



TOBII GETTING STARTED SOFTWARE DEVELOPMENT LICENSE AGREEMENT

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If you are interested in additional eye tracking capabilities or functionality, or if you would like to receive support and maintenance from Tobii, please contact Tobii at <https://www.tobii.com/tech/contact/sales-form/>

Tobii AB (reg. No. 556613-9654), having its registered office at Karlsrovägen 2D, SE-182 53, Danderyd, Sweden (“**Tobii**”), grants you (“**You**”) a license to use the Licensed Software according to the following terms and conditions (the “**Agreement**”). Both Tobii and You are a “**Party**” to this Agreement and referred to together as “**Parties**”. You enter into this Agreement by installing or using the Licensed Software.

WHEREAS, Tobii is a supplier of hardware and software solutions, either standalone or as part of third-party products, for eye tracking which contain intellectual property rights owned by Tobii (“**Tobii Eye Tracking**”), and You desire to license from Tobii to use certain Licensed Software as defined by this Agreement. Any other use of the Licensed Software requires a separate agreement between the Parties.

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- i) YOU HAVE READ AND UNDERSTOOD THE TERMS AND CONDITIONS IN THIS AGREEMENT;
- ii) YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT; AND
- iii) UNLESS SPECIFICALLY EXCLUDED BY AN EXISTING AGREEMENT BETWEEN YOU AND TOBII, THIS IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE RIGHTS AND LIABILITY BETWEEN YOU AND TOBII IN RELATION TO YOUR USE AND DISTRIBUTION OF THE LICENSED SOFTWARE, AND THIS AGREEMENT SUPERSEDES ALL PRIOR COMMUNICATIONS AND AGREEMENTS BETWEEN YOU AND TOBII REGARDING THE LICENSED SOFTWARE.



You may only enter into this agreement and use the Licensed Software if you are legally permitted to enter into a binding contract with Tobii.

The terms of this Agreement will apply to any updates that Tobii makes available to you. You agree that updates may require you to change or update your application and may affect your ability to use, access or interact with Licensed Software.

Tobii may amend this Agreement at any time, without notice to You, by posting the revised terms on its website www.tobii.com.

DEFINITIONS

The terms below are defined as follows under this Agreement:

“Eye Tracking Data” means the following categories data, in raw or processed form, on their own or in combination with other information: (a) Biometric Eye Tracking Data: Data relating to the physical, physiological or behavioral characteristics of a person’s eyes or face; and (b) Psychographic Eye Tracking Data: Any insights derived from biometric eye tracking data relating to a person's physical, mental, and emotional state, or their interests.

“High Risk Use” is use in any environment where failure or fault of any kind could lead to death or serious bodily injury of any person, or to severe physical or environmental damage. High Risk Use includes, but is not limited to, aircraft navigation, control of other modes of human mass transportation, military applications and control of nuclear or chemical facilities.

“Intellectual Property Rights” means patents, rights to apply for patents, trademarks, trade names, service marks, domain names, copyrights, whether registered or unregistered, and all applications and registrations of such worldwide, schematics, industrial models, inventions, know-how, trade secrets, computer software programs and other intangible proprietary information.

“Licensed Software” means the Software provided to You by Tobii, including all included files, directories, documentation, and associated API function calls.

“Medical Use” is any use in medically classified devices or environments, for instance hospitals, surgeries, or other healthcare environments. Examples of Medical Use include systems for Assistive and Alternative Communication (**AAC**), medical condition assessment solutions, vision or eye condition solutions and solutions or systems intended to be used in hospitals, surgeries and doctor’s consulting rooms.

“Store or Transfer” means any method of saving Eye Tracking Data beyond the length of the user session; or any method of sharing Eye Tracking Data so that it can be accessed or observed by others in retrospect, or in real-time on a separate display or device.

“Your Software” means software developed by You, including all object code, source code, and any documentation thereof.



1. PERMITTED USE

- 1.1 Tobii provides You limited rights to use the Licensed Software subject to the terms and restrictions contained in this Agreement.
- 1.2 Your use of the Licensed Software is strictly permitted solely to develop Software for your own personal and non-commercial use (“**Your Use**”).

2. LICENSE

- 2.1 Subject to Sections 2.2, 3 and 7, Tobii grants You a limited, non-exclusive, non-transferable, non-sublicensable, royalty-free, revocable, license:
 - a) to use the Licensed Software solely to develop Your Software for Your Use; and
 - b) to any Intellectual Property Rights owned by Tobii covering binary files, or example source code, in the Licensed Software, necessary for Your Use.
- 2.2 The license rights in this Section 2 are conditional upon compliance with all terms in this Agreement and, specifically, the following:
 - a) You may not commercialise, sell, lease or profit from Your Software, including by providing ancillary services in relation to it.
 - b) You may not use the Licensed Software on other eye tracking platforms than those produced by Tobii, or platforms that include Tobii hardware.
 - c) Your Software may not Store or Transfer the Eye Tracking Data on or to any other application, computing device or network.
 - d) Your Software must not allow other software to access Eye Tracking Data that originates from the Licensed Software.

3. USE RESTRICTIONS

- 3.1 Except as expressly permitted by this Agreement, You will not, nor permit or authorise anyone to:
 - a) distribute, convey, lend, lease, share, sell, transfer, sublicense, rent, or time share the Licensed Software, or any of its components or license files, or permit third parties to download or install the Licensed Software.
 - b) 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 Software, or modify, adapt, translate or create derivative works based upon the Tobii Products except as otherwise expressly permitted by applicable law.
 - c) use the Licensed Software if You are a competitor, or use the Licensed Software 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 Licensed Software, or developing or marketing a product that is competitive with any Tobii product or service.



