General Terms & Conditions of Sale of Goods and Services and License of Software

Clause 1: **Definitions**

1.01 "**Affiliates**" means any legal entity which has an ownership interest in or is under a common ownership interest with a Party and which is defined in attachments to this Agreement or subsequent Purchase Orders.

1.02 "**Agreement**" means these terms and conditions and applicable Purchase Orders and any appendices hereto, including without limitation, the software licenses, pricing schedules, and delivery schedules.

1.03 "**Company**" shall mean the company and any of its Affiliates which has executed a Purchase Order under this Agreement.

1.04 "**Days**" shall be calculated as calendar days unless otherwise specified under this Agreement.

1.05 "**Expenses**" shall mean all out-of-pocket expenses reasonably incurred by Seller in the provision of the Goods, Software and Services, including but not limited to, airfare, hotel, transportation, meals, supplies, data preparation, and other direct expenses incurred by Seller's personnel or subcontractors in performing Seller's obligations under a Purchase Order, as these expenses may be further detailed in a Purchase Order and the net tax costs of any non-deductible travel expenses for assignment of employees over one (1) year in locations not within a reasonable commuting radius of the employee's principal place of employment.

1.06 "**Goods**" shall mean all products, equipment, materials, spare parts, hardware, supplies, and accessories to be supplied under a Purchase Order.

1.07 "**Party** and **Parties**" shall mean Seller, Company, any of their Affiliate(s) which has executed a Purchase Order hereunder and any third party to which the Parties may have assigned their rights under the Agreement. In its singular form, Party means any one of Seller, Company or their Affiliate having executed a Purchase Order or the third party to whom one of them has assigned its rights under the Agreement.

1.08 "**Price**" shall mean the total value of a Purchase Order after all applicable discounts have been applied. Expenses are not included in the Price unless agreed upon in the Purchase Order.

1.09 "**Purchase Order**" shall mean any purchase order, either paper or electronic, with related attachments and changes thereto, agreed upon by the Parties pursuant to this Agreement, which shall describe the specific Goods, Software or Services to be supplied by Seller to the Company and the detailed Specifications for such. Purchase Orders agreed upon from time to time between Seller and Company and/or their respective Affiliates shall constitute separate contracts that incorporate the present General Terms and Conditions by reference and shall be governed by those. Such Purchase Orders may modify or replace certain provisions of the General Terms and Conditions of this Agreement only to the extent that the Parties are required to comply with the local laws of the country in which the Purchase Order is being placed. Modifications shall be made in good faith in such a manner as to preserve the intent of this Agreement.

1.10 "**Seller**" shall mean Xsens Technologies B.V. and, for purposes of the Purchase Orders, any of its Affiliates which has executed a Purchase Order under this Agreement.

1.11 "**Services**" shall mean the provision of testing, assessment, per-diem or specific time-limited engineering services, installation, start-up, configuration and any development of application programs, customization, implementation, training and any other services agreed upon between the Parties in Purchase Orders hereunder, excluding maintenance and support services which shall be rendered under a separate agreement. To the extent Services are of an advisory nature, no specific business result is assured or guaranteed.

1.12 "**Software**" shall mean computer software programs, in object code form including firmware and custom software, and instructions manuals, specifications and related documentation in written or electronic form, but excluding third party software, their related instructions manuals and documentation, for which Seller grants Company a license under a Purchase Order. The conditions of the Software license shall be set forth in the Seller's end-user license agreement applicable to the particular Software at the time of delivery or, in the absence of such end-user license agreement, the software license terms contained herein. All modifications, enhancements, developments, additions or interfaces with other computer programs made by Seller, alone or jointly with Company, in the course of the performance of a Purchase Order shall be deemed owned by Seller and included in the Seller's Software and shall be subject to all rights and limitations set forth in the Seller's standard license agreement for such Software applicable at the time of delivery or, by default in the absence of separate end-user license agreement, the terms contained herein.

1.13 "**Specifications**" shall mean the Seller standard specifications applicable to the Goods and/or Software at the time of execution of the Agreement or a Purchase Order hereunder or the specific requirements agreed upon between the Parties in Purchase Orders hereunder in relation to the Goods, Software and, with respect to Services, the agreed upon statement(s) of work containing a description of the Services to be rendered.

1.14 "**Third Party Products**" shall mean products and software of a third party vendor. If Third Party Products are supplied by the Seller under the Agreement, notwithstanding anything to the contrary, such supply is made on a "pass-through" basis only and is subject to the terms and conditions of the third party vendor, including but not limited to warranties, licenses, indemnities, limitation of liability, prices and changes thereto. Third Party Products are quoted subject to price changes imposed by third party vendors between the date of Purchase Order encompassing such Third Party Products and the date of Seller's invoice related to that Third Party Product.

