tobii

TOBII SDK

LICENSE AGREEMENT FOR
TOBII CORE SDK AND TOBII GAMING SDK

TOBII CORE SDK 及 TOBII GAMING SDK 许可协议

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Please note! The Tobii Core SDK and the Tobii Gaming SDK are software development kits intended for use in interactive and gaming applications only.
请注意！ Tobii SKD及Tobii Gaming SDK"系仅用于互动与游戏应用的软件开发工具。

If you want to develop or distribute software for so-called "Analytical Use", where eye tracking data is stored or transferred to another device with the purpose to analyze, record, visualize or interpret behavior or attention, you must instead use the Tobii Pro SDK. Applications developed using the Tobii Pro SDK are compatible with Tobii Pro eye tracker hardware, as well as with consumer devices with Tobii eye tracking in combination with a specific license key.
如您开发或销售软件是为所谓的"分析性使用"，即储存或向其它设备转移人眼跟踪数据的目的是为了对行为或注意力进行分析、记录、可视化或解读，则您应使用Tobii Pro SDK。使用Tobii Pro SDK开发的应用，兼容Tobii Pro眼追踪硬件，也兼容带有Tobii具体许可密钥的Tobii眼追踪用户设备。

More information about Tobii's different SDKs are available at developer.tobii.com/sdk-guide/.
有关Tobii各SDK的更多信息，请参阅 developer.tobii.com/sdk-guide/.。

We also offer other licensing options to selected partners - please contact SDKlicensing@tobii.com *if you want to discuss your situation.*
我们也有选择地向合作伙伴提供其它许可内容。如希望就您的情况进行讨论，请联系 SDKlicensing@tobii.com。

PREAMBLE
前言

This *License Agreement* (the "**Agreement**") forms a legally binding contract between **Tobii AB (publ)** (reg. No. 556613-9654), with registered office at Karlsrovägen 2D, SE-182 53, Danderyd, Sweden ("**Tobii**"), and the licensee ("**Licensee**"). The Licensee is entered as the Licensee by completing the *Licensee Information Box* (the "**Infobox**") when downloading and installing the *Tobii SDK or Tobii Gaming SDK* (the "**SDK**") or by otherwise utilizing, accessing or distributing the Software Components in any other manner.
本《*许可协议*》（"**本协议**"）为**Tobii AM (publ)**（注册号556613-9654），注册地址：Karlsrovägen 2D, SE-182 53, Danderyd, Sweden（"**Tobii**"），和被许可人（"**被许可人**"）之间具有法律约束力的契约。"被许可人"下载并安装*Tobii SDK或Tobii Gaming SDK*（"SDK"）或以其他任何方式使用、进入或销售"软件组件"时，经填写"被许可人信息框"（"**信息框**"）即成为"被许可人"。

An individual entering as a Licensee on behalf of a legal person (e.g. his or her employer) confirms the authority to bind such legal person in accordance with the terms and conditions of this Agreement. An individual that does not have the necessary authority, may neither accept the terms and conditions below, nor use the SDK, on behalf of the legal person.
代表法人（即雇用单位）成为"被许可人"的个人，在此确认其拥有使该法人受"本协议"各条款与条件约束的权限。无该等必要权限的个人，不得接受下述各项条款与条件，也不得代表该法人使用SDK。

BY DOWNLOADING, INSTALLING, USING, ACCESSING OR DISTRIBUTING THE SDK OR THE SOFTWARE

COMPONENTS, LICENSEE (i) CONFIRMS THAT LICENSEE HAS READ AND UNDERSTOOD THE TERMS AND CONDITIONS BELOW; AND (ii) AGREES TO BE BOUND BY THIS AGREEMENT.

通过下载、安装、使用、进入或销售SDK或"软件组件"，"被许可人"（**i**）确认"被许可人"已经阅读并理解了下面的各项条款与条件；并（**ii**）同意接受本协议的约束。

BY DOWNLOADING, INSTALLING, USING, ACCESSING OR DISTRIBUTING THE SDK OR THE SOFTWARE COMPONENTS, LICENSEE FURTHER AGREES THAT (i) THIS AGREEMENT IS THE COMPLETE AND EXCLUSIVE STATEMENT OF THE RIGHTS AND LIABILITY BETWEEN LICENSEE AND TOBII IN RELATION TO LICENSEE'S USE OF THE SDK AND DISTRIBUTION OF THE SOFTWARE COMPONENTS (AS DEFINED HEREIN); AND (ii) THIS AGREEMENT SUPERSEDES ALL PRIOR COMMUNICATIONS (BOTH ORAL AND WRITTEN), STATEMENTS IN MARKETING, ADVERTISING, OR ANY OTHER COMMUNICATION BETWEEN LICENSEE AND TOBII CONCERNING THE SDK (INCLUDING THE SOFTWARE COMPONENTS).

