent prohibited by law, the INSTITUTION assumes all liability for damages which may arise from its use of the SOFTWARE. EMORY will not be liable to the INSTITUTION for any loss, claim or demand made by the INSTITUTION, or made against the INSTITUTION by any other party, due to or arising from the use of the SOFTWARE by the INSTITUTION, except to the extent permitted by law when caused by the gross negligence or willful misconduct of EMORY. To the extent permitted by law, INSTITUTION shall indemnify, defend, and hold harmless EMORY and its officers, directors, employees, students, and agents, against any and all claims, suits, losses damages, costs, fees, and expenses (including investigative costs, court costs, and attorneys' fees) arising from INSTITUTION's use of the SOFTWARE, except to the extent caused by the gross negligence or willful misconduct of EMORY.
12. This Agreement shall not be interpreted to prevent publication of research findings resulting from the use of the SOFTWARE. The INSTITUTION agrees to provide appropriate acknowledgement of the source of the SOFTWARE in all publications.
13. INSTITUTION agrees to use the SOFTWARE in compliance with all applicable statutes and regulations, including the Export Administration Regulations (EAR), the International Traffic in Arms Regulations (ITAR), and the Foreign Assets Control regulations of the United States of America.
14. Except as provided for in Paragraph 12, INSTITUTION acquires no right to use, either expressly or by implication, any name, trademark, trade name, symbols, abbreviation, or adaptation thereof of EMORY or its personnel in any manner, and shall not use such identifiers in any representation, statement, or public communication that would constitute an express or implied endorsement by EMORY or its personnel of any activity of INSTITUTION or INSTITUTION's SCIENTIST without the prior written approval of EMORY.
15. The SOFTWARE is provided at no cost.
16. All rights and restrictions contained herein may be exercised and shall be applicable and binding only to the extent that they do not violate any applicable laws and are intended to

be limited to the extent necessary so that they will not render this Agreement illegal, invalid, or unenforceable. If any provision or portion of thereof of this Agreement is held to be illegal, invalid, or unenforceable by a court of competent jurisdiction, it is the intention of the parties that the remaining provisions or portions thereof shall remain in full force and effect.

17. Failure to exercise, or any delay in exercising, any right or remedy provided under this Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it preclude or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by law shall preclude or restrict the further exercise of that or any other right or remedy.
18. This Agreement and the rights and benefits conferred upon INSTITUTION hereunder may not be assigned or otherwise transferred by INSTITUTION without the prior written consent of EMORY.
19. This Agreement embodies the entire understanding of the parties and supersedes all previous communications, representations, or understandings, either oral or written, between the parties related to the subject matter hereof.
20. This Agreement will terminate upon the earlier of one (1) year from the effective date of this Agreement, or thirty (30) days' prior written notice by either Party. Upon termination of this Agreement, INSTITUTION will discontinue use of the SOFTWARE, and will, upon the discretion of EMORY, return or destroy all copies of the SOFTWARE. Paragraphs 9, 10, 11, 12, and 14 shall survive termination.

[Signature Page Follows]

AGREED BY:

EMORY UNIVERSITY

INSTITUTION

By: _____

By: _____

Name: J. Cale Lennon, III

Name: _____

Title: Director, Licensing
 Office of Technology Transfer

Title: _____

Date: _____

Date: _____

Address of Institution Signatory:

Email: _____

Phone: _____

READ AND UNDERSTOOD BY:

INSTITUTION'S SCIENTIST

By: _____

Name: _____

Date: _____

Please return an executed copy to:
Attention: Contract Specialist
Emory University
Office of Technology Transfer
1599 Clifton Road N.E., 4th Floor
Atlanta, Georgia 30322
Email: mta@emory.edu