

SM/10191/2022

TOBII PURCHASE AGREEMENT

Proposal Ref No: 202202-157786

Supplier

Tobii AB
Organisation no. 556613-9654
c/o Tobii AB
Karlsrovägen 2D
182 53 Danderyd
Sweden

Customer

Att.:
Invoice email:
Centrum dopravního výzkumu, v. v. i.
Líšeňská 33a
Brno, 63600
Czech Republic

Background

Tobii provides solutions and eye tracking technology involving provisioning, licensing and support of eye tracking hardware and software. The Customer wishes to purchase or subscribe products from Tobii according to the terms specified below in the appendices.

Appendix 1	Products and prices
Appendix 2	Support Entitlement
Appendix 3	Limited Warranty and Tobii Pro Care
Appendix 4	Product Specifications and System Requirements
Appendix 5	General Terms of the Agreement
Appendix 6	Privacy Policy
Appendix 7	Eye Tracking Data Transparency Policy

Validity of Proposal

This Proposal is valid until 2022-04-01

Stockholm, 2022-04-01

Amelie Garnås, Tobii AB

I hereby accept the terms of this Agreement

Date _____

Place

**Ing. Jindřich
Frič, Ph.D.**

Digitálně podepsal

Ing. Jindřich Frič,

Ph.D.

Datum: 2022.04.20

15:09:03 +02'00'

Name _____

Signature _____

Please send signed copy to our address below. For quick handling, e-mail signed order to

Appendix 1 Products and prices

Article No	Item	Qty	Price	Discount	Net Price
400211	Tobii Pro Glasses 3 Wireless 100 (* Academic Discount (10% = 1990 EUR)	1	EUR 19 900,00	10% (*)	EUR 17 910,00
411061	Tobii Pro Lab - Analyzer Edition (* Academic Discount (10% = 535 EUR)	1	EUR 5 350,00	10% (*)	EUR 4 815,00
510010	Tobii Pro Glasses 3 Corrective lenses -5 to+3	1	EUR 2 000,00		EUR 2 000,00
602200	Tobii Pro Premium Support 1 year - 2 assets (* Academic Discount (10% = 100 EUR)	1	EUR 1 000,00	10% (*)	EUR 900,00
601081	Tobii Pro Academy	1	EUR 0,00		EUR 0,00
100001	Shipping and handling	1	EUR 100,00		EUR 100,00

Grand Total (excl. VAT):	EUR 25 725,00
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Please note for EU countries: If you have provided a valid EU VAT number, no VAT will be applied to this order. Otherwise Swedish VAT of 25% applies.

EU VAT No.: _____

All prices are stated exclusive of shipping costs, value added tax, other taxes, travel expenses and other charges, unless explicitly specified otherwise.

This contract is pending credit approval.

Billing Address:

Same as above Otherwise: _____

 Contact Name: _____
 Email: _____
 Phone: _____
 VAT no: _____

Shipping Address:

Please note that PO boxes are not possible to use as shipping address

Same as above Otherwise: _____

 Contact Name: _____
 Email: _____
 Phone: _____

I agree to receive all invoices in electronic form via e-mail. I understand that paper invoices will no longer be sent. E-mail address: _____

Appendix 2 Support Entitlement

Tobii offers two types of support entitlements: Basic Support and Premium Support.

Basic Support: This is a free service ideally for troubleshooting your equipment and software. The user will have access to our online FAQ's and educational articles. All support related questions will be channeled through our contact support webform.

Premium Support: This is a premium support entitlement that has an annual fee. Personalised assistance with the design and analysis tools. Construct research ready studies quickly and with confidence in quality data. Priority responses through our contact support webform, phone and screen share.

For further information regarding our support entitlements and the full terms and conditions, please visit:
<https://www.tobiipro.com/siteassets/tobii-pro/documents/tobii-pro-support-service-description.pdf/>

Appendix 3 Limited Warranty and Tobii Pro Care

For information regarding Tobii Pro Care and Warranty terms, please visit:
<https://www.tobiipro.com/siteassets/tobii-pro/documents/tobii-care-service-description.pdf/>

Appendix 4 Product Specifications and System Requirements

Product Specifications

Please refer to the Product Descriptions for a specification of the Products included in this Proposal. Latest versions are always available on the Tobii website, www.tobiipro.com.

System Requirements

Tobii software requires a high-performance computer for optimum and robust performance. More information about recommended computers, operating systems and accessories can be found in the Tobii System Recommendations, downloadable via www.tobiipro.com

3rd party products

Tobii is a distributor of 3rd party products. Customer agrees to the 3rd party company's terms and conditions, license agreement and product description available on 3rd party company's website.