通过下载、安装、使用、进入或销售SDK或"软件组件"，"被许可人"进一步同意：（**i**）本协议系就"被许可人"使用SDK及销售"软件组件"（定义见下），而对"被许可人"和**Tobii**的有关权利和责任所作的完整和唯一的表述；（**ii**）本协议取代"被许可人"和**Tobii**以前在营销、广告或其它通讯往来中有关SDK（包括"软件组件"）的所有沟通内容和陈述。

TERMS AND CONDITIONS
条款与条件

1. **Background.**

背景

1.1 Tobii is a supplier of hardware and software solutions for eye tracking.

Tobii是人眼跟踪硬件和软件方案的供应商。

1.2 Licensee is a software vendor or individual that develops, markets and licenses software solutions or intends to do the same.

"被许可人"系软件销售商，或系开发、营销并许可软件方案或有此意图的个人。

1.3 The SDK is a "toolbox" (including *inter alia* various building blocks) for developing applications to use Tobii Data as a user input for interactive experiences in games or other software ("**Gaze Interaction Use**").

SDK系"工具箱"（包括各类组合件等），用于开发应用，以将"Tobii数据"用作游戏或其它软件互动体验的用户输入（"视线交互用"）。

1.4 **This Agreement is intended to provide Licensee with limited rights to develop, use and, if applicable, distribute applications for Gaze Interaction Use in games and other software, that process data from Tobii Hardware and Software only. A separate commercial license with Tobii is required if Licensee desires the right to use the SDK or Software Components for any other purpose.**

本协议旨在向"被许可人"提供有限的权利，用于为游戏及其它软件的"视线交互用"开发、使用及（如适用）销售能处理"Tobii硬件和软件"数据的应用；如"被许可人"希望有权将SDK或"软件组件"用于任何其它目的，则需Tobii另行授予商业许可。

2. **Definitions.**
释义

In addition to the capitalized words defined in the *Preamble* and Section 1, the following defined terms are used in this Agreement:

除《前言》及本第1条中定义的词语外，"本协议"还有如下定义的词语：

2.1 **"Application"** means any software application developed by Licensee (i) using the SDK; and/or (ii) including, utilizing or accessing the Software Components.

"**应用**"指"被许可人"开发的任何软件应用，其（i）使用SDK；及/或（ii）包括使用或进入"软件组件"。

2.2 **"Effective Date"** means the date when the Licensee completes the Infobox (as defined in the Preamble) and downloads the SDK, or otherwise starts to use the SDK or Software Components.

"**生效日**"指"被许可人"完成填写 "信息框"（如《前言》所定义）并下载SDK或以其他方式启用SDK或"软件组件"的日期。

2.3 **"End User"** means any person or entity that sub-licenses Software Components through Licensee (or Licensee's appointed resellers or distributors) as part of an Application.

"**最终用户**"指通过"被许可人"（或"被许可人"指定的转售商或分销商）得到作为"应用"一部分的"软件组件"分许可的任何个人或实体。

2.4 **"Gaze Interaction Use"** means to use Tobii Data as a user input for interactive experiences in games or other software.

"**视线交互用**"指将"Tobii数据"用作游戏或其它软件互动体验的用户输入。

2.5 **"Software Components"** means all object code files (for example dynamic- link library files, commonly referred to as DLL-files or .SO files) of the SDK (and any Updates, modifications and/or patches or hot fixes thereto that Tobii may make generally available from time to time) that are intended to be reused in an Application. This includes, but is not limited to, the Tobii Stream Engine and the Tobii Interaction Engine.

"**软件组件**"指拟在"应用"中重复使用的SDK的所有目标代码（如动态链接库文件，一般称之为DLL文件或.SO文件）（及

Tobii不时为之公开提供的任何"更新"、修改，及/或补丁或热修复），包括但不限于Tobii Stream Engine和Tobii Interaction Engine。

2.6 "Tobii Hardware and Software" means eye tracking hardware and software components designed or provided by Tobii. These components may be provided directly by Tobii or incorporated within a third party product.

