

PURCHASE AGREEMENT

"Biometric Research Platform for Eye Tracking"

*concluded in accordance with Section 2079 et seq. of Act No. 89/2012 Coll., Civil Code (hereinafter referred to as "CC* *")*

This agreement is concluded on the basis of a tender as part of a small-scale public contract implemented outside the requirements of Act. No. 134/2016 Coll., on Public Procurement (hereinafter referred to as the "PPA") (hereinafter referred to as the "tender")

contract number of the Contracting Authority: this will be stated in the record of the publication of the Agreement in the register of contracts according to Act No. 340/2015 Coll.

contract number of the supplier: P19V00000268 / 00016053

project name: Support towards Developing the Study Environment (“*Podpora rozvoje studijního prostředí*”) at ZČU

project number: CZ.02.2.67/0.0/0.0/17\_044/0008546

#### Contracting parties

1) **name:**  iMotions A/S

registered office: Frederiksberg Allé 1-3, 1621 København

identification no.: 33504004

tax identification no.: DK33504004

represented by: xxx

bank: Nykredit

bank account number: 5470 - 9673540

registered in the Business Register: As Corporation, CVR # 33504004

(hereinafter referred to as the "Seller")

and

2) **University of West Bohemia in Pilsen** (***Západočeská univerzita v Plzni***)

registered office: Univerzitní 2732/8, 301 00 Plzeň

identification no.: 49777513

tax identification no.: CZ49777513

established by law No. 314/1991 Coll.

represented by: xxx, CFO (Quaestor)

bank: Komerční banka, a.s., Plzeň - město

bank account number: 4811530257/0100

(hereinafter referred to as the "Buyer")

**I.**

**Subject Matter of the Agreement**

1. Under the conditions set forth herein, the Seller undertakes to deliver to the Buyer one **Biometric Research Platform for Eye Tracking** further specified in Annex No. 2 hereto (hereinafter referred to as the "subject of purchase" or "goods") corresponding to the technical specifications laid down in Annex No. 1,
2. The subject of purchase consists of the following performance:
3. hardware for eye tracking (hereinafter referred to as the "HW");
4. software for receiving the signal from the HW (hereinafter referred to as the "SW MODULE");
5. data-processing software (hereinafter referred to as the "SW DATA").
6. The subject of purchase must be new, fully functional and complete, so that it can be fully used for: analysing at what point and for what length of time the observed person fixes their eyesight, both in the rest position and when moving around the room.
7. The subject of purchase shall be delivered in the agreed quantity, quality, design, place and time. The Seller undertakes to meet other related obligations under this Agreement and to transfer title to the subject of purchase to the Buyer.
8. An integral part of the subject of purchase is the delivery of the subject of purchase to the place of performance, the necessary cooperation with putting it into operation, including verification of its flawless functionality, the delivery of technical documentation and user manuals (in Czech or English, in paper or electronic form) demonstrating all the obligatory functions and parameters of the subject of purchase.
9. The Buyer undertakes to accept the subject of purchase (as long as it is not defective) and to pay the Seller the price specified herein under the conditions specified herein.
10. The Seller undertakes to provide free of charge support, incl. upgrading the software that is part of the subject of purchase for a period of one year from receiving the subject of purchase by the Buyer.

**II.**

**Time and Place of Performance**

1. The Seller undertakes to hand over the subject of purchase to the Buyer and provide the necessary assistance for its commissioning at the place of delivery i.e. at the University of West Bohemia in Pilsen, the Pedagogy Faculty ("*Fakulta pedagogická*"), Chodské náměstí 1, 306 19 Plzeň, door No. CH321, not later than thirty (30) days from the date hereof.