Appendix 5 General Terms of the Agreement

1. Purchase and supply of products and services

- 1.1. The Customer agrees to purchase, rent or subscribe Tobii hardware products ("**Hardware**") and license the software products and/or "**Application Programming Interfaces**" or "**API**" provided by Tobii, whether provided together with, or separately from, the Hardware ("**Licensed Technology**") (together the "**Products**") listed in Appendix 1 on the terms and conditions specified in this Agreement.
- 1.2. "**Application Programming Interfaces**" or "**API**" means the interface to communicate with the Tobii Glasses 3 Product and allows a developer to execute commands, subscribe to signals and read and/or write properties of the device. "**Documentation**" of the API may include, but is not limited to, API reference documentation, manuals, materials, sample source code, file format of recorded data by Glasses 3 product and information appropriate or necessary for use in connection with the API. API shall include any future, updated or otherwise modified version(s) provided by Tobii, in its sole discretion, to the Customer.
- 1.3. Tobii shall provide the Customer with a Support Contract for the Products in accordance with Appendix 2 ("**Support Entitlement**").
- 1.4. The Parties agree that system specifications for the Products are in accordance with Appendix 4.

2. Intellectual property rights

- 2.1. The Customer acknowledges that all intellectual property rights in the Products shall belong and accrue to Tobii or the third-party licensors of Tobii and no such rights shall be transferred to the Customer.
- 2.2. The Customer agrees to keep Tobii's trademarks, trade names, logos, patent or copyright notices or markings on the Product and to not remove them.
- 2.3. All rights to the results of the services carried out by Tobii, pursuant to this Agreement, shall accrue to Tobii, unless the Parties have agreed otherwise in writing.

3. Prices and payment

- 3.1. The Customer shall pay the fees specified in Appendix 1.
- 3.2. Payment terms are Net 30 days. In case of delay in payment, the Customer shall pay Tobii interest on the arrears of 1.5 % per month.

4. Delivery terms

- 4.1. Delivery terms are Ex Works Stockholm, Sweden unless shipping is included. If shipping is included the INCOTERM is DAP, unless specified otherwise.

5. Specific obligations of the Customer for rental and subscription products

- 5.1. The Customer shall keep all Products that are rented or subscribed pursuant to this Agreement, as well as all material related thereto, separate from other assets and goods in its possession. Customer shall keep such products and material marked up in a way that leaves no doubt that the Products and material belong to Tobii, or its third-party licensors or suppliers.
- 5.2. The Customer shall be responsible for the proper care and handling of the Products whilst in its possession or control, at its premises or otherwise. The Customer shall act to ensure that the Products are not damaged, subject to theft, or a decrease in value of any kind and that the interests of Tobii (related to the Products) are otherwise properly taken care of. The Customer shall keep the Products adequately insured for this purpose.
- 5.3. The Customer is responsible for returning the Products to Tobii at the end of the rental or subscription period. In case of delay in returning the Products, Tobii will automatically charge the Customer for an additional rental or subscription period.

6. License

- 6.1. Subject to Sections 6.2 and 7, Supplier grants to the Customer a limited, non-exclusive, non-transferable, non-sublicensable, royalty-free, revocable license to use:
 - i. the Licensed Technology; and
 - ii. the API to develop software that uses the Products for research, which is not to be commercialised and only used internally by the Customer's employees or within the Research Community ("**Customer Software**"). "**Research Community**" is defined as the community of researchers that work for, and provide research to, academia and not for profit organisations. If Customer wishes to commercialise its Customer Software, or distribute outside of itself or the Research Community, then it must contact Tobii to arrange a commercial license.
- 6.2. The Customer's rights in this Section 6 are conditional upon the following:
 - i. The Customer's full payment of the fees specified in Appendix 1.

- ii. The Customer shall have no right to distribute, license or otherwise transfer Customer Software to any third party. If Customer wishes to commercialise its Customer Software, or distribute outside of itself or the Research Community, then it must contact Tobii to arrange a commercial license, as per Section 6.1(ii) above.
- iii. The Customer may not use the Licensed Technology in connection with any other platforms or systems, other than those officially supported by the Products.
- iv. Customer Software may use Tobii's API in connection with any data. Such Customer Software may also include a proprietary API which uses Eye Tracking Data. The use of Eye Tracking Data is subject to the Customer's implementation of Tobii's Eye Tracking Data Transparency Policy in Appendix 7 of this Agreement. "Eye Tracking Data" means data about a user's eye gaze, pupil size, eye images, facial expression, presence, head pose, or position from Tobii Eye Tracking, in raw or processed form, on its own or in combination with other information; and
- v. Customer Software will comply with the Eye Tracking Data Transparency Policy, in Appendix 7 of this Agreement.

7. Restrictions on Use

- 7.1. Except as expressly permitted by this Agreement, the Customer will not, nor permit or authorise anyone to:
- i. distribute, convey, lend, lease, share, sell, transfer, sublicense, rent, or time share any of the Products, or any of their components or license keys, or permit third parties to download or install any of the Licensed Technology;
 - ii. copy, decompile, disassemble or reverse engineer or otherwise attempt to extract or derive the source code or any methods, algorithms or procedures from the Licensed Technology, or modify, adapt, translate or create derivative works based upon the Products except as otherwise expressly permitted by applicable law;
 - iii. use the Products in any manner that competes with Tobii, including but not limited to, benchmarking, collecting and publishing data or analysis relating to the performance of the Products, or developing or marketing a product that is competitive with any Tobii Product or service. The only exception to this is where such data or analysis relating to the performance of the Products is used by, and for the benefit of, the Research Community.
 - iv. alter or circumvent any product, key or license restrictions or limitations on Products to exceed purchased quantities or to defeat any restrictions on access or use.
 - v. export the Products, directly or indirectly, in violation of any applicable export and import laws, or used for any purpose prohibited by such laws; and
 - vi. directly or indirectly use the eye images gathered using the Products or Customer Software to develop new, or enhance existing, eye-tracking algorithms in competition with the Products.