1.15 "**Warranty Period**" shall mean the applicable time period during which Goods and Software are respectively guaranteed by Seller under the conditions set forth herein. Goods registered by Seller as MVN Products shall be guaranteed for a period of twenty-four (24) months following the date of shipment. Goods and Software registered as Xsens Products other than MVN Products are guaranteed for a period of twelve (12) months following the date of shipment. Spare Parts for the above are guaranteed for three (3) months, unless used for repair and replacement during the Warranty Period, in which case, the spare parts shall be guaranteed for three (3) months or until the end of the initial Warranty Period, whichever comes last. Products normally consumed in operation or which have a normal life inherently short, including but not limited to consumables such as lamps or batteries, are guaranteed for a period of ninety (90) days from date of delivery by Seller. Third Party Products are warranted as stated in Clause 1.14.

Clause 2: **Sole Agreement**

2.01 This Agreement, including any Purchase Order entered into pursuant hereto, constitutes the entire agreement of the Parties hereto with respect to its subject matter and supersedes all prior and contemporaneous representations, proposals, discussions, and communications, whether oral or in writing with respect to

this subject matter. This Agreement may be modified only by means of a duly executed written amendment signed by the authorized representatives of both Parties. Neither the terms of any invoice or other instrument documenting a payment or transaction that is issued by Company in connection with this Agreement, nor any other act, document, pre-printed form or statement, usage, custom, or course of dealing shall modify the terms of this Agreement. In the event of any conflict between the terms of this Agreement and any Purchase Order, the provisions of this Agreement shall govern unless expressly agreed upon by the Parties under the Purchase Order and modifications made by the Purchase Order to this Agreement are required to comply with local applicable laws.

2.02   It is understood that neither Party is obligated to enter into a Purchase Order under this Agreement.

Clause 3:   Changes

3.01   Either Party may request changes that affect the scope, duration, delivery schedule or price of a Purchase Order, including changes in the Specifications and Goods, Software or Services to be delivered or licensed. If either Party requests any such change, the Parties shall negotiate in good faith a reasonable and equitable adjustment to the Purchase Order. Neither Party shall be bound by any change requested by the other until an amendment to the Purchase Order in the form of a Change Order has been accepted in writing by both Parties. Pricing of changes shall be based on the then current Seller's prices.

Clause 4:   Price and Payment Terms

4.01   Prices for Goods, Services and/or Software under this Agreement shall be in accordance with the prices set forth by Seller at the time of the execution of the Purchase Order or Seller's proposal for Services.

4.02   Seller's proposals and the Purchase Order Price exclude all sales taxes, value-added taxes, import and export duties and any other taxes, surcharges, duties or tariffs of any kind now existing or hereafter imposed upon Seller, its personnel or subcontractors or their properties in any country or territory either directly or indirectly in respect of the production, sale, supply, delivery, license, export and import, or use of the Goods, Software and Services. Company shall be responsible for all such taxes, duties and charges resulting from the Agreement or a Purchase Order hereunder. Validity of Seller's proposal shall extend for thirty (30) days from the proposal date.

4.03   If Seller is required to impose, levy, collect, withhold or assess any such taxes, duties and charges on any Purchase Order under this Agreement, Seller shall invoice Company for such taxes, duties and charges unless Company furnishes Seller with an exemption certificate or other equivalent documentation demonstrating its exemption from such taxes, duties and/or charges.

4.04   If Company is required by law to make any tax withholding from amounts paid or payable to Seller under this Agreement, (i) the amount paid or payable shall be increased to the extent necessary to ensure that Seller receives a net amount equal to the amount that it would have received had no taxes been withheld; (ii) Company shall forward proof of such legally required withholding to Seller.

4.05   Company has the option as agreed by the Parties to buy and pay in European Euros or such other currency as Company and Seller may agree in a Purchase Order.

4.06   Subject to Seller's approval of Company's current credit rating and unless otherwise agreed upon in the relevant Purchase Order, full payments of all invoiced Goods, Software and Services are due in the invoice currency(ies) within thirty (30) calendar days from the date of invoice.

4.07   If Company is delinquent in its payment obligations, without prejudice to any other remedies available to it by law or in equity, Seller may at its option (i) suspend all further deliveries or performance to be made under the Agreement or any further performance under any other contract with Company or Company's Affiliates, in which event Company shall not be released in any respect from its obligations to Seller under the Agreement or the other contract; (ii) recover all costs of collection including but not limited to reasonable attorneys' fees; (iii) repossess the Goods and Software for which payment has not been made and (iv) retain any equipment supplied by Company to Seller in relation to Seller's provision of Services. Any discount from Seller's rates, if any, shall cease to apply to the delinquent invoice.

4.08   Unless otherwise expressly agreed between the Parties, payments shall be taken to discharge Company's latest debts.

4.09   Company shall reimburse Seller or, pay directly upon agreement with Seller, all reasonable Expenses.

4.10   Company shall not set off or recoup invoiced amounts or any portion thereof against sums that are due or may become due from Seller and/or its Affiliates.

Clause 5:   Delivery, Title and Risk of Loss

5.01   Unless otherwise agreed upon in a Purchase Order, title to all Goods sold hereunder, except for Software whose title remains at all times with Seller, shall pass to Company upon full payment of the Purchase Order.

5.02   Upon delivery, risk of loss or damage shall pass to Company unless delivery has been delayed because of Company.

5.03   Delivery, unless otherwise agreed upon in a Purchase Order, shall be Ex-works (Incoterms 2000), Seller's facility.