"**Tobii硬件和软件**"指Tobii设计或提供的眼跟踪硬件和软件组件。该等组件可由Tobii直接提供，也可整合于第三方产品中。

2.7 "Tobii Data" means data about eye movements, attention or behavior, or any other data generated by or derived from the Software Components.

"**Tobii数据**"指有关眼的运动、注意或行为的数据，或"软件组件"产生或获得的任何其它数据。

2.8 "Tobii Materials" means the SDK (including the Software Components) and any ideas, know-how, programs, processes, designs, inventions, works and other information, which may be developed or created by Tobii.

"**Tobii资料**"指SDK（包括"软件组件"），以及Tobii开发或创作的任何创意、技术秘密、程序、流程、设计、发明、作品及其它信息。

2.9 "Trademarks" means the registered or unregistered trademarks and service marks related to the SDK or the Software Components that Tobii may adopt from time to time.

"**商标**"指Tobii不时采用的与SDK或"软件组件"有关的注册或未注册的商标和服务标志。

2.10 "Updates" means (to the extent that such items are not accompanied by a separate license agreement or terms of use) any subsequent releases, software updates, add-on components, stencils, templates, shapes, web services and/or supplements of the Software Components intended to replace or enhance a prior release of the Software Components.

"**更新**"指任何用于替换或增强较早版本 "软件组件"的后续发布、软件更新、附加件、模板、样板、图形、网页服务及/或"软件组件"的增补（该等内容另有许可协议或使用条款者除外）。

3. Grant of License.

授予许可

3.1 Grant of License. Subject to the limitations specified in this Agreement and during the term of this Agreement, Tobii grants Licensee a limited, worldwide, royalty-free, non- assignable, revocable and non-exclusive license to use the SDK (including the Software Components and use of example code) solely to develop, use and distribute Applications that process data from Tobii Hardware and Software for the purpose of Gaze Interaction Use.

授予许可。以本协议设定的限制为条件，在本协议期间，Tobii向"被许可人"授予一项有限的、全球范围的、无许可费、不可转让、可撤销及非独占的许可，允许其将SDK（包括"软件组件"及示例代码的使用）仅用于开发和销售为"视线交互用"处理"Tobii硬件和软件"数据的 "应用"。

3.2 Limitations. Licensee may not (i) copy (except for backup purposes), modify, adapt, decompile, reverse engineer, disassemble, or create derivative works of the Software Components); or (ii) use the SDK to build software that may be used as an SDK providing API's that use functionality from the Software Components.

限制。"被许可人"不得（i）对 "软件组件"进行复制（除用于备份）、修改、改编、反编译、反向工程、拆解，或制作衍生作品；或（ii）用SDK制作可当SDK使用，以此提供能使用"软件组件"功能API的软件。

3.3 Grant of sub-licensing rights. During the term of this Agreement, Tobii designates Licensee as non-exclusive sub-licensor for the Software Components. The right to sublicense (directly or indirectly through appointed resellers or distributors) the Software Components is non-transferable and applies solely to the sub-licensing of the Software Components in machine-readable object code version to End Users licensing the Application.

"**授予分许可权**""本协议"期间，Tobii指定"被许可人"为"软件组件"的非排他的分许可人。"软件组件"分许可（直接或间接通过指定转售商或分销商）的权利不得转让，且仅适用于向获得"应用"许可的"最终用户"分许可机读目标代码版的"软件组件"。

3.4 Updates. The terms of this Agreement will apply to any Updates, modifications and/or patches or hot fixes that Tobii makes available to Licensee. Licensee agrees that Updates may require Licensee to change or update the Applications. Updates may also affect Licensee's ability to use, access or interact with the SDK.

更新。"本协议"的各项条款适用于Tobii向"被许可人"提供的任何"更新"、修改及/或补丁，或热修复。"被许可人"同意，"更新"可能需要"被许可人"变更或升级"应用"。"更新"也可能会影响"被许可人"对SDK的使用、进入或互动。

3.5 Anonymous data logging. The Software Components may log information about the use of the Software Components on Tobii servers. Such information is limited to the usage of the Software Components, and does not contain any actual gaze data information or other personal identifiable data.