8. Warranty, limitation of liability

- 8.1. Tobii warrants, during a period of twenty-four (24) months or the rental/subscription period following signature of the Agreement, that the Products corresponds in all material respects to the specifications according to this Agreement.
- 8.2. Tobii warrants that the software will materially function in accordance with specifications according to this Agreement for ninety (90) days or the rental/subscription period from delivery.
- 8.3. In no event shall Tobii's liability under the Agreement extend to defects or problems resulting from:
- i. Third party Products.
 - ii. the Customer altering or modifying or using the Products in a way which is inconsistent with the intended purpose of those Products.
 - iii. the Customer using the Products in a manner or for a purpose other than in accordance with the Agreement.
 - iv. negligence by the Customer or any Party for which the Customer is liable; or
 - v. normal wear and tear of the Hardware.
- 8.4. Tobii shall not be liable, under any circumstances, for any indirect or consequential damages including, but not limited to, loss of business or goodwill, loss of revenue or loss of profits. Tobii's liability under the Agreement shall be limited to the contract sum, i.e. the total price of Products and services purchased by the Customer pursuant to this Agreement.
- 8.5. Neither Party shall be liable to the other for failure or delay in the performance of an obligation under this Agreement due to events that are unforeseeable and beyond the control of such Party, such as, but not limited to, war, fire, explosion, labor conflicts, acts of God, embargoes or government regulations and restrictions that interfere with the obligations carried out hereunder, provided that the Party affected by such case of force majeure gives prompt written notice of such condition to the other Party and resumes its performance as soon as reasonably possible.

9. Miscellaneous

- 9.1. No amendments or additions to the Agreement shall be valid unless made in writing and signed by duly authorised representatives of both Parties.
- 9.2. This agreement shall supersede all prior written or verbal representations, statements, understandings, negotiations, proposals or agreements between the Parties and relating to the relevant type of maintenance services.
- 9.3. Any notice required or permitted under the terms of the Agreement or required by statute, law or regulation shall (unless otherwise provided) be in writing and shall be delivered in person, sent by registered mail, special courier or email to the other Party at the address set out above, or to such other address as may from time to time be designated by notice hereunder.
- 9.4. Neither Party may transfer the Agreement or any right or obligation hereunder without the express written consent of the other Party.

10. Duration and termination

- 10.1. This Agreement remains in force until termination.
- 10.2. Either Party may terminate this Agreement by providing the other Party with sixty (60) days written notice.
- 10.3. Tobii may terminate the Agreement with immediate effect if the Customer materially breaches this Agreement, or is declared bankrupt, placed into receivership, liquidation or similar mechanism.
- 10.4. Upon termination, all rights and licenses granted in this Agreement shall immediately and automatically terminate. If this Agreement relates to rentals and subscriptions, the Customer is required to return the relevant equipment to Tobii before the Agreement is terminated.
- 10.5. Upon termination, all obligations relating to the ownership of the Licensed Technology, payment of any Fees, and any indemnification or liability obligations survive.

11. Applicable law and dispute settlement

- 11.1. The Agreement shall be construed in accordance with and be governed by the laws of Sweden, without reference to the choice and conflict of law provisions.
- 11.2. Any dispute or conflict under this agreement shall be finally settled by arbitration administered by the Arbitration Institute of the Stockholm Chamber of Commerce, in accordance with its rules. The seat of the arbitration will be Stockholm. The language of the arbitration will be English.

Appendix 6 Privacy Policy

Tobii's Privacy Policy may be found at:
<https://www.tobii.com/privacy-policy/>

Appendix 7 Eye Tracking Data Transparency Policy

We require the following to be implemented in the Customer's application:

- **Active User Acceptance:** The application needs to use a consistent format to explicitly and clearly ask the user for their permission to store, or transfer, their Eye Tracking Data. The request for permission must happen before the user's data is stored or transferred. It also needs to state the purpose of storing/transferring Eye Tracking Data and that such data will not be used for any other purpose.
- **Visualisation:** The application must show the user when the storing or transferring of Eye Tracking Data is taking place. Unless a mechanism for visualisation is provided by Tobii, the Customer must provide it. This is required unless explicitly waived by Tobii.

We recommend the following be implemented in the Customer's application:

- The **"What's in it for me"** policy: Clearly inform users about the value they will receive from your application. This is about giving the user clear guidance and motivation about why they should provide their Eye Tracking Data.

Please note that implementation of this policy may vary between different categories of products. For screen-based products, a window such as below is recommended for the Active User Acceptance and What's in it for me policy.

This software will store and/or transfer your eye tracking data.

We do so only for the purpose of <description> and we never <description of limitations>.

The benefit to you is <description of benefits>

Yes, I accept

No, I do not accept

Don't ask me about this again.