5.04   If, as part of a Purchase Order, Seller is responsible for packing any Goods for shipment, Seller shall pack, mark and label such Goods in accordance with its usual packing procedures.

Clause 6:   Receiving, Inspection and Acceptance

6.01   Company shall be responsible for receiving, installing, starting up and maintaining all Goods, unless otherwise agreed in a Purchase Order.

6.02   If Company fails to notify Seller of any material non-conformities with the Specifications within a reasonable period following delivery, not to exceed thirty (30) calendar days, or is using those Goods, Software or Services in a production environment or for the regular conduct of its business, the Goods, Software or Services shall be deemed accepted, without prejudice to the warranty provisions hereunder.

6.03   Company shall have the right to reject Goods, Software and Services not materially in accordance with the Specifications in the Purchase Order. Seller shall have a reasonable opportunity to correct non-conformities, replace non-conforming Goods and/or Software or correct or re-perform the Services at its option, in accordance with Clause 8. Should Seller fail to use reasonable efforts to correct non-conformities, replace the non-conforming Goods and/or Software or re-perform or correct non-conforming Services within a reasonable period of time, based on the complexity of the non-conformities, Company may terminate the Purchase Order or portion thereof. Seller's maximum liability under this Clause shall be to refund the fees and expenses paid by Company for the portion of the Goods, Software or Services that is non-conforming.

6.04   Unless other acceptance criteria are agreed upon in Purchase Orders at Company's expenses, Seller's standard testing procedures, including factory acceptance test and site acceptance test where applicable, shall apply to Goods, Software and Services provided. If Company's representative is unable to attend any of these tests having received reasonable notice thereof, Company shall be deemed to have waived its entitlement to attend such tests. To the extent that any Goods, Software or Services have been, or can be deemed approved by Company pursuant to the terms of this Agreement or the

applicable Purchase Order at any stage of Seller's performance, Seller shall be entitled to rely on such approval for purposes of all subsequent stages of its performance hereunder.

Clause 7: Force Majeure

7.01 Except for Company's payment obligations, neither Party shall be liable for delays caused by conditions beyond their reasonable control, ("Force Majeure"), provided notice thereof is given to the other Party as soon as practicable. Force Majeure shall include, without limitation, hostilities, revolution, acts of war (whether or not declared), act of terrorism, civil commotion, strike, epidemic accident, quarantines or regional medical crisis, fire, flood, wind, earthquake or other inclement weather conditions and any impending threat of the foregoing, blockade, embargoes, shortage of materials or transportation facilities, strikes and lockouts, any other Acts of God or act of any Government or governmental agency, including laws, regulation or ordinance and proclamation affecting the parties, the Goods, Software or Services without the fault or negligence of the Parties hereto.

7.02 All such Force Majeure conditions preventing performance shall entitle the Party hindered in the performance of its obligations hereunder to an extension of the date of delivery of the Goods and Software or completion of the Services by a period of time equal to the period of delay incurred as a result of the Force Majeure or to any other period as the Parties may agree in writing.

Clause 8: Warranties for Goods, Software and Services

8.01 Seller warrants to Company that the Goods, Software and Services Seller provided hereunder shall, at time of delivery, materially conform to the Specifications agreed between the Parties. In the absence of agreed upon Specifications for Goods and Software, Seller warrants the Goods and Software shall meet the applicable standard Specifications available from Seller for such Goods and Software at the time of the Purchase Order.

8.02 Seller further warrants that Goods, at the time of their delivery, and the media on which the licensed Software is provided will be free from defects in material and workmanship for the Warranty Period defined under Clause 8.03. If a material defect in workmanship with regard to the media carrying licensed Software occurs during the Warranty Period, Seller's sole obligation and Company's sole remedy shall be the replacement of the media and the licensed Software residing on the media.

8.03 If, any time prior to the end of the applicable Warranty Period, as defined hereunder or under the separate applicable software license agreement, the Goods, Software or Services, or any part thereof, do not conform to applicable warranties or Specifications, Company shall notify Seller within a reasonable time after its discovery and shall provide written particulars of the non-conformity and all information and assistance necessary to enable Seller to verify the nature and cause of the non-conformity and carry out its warranty obligations hereunder.

8.04 Non-conforming Goods subject to a warranty claim shall be returned to the nearest Seller's repair facility, transportation charges for the account of the Company. The costs to diagnose non-conformity on Company's site, if required, shall be for the account of the Company. Goods so returned by Company to the Seller during the Warranty Period and found upon Seller's inspection to be non-conforming and Software found non-conforming upon Seller's inspection shall be repaired, replaced or corrected, at Seller's option and shall be warranted by Seller for the remainder of the original Warranty Period or for three months, whichever is longer, free of charge and return-shipped to Company. Seller shall not be responsible for any offshore transport costs not approved by Seller upfront.

8.05 Seller's obligation and Company's sole remedy under this Clause is, at Seller's option the repair or replacement, correction, of any non-conforming Goods, Software or part thereof.