匿名数据日志。"软件组件"会记录Tobii服务器上"软件组件"的使用信息。该等信息仅限于"软件组件"的使用情况，并无任何实际的视线数据信息或其它个人身份数据。

3.6 Not for Analytical Use. Unless Licensee enters into a separate agreement with Tobii, the SDK may not be used to develop and distribute software that (a) store Tobii Data; or (b) transfer Tobii Data to another computing device or network; in both cases where the intent is to use or make it possible to use Tobii Data to analyze, record, visualize or interpret behavior or attention ("**Analytical Use**"). To clarify, storing, using or transferring Tobii Data for the sole purpose of implementing software that uses Tobii Data for Gaze Interaction Use does not constitute Analytical Use.

不作分析性使用。除非"被许可人"与Tobii另行达成协议，否则，不得将SDK用于开发和销售（a）储存"Tobii数据"，或（b）将"Tobii数据"转移至其它计算设备或网络的软件，前述两种情形的目的均是为了将"Tobii数据"用于或可以用于对行为或注意力进行分析、记录、可视化或解读（"分析性使用"）。在此明确，储存、使用或转移"Tobii数据"，如其目的仅为因"视线交互用"而运行使用"Tobii数据"的软件，则不构成"分析性使用"。

3.7 No High Risk Use or Medical Classified Use. The SDK (including the Software Components) is not fault tolerant, and is accordingly not designed or intended for use in any software or situation where failure or fault of any kind could lead to death or

serious bodily injury of any person, or to severe physical, environmental or property damage (**"High Risk Use"**). The SDK (including the Software Components) may only be used to develop Applications that do not involve High Risk Use. High Risk Use includes, for example, aircraft navigation, military and industrial use, control of nuclear, chemical facilities and of other modes of human mass transportation, as well as medical, surgical, or other use intended to support or sustain life. Furthermore, but nonetheless, the SDK (including the Software Components) is not certified for medical classified environments (**"Medical Classified Use"**) and Tobii prohibits any such use of the SDK or the Software Components, unless a special license agreement is entered into for this purpose. Tobii disclaims liability for all such use.

不作高风险或医疗类使用。SDK（包括"软件组件"）并非不会出现差错，因此，不宜且不得用于任何发生故障或差错即可导致人员死亡或身体严重受伤，或导致严重的物理、环境或财产损失的软件或场合（"**高风险使用**"）。SDK（包括"软件组件"）仅可用于开发不涉及"高风险使用"的"应用"。"高风险使用"包括例如，飞机导航、军事与工业的使用，核、化学设施以及其他大众交通模式的控制，以及医疗、手术或其他旨在支持或维持生命的使用。另外，SDK（包括"软件组件"）并未得到医疗类环境使用（"**医疗类使用**"）的认证，Tobii禁止一切对SDK或"软件组件"的该等使用，另行为此目的的达成专门许可协议的除外。Tobii对该等使用不承担任何责任。

4. **Support for the Software Components.**

"软件组件"支持

4.1 No support of the Software Components. Tobii is not obliged to support Licensee regarding the use of the SDK (including the Software Components) unless a separate support agreement between the parties has been entered into.

除非双方另行签订支持协议，否则，Tobii并无义务向"被许可人"就使用SDK（包括"软件组件"）提供支持。

4.2 No support of the Application. Tobii shall not be responsible for the support of the Application or any other application that uses the Software Components to access data, content or resources.

不支持"应用"。Tobii并不负责对"应用"或任何其他使用"软件组件"获取数据、内容或资源的应用提供支持。

5. **Use of Trademarks.** Licensee shall not remove or alter any Trademark, copyright, patent or other proprietary notices contained in the SDK (including the Software Components).

"**商标使用**"。 "被许可人"不得去除或改变SDK（包括"软件组件"）中的任何"商标"、版权、专利或其他专有权的标志。

6. **Ownership.** Except for the licenses and rights explicitly granted herein to Licensee, Tobii retains all right, title and interest in and to the Tobii Materials, and all patents, copyrights, Trademarks, trade names, trade secrets and other proprietary rights in or related to the Tobii Materials, whether or not specifically recognized or perfected under the laws of the country in which the Tobii Materials are located. Nothing contained in this Agreement shall be construed to transfer any rights in or to the Tobii Materials or Tobii's patents other than as explicitly set forth in this Agreement.