**III.**

**Price and Payment Terms**

1. The purchase price shall be paid by the Buyer to the Seller after the proper delivery of the subject of purchase.
2. The Buyer undertakes to pay the Seller the purchase price for the delivery of the subject of purchase, excluding VAT, in the amount of (the Seller will only fill in prices in CZK or in EUR):
3. HW - [TO BE FILLED IN BY THE SUPPLIER] CZK
4. SW MODULE - [TO BE FILLED IN BY THE SUPPLIER] CZK
5. SW DATA - [TO BE FILLED IN BY THE SUPPLIER] CZK
6. HW - 12 826,67 EUR
7. SW MODULE - 2 716,66 EUR
8. SW DATA - 3 216,67 EUR
9. VAT will be charged at the amount stipulated by law at the date of the chargeable event.
10. The purchase price is set as the highest admissible, maximum and non-exceedable, including all fees and all other costs associated with the performance of the subject matter of the Agreement (e.g. packing, freight, approval procedure, performance of prescribed tests, obtaining the declaration of conformity, certificates and test-related documents, transfer of rights, insurance, etc.). The Seller is not authorized to charge any additional amounts related to the performance hereunder.
11. The purchase price will be paid by the Buyer on the basis of a tax document (hereinafter referred to as the "Invoice").
12. The payment terms of the invoice are agreed to equal 30 days from the date of its demonstrable delivery to the Buyer.
13. The invoice shall contain all the particulars of a proper accounting and tax document within the meaning of the relevant legal regulations, in particular Act No. 235/2004 Coll., on Value Added Tax, as amended, and all the particulars stipulated in this Agreement, i.e.:
14. project name: Support towards Developing the Study Environment ("*Podpora rozvoje studijního prostředí* ") at ZČU;
15. project number: CZ.02.2.67/0.0/0.0/17\_044/0008546;
16. splitting the invoiced amount into prices for partial performance as per Art. III. Sec. 2 hereof.
17. In the event that the Invoice does not contain the relevant particulars, the Buyer is entitled to return it to the Seller within the maturity period of 30 days for correction without being in arrears regarding the payment. The maturity period starts again from the resubmittal of the corrected Invoice to the Buyer.
18. The Buyer shall not provide any advance payments.
19. In the event the Buyer defaults in payment of the Invoice, the Seller is only entitled to claim from the Buyer late payment interest of 0.05% of the outstanding amount for each commenced day of being in arrears regarding payment of the Invoice.

**IV.**

**Transfer of Ownership Rights**

1. The title to the subject of purchase is acquired by the Buyer on the day of acceptance thereof. At the same time, the risk of damage is transferred to the Buyer as well.

**V.**

**Quality Guarantee**

1. The Seller grants the Buyer a quality guarantee for the subject of purchase provided hereunder, namely guaranteeing the proper performance of the subject of purchase as a whole for the purpose of this Agreement for 12 months, and also separately regarding:
2. HW for 12 months;
3. SW MODULE for 3 months;
4. SW DATA for 3 months.
5. The warranty period starts from the date of shipment of the subject of purchase.
6. The Buyer is entitled to notify the Seller of any defect covered by the warranty and any defect that existed at the time of purchase and to exercise the rights following from such a defect at any time during the warranty period, regardless of when the Buyer discovers or may discover the defect, while exercising professional care. If the Buyer notifies the Seller of a defect during the warranty period (i.e., it sends the notification to the Seller by post or e-mail not later than on the last day of the warranty period), the defect is notified in due time and the parties shall rule out the application of any non-mandatory provisions of legal regulations that deviate from the above.
7. The Seller shall carry out warranty repairs free of charge and promptly, taking into account the nature of the defect of the subject of purchase. The Seller is committed to responding (registering a request reported by the Buyer) no later than 3 business days. The Seller undertakes to remove the defects within 5 business days of the report of the defect by the Buyer, unless otherwise agreed in writing.
8. The parties shall draft a report on the removal of the claimed defect; in the report, the representative of the parties shall confirm the removal of the defect. The warranty period shall be extended by the period which runs from the date of notification of the claimed defect until the date of removal of the defect.

**VI.**

**Communication Between the Parties**

1. All communication of the parties or other acts hereunder will be addressed to these representatives of the parties in Czech or English:

On behalf of the Seller:

name: xx

email: xxx@imotions.com

tel.: +xxx

 On behalf of the Buyer:

 name: xxx.

email: xxx.zcu.cz

tel.: xxx

However, these representatives are not authorized to sign any amendments to this Agreement.

1. If this Agreement requires written communication of the parties for a particular notice or other act, such communication can be sent by e-mail or through a postal service provider to the address of the registered office of the respective party for the attention of the representative of the party hereunder.