8.06 Goods, Software and labor used, as well as any and all Expenses reasonably incurred, by Seller for the repair or replacement or correction of any Goods or Software found in whole or in part to be non-conforming for reasons listed under Section 8.07 shall be for Company's account.

8.07 The foregoing warranties do not apply to non-conformities caused by (i) Company's design or installation of the Goods and/or Software, (ii) modification or repair to the Goods and/or Software otherwise than as authorized in writing by Seller; (iii) handling, storage, use or maintenance of the Goods and/or Software in a manner or an environment inconsistent with the Specifications and/or instructions or recommendations of Seller; (iv) defect in Company's own products or software or use of the Goods and/or Software in combination with any Third Party Product not procured by Seller; (v) Company's failure to observe the payment terms under this Agreement or any other of its obligations under this Agreement; (vi) normal wear and tear; (vii) installation or wiring of the Goods and/or Software other than in accordance with Seller's instructions; (viii) transfer of the Software from the device on which it was originally installed; and/or (ix) any fault of the Company or its agents.

8.08 Seller has no obligation under this warranty in event where the goods are returned to Seller show an broken seal and or visible signs of misuse unless Company maintains adequate records that accurately document operating time and maintenance performed on Goods and Software and provides those records to Seller on demand for substantiating warranty claims.

8.09 Goods subject to wear or burnout through usage such as paper media, packing and the like shall not be deemed not in conformity by reason of such wear or burnout.

8.10 The foregoing warranties do not apply to Third Party Products. Seller shall bear no responsibility for the performance, repair or warranty of any of Company's software or hardware product or any Third Party Products and Company shall look solely to third party vendor for all remedies and support with regard to such Third Party Products. If such Third Party Product is expressly procured by Seller to Company under a Purchase Order, that Third Party Product shall be warranted only in accordance with the warranties given to Seller in respect thereof by the relevant third party vendor and to the extent that Seller has the right to assign or transfer such warranties.

8.11 Seller warrants that Services shall be performed with reasonable skill and care and that Seller is properly licensed and qualified to perform the Services hereunder, and shall provide experienced personnel to perform Services that are materially in conformity with the Specifications of the Purchase Order. Seller's obligation and Company's sole remedy under this Warranty Period is to correct, re-perform the Services or refund the portion of the Services that cannot be corrected or re-performed, at Seller's option. All Services corrected or re-performed shall be warranted only for the unexpired portion of the original Warranty Period applicable to Services.

8.12 EXCEPT AS SET FORTH HEREIN AND IN THE WARRANTIES PROVISIONS CONTAINED IN SEPARATE SOFTWARE LICENSE(S) IF ANY, THESE WARRANTIES ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REPRESENTATIONS, CONDITIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, INTEROPERABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. SELLER DOES NOT WARRANT THAT THE OPERATION OF ANY SUCH SOFTWARE WILL BE UNINTERRUPTED AND/OR ERROR-FREE.

8.13 ALL WARRANTIES PROVIDED HEREIN ARE PERSONAL TO, AND INTENDED SOLELY FOR THE BENEFIT OF,

COMPANY AND DO NOT EXTEND TO ANY THIRD PARTY, EXCEPT IN CASE OF TRANSFER OF THE SOFTWARE IN ACCORDANCE WITH CLAUSE 11.08 OR CLAUSE 18.

Clause 9: Compliance

9.01 Neither Party shall comply with any requirements, which are in violation of any law, rule, or regulation applicable to the Agreement.

9.02 Company acknowledges that each product and any related software and technology, including technical information supplied by Seller or contained in documents (collectively "Items"), may be subject to export controls. Software is licensed for use in the specific location identified in the Purchase Orders and Licenses attached. Company may not export the "Items" to another country without Seller's written permission and payment of any applicable country specific surcharges. Company agrees to comply fully with all relevant export laws and regulations of the nations in which the "Items" will be used ("Export Laws") to ensure that neither the "Items" nor any direct product thereof are (i) exported, directly or indirectly, in violation of any Export Laws; or (ii) are intended to be used for any purposes prohibited by the Export Laws. Without limiting the foregoing, Company will not export or re-export the "Items": (i) to any country to which the Netherlands has embargoed or restricted the export of goods or services or to any national of any such country, wherever located; or (ii) to any end user who Company knows or has reason to know will utilize the "Items" in the design, development or production of nuclear, chemical or biological weapons.

9.03 Either Party shall execute and deliver to the other any documents as may be required to effect or evidence compliance.

9.04 The Parties may correspond and convey documentation via the Internet unless Company expressly requests otherwise. Neither Party has control over the performance, reliability, availability or security of the Internet. Seller shall not be liable for any loss, damage, expense, harm or inconvenience resulting from the loss, delay, interception, corruption or alteration of any communication over the Internet due to any reason beyond Seller's reasonable control.

Clause 10: Laws and Dispute Resolution

10.01 This Agreement shall be governed by and construed in accordance with the laws of the Netherlands, without regard to the conflict of laws provisions thereof. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The governing language for this Agreement shall be English, and no concurrent or subsequent translation of this Agreement into any language shall modify any term of this Agreement.