所有权。除本协议明确授予"被许可人"的权利外，Tobii保留

"Tobii资料"、所有专利、版权、"商标"、字号、商业秘密及其他与"Tobii资料"有关的专有权利的一切权利、权属和权益，无论"Tobii资料"所在国的法律对此是否明确认可或手续完备。本协议并无任何内容可被理解为 "Tobii资料"或Tobii专利的任何权利得到了转让，本协议有明确规定的除外。

7. **Changes.**

变更

7.1 Tobii reserve the right to change in its sole discretion this Agreement or the SDK at any time.

Tobii保留随时自主变更本协议或SDK的权利。

7.2 Tobii may require that Licensee either accepts and agrees to new or revised terms of this Agreement, or, if Licensee does not agree to the new or revised terms, ceases or terminates the use of the SDK. Licensee's continued use of the SDK after changes to this Agreement take effect will constitute Licensee's acceptances of the changed terms. If Licensee does not agree to a change, Licensee must stop using the SDK and terminate this Agreement. For the avoidance of doubt, changed terms do not take retroactive effect with respect to any Application developed before the change or any Application first distributed before the change.

Tobii可要求"被许可人"接受并同意新的或经修改的本协议，或在"被许可人"不同意新的或经修改的条款的情形下，要求其停止或终止使用SDK。"被许可人"在本协议修改生效后继续使用SDK的，即构成对修改后条款的接受。如"被许可人"不同意变更的，"被许可人"须停止使用SDK并终止本协议。为避免疑问，变更后的条款对变更前已开发的任何"应用"，或变更前销售的任何"应用"，并无溯及力。

8. **Indemnification.**

赔偿

8.1 No Tobii indemnification. SINCE TOBII GRANTS LICENSEE THE RIGHT TO USE THE SDK AND TO SUB-LICENSE THE SOFTWARE COMPONENTS FOR FREE, TOBII MAKES NO REPRESENTATION OR WARRANTY ON NON-INFRINGEMENT AND TOBII WILL <u>NOT</u> DEFEND AND HOLD LICENSEE, LICENSEE'S AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS, HARMLESS FROM ANY CLAIM FROM A THIRD PARTY THAT THE SDK OR THE SOFTWARE COMPONENTS INFRINGE ANY PATENT, TRADE SECRET OR COPYRIGHT.

Tobii不赔偿。鉴于Tobii系无偿授予"被许可人"使用SDK以及分许可"软件组件"的权利，Tobii对侵权不作任何陈述或保证，Tobii就"被许可人"、"被许可人"的关联方及其各自的官员、董事、员工及代理，因任何第三方提起的SDK或"软件组件"侵犯任何专利、商业秘密或版权的索赔，<u>不承担</u>辩护及使其免受损害的责任。

8.2 Licensee's indemnification. Licensee shall defend and hold Tobii and its officers, directors, employees, subsidiaries and agents harmless from (i) any claim by a third party that an Application infringes any patent, trade secret or copyright of any third party; provided that, Licensee shall not have any obligation to indemnify Tobii if such claim relates only to the Software Components as provided by Tobii; and (ii) any claim, allegation, liability or loss suffered by Tobii arising from Licensee's breach of any provision in this Agreement, provided

that: (a) Licensee is promptly notified in writing of the claim; (b) Licensee has sole control in the defense of any claim and any settlement negotiations attendant thereto; and (c) Tobii provides Licensee, at Licensee's expense, all reasonable assistance, information and cooperation to defend or settle the claim. Licensee shall not enter into any settlement of any claim covered by the above indemnification without the prior approval of Tobii, which approval will not be unreasonably withheld. Tobii shall have the right to retain separate counsel and participate in the defense of the action or claim at its own expense.

"被许可人"赔偿。"被许可人"应为Tobii及其官员、董事、员工、子公司及代理就下述索赔提供辩护，并使其免受损害：（i）第三方提起的某"应用"侵犯任何第三方专利、商业秘密或版权的索赔，但如果该等索赔只涉及Tobii提供的"软件组件"，则"被许可人"对Tobii不承担赔偿责任；及（ii）Tobii因"被许可人"违反本协议的任何规定而遭受的任何索赔、责任或损失，但条件是（a）该等索赔及时书面告知了"被许可人"；（b）"被许可人"对任何索赔的抗辩及和解谈判的参加拥有完全的控制；且（c）Tobii为抗辩或解决索赔向"被许可人"提供了所有合理的协助、信息和合作，其费用由"被许可人"承担。"被许可人"未经Tobii事先准许，不得就属于上述赔偿范围的索赔达成任何和解，Tobii不得不合理地拒绝该等准许。Tobii有权自担费用另行聘请律师参与诉讼或索赔的抗辩。

9. Term and Termination.

期限与终止

9.1 Term. This Agreement shall become effective on the Effective Date and shall continue until terminated.
期限。本协议自"生效日"起生效，直至终止时止

9.2 Termination by Licensee. Licensee may terminate this Agreement at any time by (i) uninstalling and destroying all copies of the SDK that are in the possession, custody or control of Licensee and its organization; and (ii) providing Tobii written notice thereof.

