

USC Data Use Agreement (USC/LANDER and Researcher Agreement 2016-08-16-ni)

THIS AGREEMENT (“Agreement”) is effective as of the date of the last signature below, by and between the University of Southern California, on behalf of its Information Technology Services department (“USC/ITS”) and the party signing below as Researcher(“Researcher”).

WHEREAS, USC/ITS is in possession of confidential and proprietary information, trade secrets and know-how, in written, oral and electronic form, regarding the handling and usage of scrambled and sensitive internet traffic trace measurements that have been collected by USC/ITS and Los Nettos, including data provided via secure download from USC's website containing the scrambled and sensitive internet traffic trace measurements (herein after collectively, the “Confidential Information”),

WHEREAS, USC/ITS is willing to provide, and Researcher desires to accept, access to the Confidential Information as specifically set forth in this Agreement.

NOW, THEREFORE, the parties hereto, intending to be legally bound, hereby agree as follows:

1. USC/ITS agrees to disclose Confidential Information, as listed in Attachment DUA-B of this Agreement, to Researcher pursuant to the terms of this Agreement. Researcher shall maintain confidentiality of Confidential Information provided to Researcher from USC/ITS, except as described below. Researcher shall not disclose or provide copies of such Confidential Information to any person other than those persons listed on Attachment DUA-A of this Agreement (including amendments thereto).
2. Researcher shall agree that Researcher will execute an additional USC Data Use Agreement if granted access to additional Confidential Information beyond those datasets listed in Attachment DUA-B to this agreement.
3. Researcher shall agree that, as a condition of access to the dataset(s), USC/ITS has Researcher’s consent that USC/ITS may make public the name of Researcher, the name of Researcher’s Sponsoring Institution, and the name of the dataset(s) that USC/ITS has made available to Researcher under this Agreement.
4. Researcher shall not attempt to translate anonymized Confidential Information back to the identity of a specific individual.
5. Researcher may publish research results based on the analysis of the Confidential Information, provided, however:
 - a. Published results must not include any results that contain personally identifiable or otherwise sensitive information derived from the Confidential Information, including, but not limited to, any information that could be used to recreate the contents or the structure of the original trace data or the ability to map any data back to a specific individual.
 - b. Researcher must also acknowledge USC/ITS in all published works with a reference in the text and list of citations similar to “*Scrambled Internet Trace Measurement, IMPACT ID US/(measurement identifier) (measurement start-date) to (measurement end-date). Provided by the USC.* <https://ant.isi.edu/datasets>.”, or with substantially similar text that includes the measurement type and dataset ID.
6. Researcher shall treat all the Confidential Information as confidential, and shall protect Confidential Information by using at least the same degree of care, but no less than a reasonable degree of care, to prevent the unauthorized use, dissemination, or publication of Confidential Information as Researcher uses to protect its own confidential information of a like nature, and shall not itself use or reveal any of the

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Confidential Information, except as to any of such Confidential Information which Researcher can establish: (a) at the time of disclosure is in the public domain; (b) after disclosure becomes part of the public domain by publication or otherwise, except by breach of this Agreement by Researcher or breach by any other party under an agreement of confidentiality to USC/ITS; (c) is excepted by prior written approval of USC/ITS, the disclosure of which is permitted under this Agreement, or (d) is required by law to be disclosed; provided that prior to such disclosure, Researcher notifies USC/ITS of such requirement so that USC/ITS may seek a protective order or other appropriate remedy.

7. Upon receipt of the Confidential Information, USC/ITS hereby grants to Researcher, a limited non-exclusive, revocable, non-transferable license to Researcher to use the Confidential Information, and Researcher agrees to use the Confidential Information solely for the research as described in Attachment DUA-C and subject to all other terms and conditions specified in this agreement. All title and remaining rights to the Confidential Information disclosed to Researcher under this Agreement remain vested in USC/ITS.

8. Any modification to this Agreement, and further contract or agreement between the parties hereto regarding the Confidential Information, shall be in writing.

9. Researcher shall defend, indemnify, and hold USC and/or USC/ITS, its officers, agents, and employees harmless from and against any and all liability, loss, expense, attorneys' fees, or claims for injury or damages arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the gross negligence or willful conduct, intentional acts or omissions of the Researcher, its officers, agents, or employees.

10. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT WILL USC and/or USC/ITS BE RESPONSIBLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING DAMAGES FOR LOST GOODWILL, LOST PROFITS, LOST BUSINESS OR OTHER INDIRECT ECONOMIC DAMAGES, WHETHER SUCH CLAIM IS BASED ON CONTRACT, NEGLIGENCE, TORT (INCLUDING STRICT LIABILITY) OR OTHER LEGAL THEORY, AS A RESULT OF A BREACH OF ANY WARRANTY OR ANY OTHER TERM OF THIS AGREEMENT, AND REGARDLESS OF WHETHER A PARTY WAS ADVISED OR HAD REASON TO KNOW OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

11. This Agreement shall not be considered accepted or effective until signed below by an authorized representative of USC and the Researcher. This Agreement shall remain in force for a period of one year commencing from the effective date of this Agreement or as amended. This period may be extended by execution of a new agreement. Any Amendments to this Agreement, to be effective, shall be in writing and signed by an authorized Representative of each Party. Upon termination or expiration of the Researcher MOA and this Agreement, Researcher shall dispose of all data and copies and cease all use and make no further use of the Confidential Information, and any copies thereof shall be returned to USC/ITS by Researcher if such return is requested. The confidentiality clause set forth in paragraph 6 above shall survive the term of this Agreement and shall remain in full force perpetually.

12. Either Party may terminate this Agreement at any time by providing written notice of termination to the other. Except as otherwise mutually agreed, termination shall be effective thirty (30) days from receipt of the notice. Unless otherwise agreed to in writing, any such termination shall not affect the obligations of either Party with respect to Data previously

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provided to and in the possession of a Researcher, and such obligations shall continue through the disposition of all such Data.

13. Researcher agrees that the disclosure of the Confidential Information without USC/ITS's express written permission or as otherwise permitted under this Agreement may cause USC/ITS irreparable harm and that any breach or threatened breach of this Agreement by Researcher may entitle USC to injunctive relief, in addition to any other legal or equitable remedies available to it, in any court of competent jurisdiction.

14. This Agreement represents the ENTIRE AGREEMENT between the Researcher and USC/ITS. This Agreement contains the entire agreement of the Parties and supersedes any prior negotiations, proposals or understandings relating to this Data Use Agreement. No modification, amendment or alteration of this Agreement will be effective unless written and signed by both Parties, except for address changes provided by one Party to the other.

Parties have each caused this Agreement to be executed by their duly authorized representative.

Researcher Representative

By:

Name:

e-mail:

Title:

Date:

USC Representative

By:

Name:

e-mail:

Title:

Date:

Research Point-of-Contact (for dataset delivery)

Name:

e-mail:

Request ID:

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Attachement DUA-A

Researchers Permitted to Use Confidential Information

Name	E-mail address	Contact telephone

Attachment DUA-B

Datasets Comprising Confidential Information Disclosed to Researcher:

Category	Sub-category	Dataset Name

Attachment DUA-C

Research Project for This Data

Project Name(s)	Brief Description of Topic