10.02 All disputes arising out of or relating to this Agreement, or the breach thereof, shall be settled by the competent court located in Almelo, the Netherlands, without prejudice to Seller's right to bring suit against Company before any court that would have jurisdiction in the absence of this Section. Either Party may, without waiving any remedy under this Agreement, seek from any court of competent jurisdiction any interim or provisional relief that such Party deems necessary to protect its confidential information and property rights.

Clause 11: Intellectual Property and Software License

11.01 For purposes of this Agreement, "Intellectual Property Rights" mean any patent, trademark, service marks, copyrights, trade secrets, ideas, concepts, know-how, techniques or other proprietary right. Seller may utilize proprietary works of authorship, pre-existing or otherwise, including without limitation software, computer programs, methodologies, templates, flowcharts, architecture designs, tools, specifications, drawings, sketches, models, samples, records and documentation, as well as Intellectual Property Rights and any derivatives thereof, which have been originated, developed or purchased by Seller, or any of its Affiliates, or by third parties under contract to Seller or to a any of its Affiliates (all of the foregoing, collectively, "Seller's Information"). Seller shall retain at all times ownership of the Seller's Information.

11.02 Seller or the applicable third party owner shall retain at all times the ownership of its Software, firmware and Third Party software, regardless of the media upon which the original or copy may be recorded or fixed. Without prejudice to the license(s) expressly granted hereunder and under a Purchase Order, no right, title or interest in or to the Software, firmware, Seller's Information, any copies thereof and any Intellectual Property Rights residing in the Goods, Software or result of Services is transferred to Company. Company acknowledges that the prices for Services and Software charged by Seller under this Agreement are predicated in part on Seller's retention of ownership over such Software and any results of the Services, none of which shall be considered "work for hire."

11.03 In consideration of the receipt of full payment of the Software license fee applicable as part of the Price under a Purchase Order, and subject to Company's compliance with its obligations under this Agreement and/or the Purchase Order, Seller shall provide to Company a personal, non-transferable, non-exclusive limited license to use the Software described in the relevant Purchase Order and the Seller's Information incorporated into the Goods, Software and Services, if any, for purpose of Company's ordinary business as defined in the Purchase Order and in the particular location(s) and/or on the particular systems for which Company licensed such Software, as those locations and/or systems are identified in the Purchase Order.

11.04 Seller's Software licensed to Company may contain components that are owned by third parties. The third party owner shall retain exclusive right to its firmware and software. Use of such third party components may be subject to restrictions contained in the third party's end-user license agreement in addition to the conditions set forth herein. Seller shall make available to Company upon request the third party's end-user license agreement applicable. Copyright and other proprietary rights notices of Seller and third parties are contained in the Software and Company shall not modify, delete or obfuscate such notices.

11.05 Company may not without Seller's prior written express consent (i) copy, modify, sublicense, loan or transfer in any manner the Software licensed herein; (ii) create derivative works based on the Software licensed herein; (iii) subject the Software licensed herein to translating, decompiling, disassembling, reverse assembling, reverse engineering, emulating or performing any other operation on the Software, unless the operation is specifically authorized by law. Company shall hold the Software licensed herein in strict confidence and will not allow third parties, other than its employees with a need to use the Software and who have agreed to comply with the terms of this Software License clause, to access or use the Software without Seller's prior written consent. Company agrees to defend, indemnify and hold harmless Seller from all damages and third party claims arising from unauthorized use or transfer of the Software.

11.06 Notwithstanding the foregoing restrictions but subject to all restrictions applicable to Third Party Products as set forth in Clauses 11.02 and 11.04, Company shall be entitled to make a limited reasonable number of copies of the instruction manuals and documentation related to the Software for purpose of their use by Company in connection with the authorized use of the Software. All titles, trademarks and copyrights and restricted rights notices shall be reproduced in such copies.

11.07 Company shall maintain complete and accurate records documenting the location and use of the licensed Software in

Company's possession. No later than thirty (30) days upon receipt of Seller's written request, Company shall provide Seller with a signed certification of compliance with the Software licensing conditions. Seller has the right to conduct an audit of Company's use of the Software. Any such audit shall be conducted during regular business hours at Company's facilities. If an audit reveals any underpayment of license fees, Company shall be invoiced for additional license fees consistent with Seller's then current price list for the Software, without any discount being applicable in that instance. Company shall then immediately pay the underpaid amount together with interest at a rate of one and one-half percent (1.5%) per month or partial month during which such amount was due and unpaid. The assessment of additional license fee is without prejudice to Seller's other remedies in the event of breach by Company of other licensing conditions.

11.08 Unless otherwise set forth in an applicable Seller's end-user license agreement, Company may not transfer its license to use the Software and related documentation and written materials to a third party without the Seller's prior written consent. In case of Seller's approval of such transfer, Company shall be responsible to ensure that the recipient agrees to the terms of this Software License clause.