"被许可人"终止。"被许可人"经（i）卸载并销毁由"被许可人"或其组织持有、保管或控制的所有SDK复制件，并（ii）给Tobii书面通知后，可随时终止本协议。

9.3 Termination by Tobii. Tobii may terminate this Agreement for any reason upon six (6) months written notice. Tobii may also terminate this Agreement immediately if Licensee breaches this Agreement and has not cured such breach within thirty (30) days from Tobii's notice to Licensee of the nature of the breach.

Tobii终止。Tobii可因任何原因经提前六（6）个月书面通知后终止本协议。如"被许可人"违反本协议，且未能在Tobii将违约性质书面告知"被许可人"后的三十（30）日内纠正该等违约的，Tobii可立即终止本协议。

9.4 Survival of obligations. The following obligations will survive termination of the Agreement for any reason: (i) all obligations relating to protection of proprietary rights; and (ii) all obligations regarding audits; and (iii) all provisions regarding the limitations of warranty, remedy and liability.

持续义务。下列义务在本协议因任何原因终止后依然有效：（i）与专有权保护有关的所有义务；（ii）有关审计的所有义务；及（iii）有关有限保证、救济及责任的所有规定。

9.5 Effects of termination. Upon termination of this Agreement for any reason, all rights and licenses granted hereunder shall terminate and revert to Tobii. Any termination of this Agreement except for termination due to Licensee's breach of contract will not affect Licensee's right, subject to Licensee's continued compliance with Licensee's obligations under this Agreement, to continue to distribute versions of the Applications created and first distributed before termination, and will not affect the right of the End Users to continue using such versions of the Application, both of which rights will survive termination.

终止的效力。本协议因任何原因终止后，其所授予的所有权利和许可即应终止，并返还Tobii。除非因"被许可人"违约而终止，否则，本协议的任何终止，均不影响"被许可人"继续销售终止前已开发和销售之"应用"的权利，也不影响"最终用户"继续使用该等版本的"应用"，上述两权利在终止后仍然有效，但前提是"被许可人"继续遵守本协议下"被许可人"的义务。

10. <u>Reputation, Goodwill and Compliance.</u> Licensee shall not knowingly make false or misleading representations with regard to the Software Components or Tobii. Licensee further agrees to conduct business in a professional manner and act in good faith with respect to the Software Components and the good reputation of Tobii. Licensee represents and warrants that it (i) will conduct its performance under this Agreement at all times in keeping with professional standards of ethics and integrity; and (ii) is familiar with applicable laws concerning bribery, corruption and prohibited business practices, and will at all times perform in accordance with the requirements of such laws.

名誉、商誉与合规。"被许可人"不得就"软件组件"或Tobii有意作虚假或误导性的陈述。"被许可人"也同意以专业的方式经营业务，善待"软件组件"及Tobii的良好声誉。"被许可人"陈述并保证：（i）其将始终以专业的道德与诚信标准履行本协议；及（ii）其熟知贿赂、腐败及禁止性商业行为方面的适用法律，并将始终根据该等法律的要求行事。

11. **Disclaimer of Warranties**

无保证声明

11.1 "As is". Since Tobii grants Licensee the right to use the SDK and the Software Components for free, Licensee's use of the SDK and the Software Components and the sub-licensing of Software Components is at Licensee's sole risk. The SDK and the Software Components are provided "as is" and "as available" without warranty of any kind from Tobii.

"一如现状"。鉴于Tobii系免费授予"被许可人"使用SDK及"软件组件"的权利，因此，"被许可人"使用SDK和"软件组件"，以及分许可"软件组件"的风险，由"被许可人"独自承担。SDK及"软件组件"按"一如现状"及"一如现有"的原则提供，Tobii并不作任何保证。

11.2 Complete Disclaimer. EXCEPT AS SPECIFICALLY PROVIDED HEREIN TOBII MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, RELATING TO THE SDK OR THE SOFTWARE COMPONENTS, AND TOBII FURTHER EXPRESSLY DISCLAIMS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ALL WARRANTIES AND CONDITIONS OF ANY KIND RELATED TO THE SDK OR THE SOFTWARE COMPONENTS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-

INFRINGEMENT.