**VII.**

**Arrangements Regarding License**

1. Based on this Agreement, the Seller undertakes to provide the Buyer with authorization (a license) from the date of acceptance of the subject of purchase for the full and proper use of the goods (SW MODULE and SW DATA) under the technical conditions described in Annex No. 1 and 2 hereto. The license is provided without time or territorial restrictions and the license fee is included in the purchase price of the goods. The Buyer is not required to use this license.
2. Other terms and conditions of the license and support are governed by Annex No. 3 to this Agreement. In the event of any conflict between Annex No. 3 and other clauses of this Agreement, the other parts of the Agreement shall prevail and the relevant clauses of Annex No. 3 shall not have legal effects.
3. In the event that a higher and newer version of the SW or an update, etc. is provided under the support or warranty, the terms of the license provision are laid down by Annex No. 3 to this Agreement. In the event of any conflict between clauses of Annex No. 3 and other clauses hereof, the other clauses of the Agreement prevail and the relevant part of Annex No. 3 shall not have legal effects. In such case, the Seller acts as a provider or broker (hereinafter referred to in this paragraph as the "Provider") providing the license and is required to provide or mediate the license to the above SW in line with the technical specifications contained in Annexes No. 1 and 2 hereto. The Provider declares that the use of the goods hereunder neither violates any third-party rights nor any legal regulation. The Provider expressly declares that it is entitled to provide or mediate the granting of the license based on its legal relationship with the author/holder of economic rights to the SW. The Provider is fully responsible for the accuracy of this statement. The Provider is liable for any damage that the Buyer incurs if this statement turns out to be untruthful.

**VIII.**

**Other Provisions**

1. In the case of contractual sanctions (contractual penalties), the obliged party shall pay the contractual penalty to the entitled party no later than 30 calendar days from the day of receiving the respective invoice from the other party.
2. The Seller is not entitled to assign any rights or obligations hereunder to third parties without the prior written consent of the Buyer.

**IX.**

**Termination of the Agreement**

1. This Agreement may be terminated by an agreement of the parties in writing and/or by withdrawal from this Agreement for reasons set forth herein or laid down by law.
2. A party may withdraw from this Agreement because of a material breach of the contractual obligations by the other party. In particular, the following shall be considered a material breach of the contractual obligations:
	1. on the part of the Buyer, failure to pay the purchase price hereunder within 30 days after the due date of the relevant Invoice;
	2. on the part of the Seller, if the subject of purchase (or a part thereof) is not properly delivered and put into operation within the agreed deadline;
	3. on the part of the Seller, if the subject of purchase does not have the properties declared by the Seller herein or the properties resulting from this Agreement;
	4. on the part of the Seller, if the Seller is in arrears removing the defects as per Art. V. hereof;
	5. on the part of the Seller, if its statement per Art. VII. Sec. 3 hereof is untrue.
3. The Buyer is further entitled to withdraw herefrom if:
	1. the Seller notifies the Buyer that it is unable to fulfill its obligations hereunder;
	2. a court of the competent jurisdiction decides that the Seller is bankrupt or subject to a threatened bankruptcy (i.e. it declares that the Seller is bankrupt or that there exists an impending risk of the Seller’s bankruptcy), or if the Seller is declared to be insolvent or a reorganization of the Seller is allowed;
	3. an application for the winding up of the Seller is filed under the Act. No. 90/2012 Coll., the Business Corporations Act, or liquidation of the Seller is initiated in accordance with applicable law.
4. Any withdrawal from this Agreement shall be made in writing and delivered as such to the other party at the address given in the header hereof or to its data box.
5. The effects of the withdrawal from this Agreement occur on the day when the written notice of withdrawal of the withdrawing party is delivered to the other party.
6. In the case of withdrawal from this Agreement, the parties are obliged to settle their mutual obligations and claims laid down by law or stipulated herein within 30 days of the legal effects of the withdrawal, or within another agreed time limit.
7. In the case of withdrawal from this Agreement by the Buyer for a material breach of the Seller's contractual obligation, the Seller is obliged to pay the Buyer damages (both material and non-material loss), if any arise.