11.09 Unless otherwise set forth in the applicable Seller's end-user license agreement, Seller shall defend, indemnify and save harmless Company from and against any third party claims ("Liabilities") to the extent such Liabilities result from an infringement due to the Services and/or Goods, Software's design or construction, of a patent or copyright owned by a third party in the country of manufacture of such Goods and/or Software or in the country of performance of the Services at the time of execution of the relevant Purchase Order under which the alleged infringement has occurred, provided that (i) Seller shall be promptly notified of the bringing of said suits; (ii) Seller shall be given the sole control of the defense and all related settlement negotiations; (iii) Company agrees to fully assist Seller in the defense of the claim and (iv) Company complies with Seller's direction to cease any use of the Goods or Software which in Seller's reasonable opinion, is likely to constitute an infringement. Seller shall not be responsible for any settlement made without its consent.

11.10 The foregoing obligations do not apply when the claim of infringement results from or is related to: (i) Goods and/or Software provided pursuant to Company's designs, drawings or specifications; (ii) Goods and/or Software stored, used or maintained otherwise than in accordance with Seller's instructions or recommendations or other than for the Company's internal business purpose; (iii) claims of infringements resulting from combining Goods or Software provided hereunder with any other item not furnished by Seller; (iv) modifications to the Goods or Software without prior written consent of Seller; (v) parts supplied or designed by Company or third parties; and (vi) Company's failure to use corrections or enhancements made available by Seller.

11.11 Seller may cease to deliver any Goods or Software or Services, which it reasonably considers could infringe third party's rights, without being in breach of this Agreement.

11.12 In case said results of Services, Software or Goods, or any part thereof, is in such suit held to constitute infringement and/or its use is enjoined, the Seller shall, at its own expense and option either: (i) procure for the Company a royalty-free license to continue using such Software, results of Services or Goods, or (ii) replace same with substantially equal but non-infringing equipment or modify it so it becomes non-infringing, provided that no such replacement or modification shall in any way amend or relieve Seller of its warranties and guarantees set forth in this Agreement. In the event Seller is unable to do either of the foregoing, the allegedly infringing item shall be returned to Seller and Seller's maximum liability shall be to refund to Company the amount paid for such item, less a reasonable depreciation for use and damage.

11.13 This Section 11 states the Parties' entire liability and sole remedy with respect to infringement or claims thereof.

Clause 12: Indemnification and Limitation of Liability

12.01 Seller shall indemnify, defend and hold Company harmless against third party claims (including without limitation, the Parties' employees) for personal injury, death or loss or damage to property caused by Seller's negligence in the performance of its obligations hereunder, provided (i) Seller is entitled to exclusively control the defense against the claim; (ii) Seller is immediately notified of such claim and (iii) Company provides reasonable assistance in the defense of the claim and does not enter into any settlement or make any concession without the Seller's prior written approval. Seller shall not indemnify Company against third party claims to the extent such claims result from the use of the Goods and/or Software for research and development purposes or from the use of 0-series or prototypes.

12.02 IN NO EVENT SHALL SELLER HAVE ANY LIABILITY UNDER THIS AGREEMENT OR ANY PURCHASE ORDER FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF PRODUCTION, LOSS OF REVENUES, INTEREST, CAPITAL, FINANCING, GOOD WILL, USE, BUSINESS REPUTATION, OPPORTUNITY OR PRODUCTIVITY, OR FOR ANY DAMAGES RESULTING FROM OR ASSOCIATED WITH THE USE OF THE GOODS AND/OR SOFTWARE FOR RESEARCH AND DEVELOPMENT PURPOSES AND/OR FOR AVIATION PURPOSES OR FROM THE USE OF 0-SERIES OR PROTOTYPES, HOWSOEVER ARISING, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

12.03 SELLER'S LIABILITY UNDER THIS AGREEMENT FOR ANY DIRECT DAMAGES ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT (WHETHER ARISING UNDER TORT, NEGLIGENCE, CONTRACT, WARRANTY, STRICT LIABILITY OR ANY OTHER CAUSE OR COMBINATION OF CAUSES) SHALL IN NO EVENT EXCEED THE SPECIFIC PRICE OF THE GOODS, SOFTWARE AND/OR SERVICES PROVIDED UNDER THE PURCHASE ORDER GIVING RISE TO LIABILITY. WITH RESPECT TO SITE BASED SERVICES, THE MAXIMUM AGGREGATE LIABILITY OF SELLER FOR DIRECT DAMAGES UNDER THE PURCHASE ORDER GIVING RISE TO LIABILITY SHALL NOT EXCEED THE AMOUNT EQUIVALENT TO ONE ENGINEER'S WORK DAY.

12.04 EXCEPT FOR THE TRANSFER OF SOFTWARE LICENSE IN ACCORDANCE WITH CLAUSE 11.08, THE TERMS OF THIS AGREEMENT SHALL NOT BENEFIT OR CREATE ANY RIGHT OR CAUSE OF ACTION IN OR ON BEHALF OF ANY PERSON OR ENTITY OTHER THAN COMPANY AND SELLER. ANY ACTION AGAINST THE OTHER MUST BE BROUGHT WITHIN TWELVE (12) MONTHS AFTER THE EVENTS GIVING RISE TO THE CAUSE OF ACTION EXCEPT THAT AN ACTION FOR NON-PAYMENT MAY BE BROUGHT BY A PARTY NOT LATER THAN FIVE YEARS FOLLOWING THE DATE OF THE LAST PAYMENT DUE TO SUCH PARTY HEREUNDER.