全面免责声明。 除本协议明确有规定外，Tobii就SDK或"软件组件"不作任何明示的或默认的保证。在法律允许的范围内，**Tobii进一步明确否认存在与SDK或"软件组件"有关的任何类型的保证或条件，无论明示的或默认的，包括但不限于适销性、适合特定目的或无侵权等默认的保证和条件。**

12. <u>Limitation of Liability.</u> IN NO EVENT SHALL TOBII BE LIABLE TO LICENSEE, LICENSEE'S AFFILIATES OR ANY END USER UNDER ANY THEORY OF LIABILITY FOR ANY DIRECT, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING ANY LOSS OF DATA, THAT MAY BE INCURRED BY LICENSEE, LICENSEE'S AFFILIATES OR ANY END USER, DUE TO THE USE OF THE SDK OR ONE OR SEVERAL OF THE SOFTWARE COMPONENTS, WHETHER OR NOT TOBII HAD BEEN ADVISED OF OR SHOULD HAVE BEEN AWARE OF THE POSSIBILITY OF ANY SUCH LOSSES ARISING.

责任限制。 无论如何，对于"被许可人"、"被许可人"的关联方或任何"最终用户"因使用SDK，或使用一个或数个"软件组件"，而可能产生的在任何责任理论下的直接、间接、偶发或后果性损害，包括数据的任何丢失，**Tobii均不对"被许可人"、"被许可人"的关联方或任何"最终用户"承担任何责任，即使Tobii事先已被告知或应已知晓可能会产生该等损失。**

13. <u>General.</u>
一般规定。

13.1 Waiver; Severability. Except as may be affirmed in writing by the parties, no failure or delay by either party in exercising any right, power or privilege hereunder will operate as a waiver or preclude further exercise thereof. If any provision of this Agreement shall be held by a court of competent jurisdiction to be contrary to law, that provision will be enforced to the maximum extent possible, and the remaining provisions of this Agreement will remain in full force and effect.
弃权、可分性。除非双方书面确认，否则，任何一方未能行使或迟于行使本协议下的任何权利、权力或权益，均不构成对其今后行使的放弃和排除。如本协议的任何规定被有管辖权的法院判定与法律相左，该等规定应在可能的最大范围内执行，本协议的其他规定则仍具完全的效力。

13.2 Entire agreement. This Agreement sets forth the entire understanding between the parties and supersedes any prior communication or agreement between the parties regarding the right to use the SDK or sub-licensing of the Software Components.

完整协议。 本协议记载了双方间的全部理解，其取代双方以前有关SDK使用或"软件组件"分许可的任何沟通内容或约定。

13.3 Language. This Agreement has been created in simplified Chinese and English language. If any contradictions between the different language versions, the English version shall be controlling in all aspects.

语言。本协议以简体中文和英文书就。两语言文本如有任何出入，均应以英语文本为准。

13.4 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of Hong Kong, without giving effect to its conflict of law provisions.

适用法律。本协议依香港法律解释和执行，但其法律冲突规定不适用。

13.5 Dispute Resolution. Any dispute, controversy or claim arising out of or in connection with this Agreement or the breach, termination or invalidity thereof, shall be finally settled by arbitration administered at the Hong Kong International Arbitration Centre (the "**Centre**"). The place of arbitration shall be Hong Kong and the arbitration shall be conducted in the English language. The Rules of the Centre shall apply, and the Centre shall decide whether the tribunal shall be composed of one or three arbitrators. At the option of either party, and if the amount in dispute does not exceed EUR 500,000 the Centre's Rules for Expedited Arbitrations shall apply. The amount in dispute includes the claimant's claims in the Request for Arbitration and any counterclaims in the respondent's reply to the Request for Arbitration.

争议解决。 与本协议或其违约、终止或无效等有关的任何争议、纠纷或主张，均应最终交由香港国际仲裁中心（"**中心**"）仲裁解决。仲裁地为香港，仲裁语言为英语。适用"中心"的仲裁规则，由"中心"决定是否组成一人或三人仲裁庭。经任何一方选择，且若争议金额不超过500,000欧元，可适用该"中心"的简易仲裁程序。争议金额包括申请人在仲裁申请中的请求金额和被申请人在仲裁申请答辩书的任何反诉金额。

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