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5. USAGE DATA TO ENHANCE USER EXPERIENCE

The Licensed Software may report anonymous usage statistics and/or error and bug reports to Tobii's servers in order to identify problems that may affect the technical stability and/or overall quality of the application, as well as inform Tobii which of the program components have been in use. For the avoidance of doubt, this data does not include Eye Tracking Data.

6. SUPPORT & MAINTENANCE

Tobii will not provide You with any support for, or maintenance of, the Licensed Software, including no obligation to provide updates to the Licensed Software.

7. MEDICAL OR HIGH-RISK USE

- 7.1 **Medical Use:** You may not develop Your Software for Medical Use under this Agreement. If you wish to use the Licensed Software for Medical Use, then you must contact Tobii at <https://www.tobii.com/tech/contact/sales-form/>.
- 7.2 **High-Risk Use:** You have no right to develop Your Software for High-Risk Use.

8. LIMITATION OF LIABILITY AND INDEMNIFICATION

- 8.1 In no event will Tobii be liable for the following, whether arising out of the use of, or inability to use, the Licensed Software, or for any other reason, even if it has been advised of the possibility of such damages: (a) indirect, incidental, special or consequential damages; (b) loss or corruption of data or interrupted or loss of business; or (c) loss of revenue, profits, goodwill or anticipated sales or savings. Tobii and its affiliates, officers, directors, employees, agents and suppliers' maximum liability arising out of, or in connection with, the Licensed Software regardless of the cause of action, whether in tort (including negligence), breach, warranty, contract or otherwise will not exceed USD \$100. Some jurisdictions do not allow the limitation or exclusion of liability. Accordingly, some of these limitations may not apply to You. To the extent that Tobii may not, as a matter of applicable law, disclaim any implied warranty or



limit its liabilities, the scope of duration of such warranty and the extent of Tobii's liability shall be the minimum permitted under such applicable law.

- 8.2 You agree to indemnify, defend and hold harmless Tobii and its licensors, affiliates, contractors, officers, directors, employees or agents from any and all third-party claims, liabilities, damages, costs and expenses, including reasonable attorney fees, arising from your violation of any provision of Sections 2 and 3 of this Agreement.

9. TERM AND TERMINATION

- 9.1 This Agreement remains in force until termination (the "**Term**").
- 9.2 Tobii may terminate this Agreement at any time for convenience.
- 9.3 Upon termination, all obligations relating to the ownership of the Licensed Technology and any indemnification or liability obligations survive.

10. CONFIDENTIALITY

- 10.1 **Confidential Information.** "**Confidential Information**" means any confidential or proprietary information of a Party, whether of a technical, business or other nature (including, but not limited to: trade secrets, know-how and information relating to the technology, customers, business plans, promotional and marketing activities, finances and other business affairs of that Party).
- 10.2 **Confidentiality Obligations.** In the performance of or otherwise in connection with this Agreement, either Party ("**Disclosing Party**") may disclose to the other Party ("**Receiving Party**") certain Confidential Information. The Receiving Party shall treat such Confidential Information as confidential and proprietary to the Disclosing Party and shall use such Confidential Information solely for the purposes for which it is provided by the Disclosing Party. Without limiting the generality of the foregoing, the Receiving Party shall take reasonable precautions to prevent any unauthorized use or disclosure of such Confidential Information and will use at least the same efforts to protect such Confidential Information as the Receiving Party would use to protect its own. The obligations set forth above shall not apply to any:
- (i) information that is now or later becomes part of the public domain through no fault of the Receiving Party;
 - (ii) information that is obtained by the Receiving Party from a Third Party (other than in connection with this Agreement) who was not under any obligation of secrecy or confidentiality with respect to such information;
 - (iii) information that is independently developed by the Receiving Party (e.g., without reference to any Confidential Information);
 - (iv) disclosure required by applicable law (e.g., pursuant to applicable securities laws or legal process) or stock exchange regulation, provided that the Receiving Party shall use reasonable efforts to give advance notice to and cooperate with the Disclosing Party in connection with any such disclosure; and
 - (v) disclosure with the consent of the Disclosing Party.



11. GENERAL

Amendment: Tobii may amend this Agreement at any time, without notice to You, by posting the revised terms on its website www.tobii.com.

11.2 **Assignment:** You may not assign this Agreement or any of its rights, interests, or obligations hereunder.

11.3 **NO WARRANTY:** EXCEPT AS SPECIFICALLY PROVIDED HEREIN, TOBII MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, RELATING TO THE LICENSED SOFTWARE AND TOBII FURTHER EXPRESSLY DISCLAIMS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL WARRANTIES AND CONDITIONS OF ANY KIND RELATED THERETO, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, ACCURACY, OR FITNESS FOR A PARTICULAR PURPOSE.

11.4 **Governing Law:** This Agreement will be governed by and construed according to the laws of Sweden (without regard to conflict of laws principles), all rights and remedies being governed by said laws. 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 and the tribunal shall comprise of one (1) arbitrator. The language of the arbitration will be English.

11.5 **Disclaimer and Injunctive Relief:** The Parties specifically disclaim the application of the UN Convention on Contracts for the International Sale of Goods. Regardless of the above governing law, Tobii may seek interim injunctive relief respect to any alleged breach of its Intellectual Property Rights, or any other proprietary rights.