12.05 TO THE EXTENT PERMITTED BY LAW, THE PROVISIONS OF THIS SECTION 12 SHALL APPLY REGARDLESS OF THE FORM OF ACTION, DAMAGE,

CLAIM, LIABILITY, COST, EXPENSE, OR LOSS, WHETHER IN CONTRACT, STATUTE, TORT OR OTHERWISE.

12.06 COMPANY ACKNOWLEDGES THAT SELLER'S PRICING REFLECTS THE ALLOCATION OF RISKS, OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS AND THE LIMITATION OF LIABILITY HEREUNDER.

Clause 13:   Invoicing

13.01 Invoices shall be sent to the address specified in the Purchase Order.

13.02 Should Company dispute any invoice, Company shall notify Seller of the nature of the dispute within thirty (30) days of the date of the invoice. Company shall have the right to withhold payment of the portion of the invoice in question until Company and Seller agree on the amount to be paid and any additional documentation or information requested by the Company has been received from the Seller. Company shall pay the undisputed portion of the disputed invoice.

13.03 Seller shall invoice Company in accordance with the following invoicing milestones:

Orders for Software and Hardware
100%   Upon shipment of the Goods and/or Software.

All Time & Material Orders
100%   Labor hours billed at then current rates of the Xsens affiliate performing the services plus all Expenses incurred billed on a monthly basis with a minimum administrative fee equal to 5 % of the amount of expenses (to be determined with the relevant Xsens affiliate).

Clause 14:   Termination for Convenience

14.01 Seller's provision of any Service under this Agreement or a Purchase Order may be terminated by the Company in accordance with this clause in whole or in part whenever the Company may elect, with minimum prior written notice ("Notice of Termination") of at least thirty (30) business days. Any such termination shall take place by delivery to the Seller of a Notice of Termination specifying the extent to which performance of work under the Agreement or Purchase Order is terminated, and the date upon which termination becomes effective. Upon receipt of any such notice, Seller shall, unless the notice requires otherwise:

(1) discontinue work on the date and to the extent specified in the notice; and

(2) make every reasonable effort to either obtain cancellation of all orders to subcontractors or assign those orders to Company.

14.02 Upon Notice of Termination, Company shall (i) pay 50% of invoice value and expenses incurred in connection with the performance of this Agreement or the Purchase Order until the effective date of such termination ("Fees and Expenses") and (ii) any and all reasonable costs directly related to Company's termination pursuant to this provision, including costs associated with personnel reassignment, travel, restocking charges and other administrative requirements ("Termination Costs"). In the event of partial execution of the Agreement or when termination occurs between two invoicing milestones, a pro rated share of the fees shall be added based upon the portion of Purchase Order completed on the termination date.

Clause 15:   Termination for Default

15.01 Either Party may terminate this Agreement or any outstanding Purchase Order for default if the other has materially breached any of its obligations under the relevant Purchase Order and has not cured the breach within thirty (30) days of receipt of a notice from the other Party.

15.02 Termination of a Purchase Order by either Party whether for default or for convenience shall not affect continuing performance by the Parties of their respective obligations under a different Purchase Order, unless otherwise agreed upon by the Parties.

Clause 16:   Storage and Bailment of Company's Materials and/or Equipment

16.01 If Seller must store any of Company's materials and/or equipment under this Agreement, Seller shall charge Company a fee for storing the materials and/or equipment as set forth in the Purchase Order or in a properly executed Change Order. Seller shall:

(1) store such materials and/or equipment in a clean, dry, and secure location, unless otherwise agreed in writing by Company; and

(2) mark, notify, or otherwise indicate in a manner to make it evident to Seller's creditors, that such materials and/or equipment belong to Company.

16.02 Without prejudice to its rights under Clause 4.07, Seller will not permit any lien or encumbrance to attach to Company's Goods in the possession of Seller and will file or execute such documents of title as Company may request.

Clause 17:   Assignment

17.01 This Agreement shall extend to and be binding upon the Parties hereto, their successors, and assigns, provided, however, that neither Party shall assign or transfer this Agreement or any Purchase Order hereunder without the other Party's express prior written consent. Notwithstanding the foregoing, Seller shall have the right to assign this Agreement or any Purchase Order hereunder to any of its parent, Affiliates without prior written consent of Company and Company shall have the right to transfer the licensed Software in accordance with Clause 11.08.

17.02 Seller shall have the right at any time without prior consent of Company to subcontract all or part of its obligations under a Purchase Order. Such subcontract shall not relieve Seller from its obligations under this Agreement and relevant Purchase Order.

Clause 18:   Non-Waiver

18.01 Failure by either Party to insist upon strict performance of any of the terms and conditions hereof or failure or delay to exercise any rights or remedies provided herein or by law or to properly notify the other in the event of breach shall not be construed as a waiver of any provision of this Agreement or Purchase Order.