**X.**

**Final Provisions**

1. The provisions of hereof may be supplemented, amended or canceled only by written, numerically ascending and dated amendments signed by the authorized representatives of both parties, upon a proposal made by either of them.
2. The parties expressly agree that this Agreement, as well as the rights and obligations of the parties arising herefrom or directly related hereto are governed solely by Czech law (excluding its conflict of laws provisions), in particular by the provisions of Act No. 89/2012 Coll., the Civil Code, as amended. The parties expressly exclude the application of the UN Convention on Contracts for the International Sale of Goods (published in the Collection of Laws of the Czech Republic under No. 160/1991 Coll.) and any other international convention.
3. If any of the provisions hereof is or becomes ineffective, the remaining provisions hereof remain in effect. The parties undertake to replace the ineffective clause hereof by a different provision that is effective and the content and purpose whereof best corresponds to the content and purpose of the original provision.
4. The parties agree that any disputes arising herefrom will be settled solely by the competent court of the Czech Republic, whereas the jurisdiction of the court shall be determined by the registered office (seat) of the Buyer (Pilsen).
5. This Agreement is executed in two counterparts, each of which has the validity of the original; each party shall receive one counterpart.
6. Both parties declare that they have read the Agreement and agree to its content, which expresses their true will without any errors. At the same time, they represent that this Agreement is not concluded under duress or noticeably disadvantageous conditions, in witness whereof they attach their signatures.
7. The Seller acknowledges that the Buyer is an entity required to disclose contracts under Act No. 340/2015 Coll.; if this Agreement meets the prerequisites for publication under the statute (if the value of the performance under this Agreement exceeds 50,000 CZK without VAT), the Buyer shall publish this Agreement in the register of contracts.
8. This Agreement is concluded on the day it is signed by the last of the parties to sign. This Agreement becomes effective on the date of signature, but if this is a contract subject to publication in the register of contracts pursuant to Act No. 340/2015 Coll., it only becomes effective on the day of its publication in the register of contracts.
9. If this Agreement is not published by the Buyer in accordance with Section 5 of Act. No. 340/2015 Coll. no later than 1 month after being entered into, the Seller is obliged to publish it in accordance with the provisions of Section 5 of Act No. 340/2015 Coll. not later than three months after the date hereof.

Annexes:

Annex No. 1 - Technical specification of the subject of purchase (as determined by the Contracting Authority)

Annex No. 2 - Detailed specifications of the subject of purchase

Annex No. 3 - License and support terms

The Seller: The Buyer:

In Copenhagen dated ……………. In Plzeň dated ............................

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iMotions A/S **University of West Bohemia in Pilsen**

xxx xxx

Director, Client Solutions CFO (Quaestor)

Annex No. 1 to the Agreement: Technical Specification of the Subject of purchase

**Technical Specification of the Subject of Purchase**

The subject of purchase consists of the following parts, meets the following (minimum) technical parameters, and allows the following functionalities:

A biometric research platform using the eye tracking method.

Characteristics:

The subject of purchase shall include hardware, software, and support services to ensure the functionality of the entire system for eye tracking.

The system must be able to integrate and synchronize multiple sensors on a single software platform. It must be able to calibrate sensors, present stimuli, and collect, analyze and export data.

The system consists of a software and hardware component. The hardware component (HW) consists of a wearable device ("goggles") to detect the position of the human pupil and a camera sensing the field of view of the subject being studied. The software component includes two items. The first software item (SW MODULE) installed on the computer enables reception of the signal from the hardware assembly, the second software item (SW DATA) provides processing, storage and visualization of the signals from the HW.

The software must carry out the following on one PC in one application:

* Enable the integration of multiple data streams;
* Allow multiple sensors to be controlled simultaneously;
* Enable data collection from eye tracking analysis and facial expression analysis;
* Support other biometric sensors, incl. GSR, ECG, EMG and EEG;
* Enable real-time automatic synchronization and visualization of all sensors;
* Be hardware independent to allow future hardware upgrades;
* Be equipped with built-in support for Shimmer, BIPAC, Neuroelectrics, Tobii, Pupil Labs and Argus Science.

The HW shall:

* Be wearable;
* Be portable;
* Have a 50Hz sampling rate;
* Be certified to CSA Std, C22.2 No, 60950-1;
* Dimensions of the frame not exceeding 180 x 160 x 60 mm;
* Dimensions of the recording unit not exceeding 135 x 90 x 30 mm;
* Have field of view at least 80 deg (vertical) and 50 deg (horizontal);
* Have camera at least FullHD and 25 fps.