18.02 No waiver by a Party of a right or default under this Agreement shall be effective unless in writing.

Clause 19:   Severability, Survivorship, Waiver, and Headings

19.01 If any provision or portion of this Agreement shall be adjudged invalid or unenforceable by a court of competent jurisdiction or by operation of any applicable law, that provision or portion of this Agreement shall be deemed omitted and the remaining provisions and portions shall remain in full force and effect.

19.02 The provisions of this Agreement that by their nature survive final acceptance under a Purchase Order, expiration, cancellation or termination of any Purchase Order or Agreement and shall remain in full force and effect after such acceptance and payment for the period specified herein, or if not specified then for the maximum time allowed by law. These provisions are: (i) Definitions, Clause 1; (ii) Price and Payment Terms, Clause 4; (iii) Indemnification and Limitation of Liability, Clause 13; (iv) Force Majeure, Clause 7; (v) Warranties, Clause 8; (vi) Intellectual Property and Software License, Clause 11; (vii) Compliance, Clause 9; (viii) Laws and Dispute Resolution, Clause 10; (ix) Severability, Survivorship, Waiver, and Headings, Clause 19.

19.03 The headings in this Agreement are for ease of reference only and shall not be used to construe or interpret the provisions of the Agreement.

Clause 20: Notice

20.01 All notices hereunder shall be deemed given if delivered in writing personally, by courier, via mail, electronic transmission or telephone facsimile to Company or to Seller at the address(es) set forth in the Purchase Order(s). Electronic transmission must be acknowledged by a process requiring human action.

Clause 21: Participants of this Agreement

21.01 In addition to its Affiliates' Purchase Order(s) against this Agreement, Company may allow third party(s), contracted to work on behalf of Company, the right to release Purchase Order(s) against this Agreement provided the third party is not a competitor of Seller and further provided that the third party in question is either acting as agent for and on behalf of Company or that the Goods are to be purchased by the third party in its own name for use by Company or in a Company-owned facility.

21.02 All terms and conditions (including delivery obligations) of a Purchase Order released by a participant third party and any proposal submitted by Seller to a participant third party as a result of a bidding process, shall be in accordance with this Agreement. Company shall notify the participant third party of the Agreement and direct the participant third party to comply with the terms of the Agreement. A copy of any Seller's proposal to a participant third party shall be communicated to Company in accordance with Clause 20.

Clause 22: Company's Obligations and Work On Company's Site

22.01 Unless otherwise specifically agreed in the Purchase Order, Seller's personnel shall not perform Services on equipment in operation on Company's work site.

22.02 If Seller is to perform Services on Company's work site, Company shall be responsible for obtaining all applicable permits, visas or other governmental approvals required. Company shall be responsible for ensuring the safety of work conditions at its site and the safety of Seller's personnel.

22.03 Seller ensures that its employees, subcontractors and agents adhere to and comply with Company's health, safety, security and environmental ("HSSE") policies while at the work site, to the extent these policies have been made available to Seller.

22.04 The obligations of Company shall be set forth in the applicable Purchase Order. Company agrees to cooperate with Seller in the performance of the project described in the Purchase Order hereunder, including, without limitation, providing Seller with reasonable facilities, timely access to data, information and personnel of Company and a safe working environment. Company acknowledges and agrees that Seller's performance is dependent upon the timely and effective satisfaction of Company's responsibilities hereunder and timely decisions and approvals of Company where required.

22.05 Company acknowledges and agrees that Seller may, in performing its obligations pursuant to this Agreement, be dependent upon or use data, material, and other information furnished by Company without any independent investigation or verification thereof, and that Seller shall be entitled to rely upon the accuracy and completeness of such information in performing its obligations.

Clause 23: Press Releases and Client List Reference

23.01 Neither Party shall issue any press release concerning Seller's work without the other Party's consent. Notwithstanding the foregoing, Seller may identify Company as a client of Seller, use Company's name and logo and release an announcement regarding the award of this Agreement. Seller may generally describe the nature of the Services in Seller's promotional materials, presentations, case studies, qualification statements and proposals to current and prospective clients.

Clause 24: Independent Contractor

24.01 Seller is performing the Services as an independent contractor and not as an employee of Company and none of Seller's personnel shall be entitled to receive any compensation, benefits or other incidents of employment from Company. Seller shall be responsible for all taxes and other expenses arising from the employment or independent contractor relationship between Seller and its personnel and the provision of services hereunder by such personnel to Company.

24.02 At all time and notwithstanding anything to the contrary herein or in a Purchase Order, Seller retains full control over the methods, details, persons employed or otherwise used to perform the Services and any other means of performance of its obligations under a Purchase Order and vary the composition of the team assigned to the performance of the Services or make different arrangements to achieve completion of its obligations.

24.03 Nothing in this Agreement shall be deemed to constitute a partnership, joint venture, or fiduciary relationship between Company and Seller, nor shall anything in this Agreement be deemed to create an agency relationship between Company and Seller. Neither Company nor Seller shall be or become liable or bound by any representation, act or omission whatsoever of the other.