

Evaluation License Terms and Conditions

This document, referred to as "the Document", governs the use of any customized version of the Nxt Reference Software (NRS), specifically modified and restricted to be used for evaluation purposes only, and referred to as the "Software" herein. The specific customizations may be described separately - in such case they shall be considered a part of the Document.

License Grant

The Nxt Core Developer Team ("The Licensor") is agreeing to grant to the User the right to use the Software on a temporary basis for evaluation purposes only. This right is a non-exclusive, non-transferable, non-assignable, non-sublicensable, and can be used based on the license parameters set out in this Document and solely for them, in the designated locations, if any, and solely for the specified herein duration, if any.

Rights and obligations of the User

2.1 The User may receive, install and use the Software as a single user or internally within its organization for evaluation and testing purposes and/or as part of a proof of concept undertaken by the Licensor for the User.

2.2 The User may provide the same installation and use the Software as part of a proof of concept undertaken by the User itself before third parties as approved by the Licensor. The third parties may use the Software in accordance with this Document and up to the expiration date set in this Document, if any.

2.3 Each installation of the Software may have a built-in technical limitation on its maximum continuous runtime, as specified in the description of the Software. The Licensor shall have no liability if, as a result of this limitation, any loss of data or other direct or indirect damages occur for the User or any third parties.

2.4 In case a new customized version is required by the above mentioned third parties, the licensor will consider providing a quote for the time and cost for such version but The licensor is in no way obliged to create such version.

2.5 Other than as specified in paragraphs 2.1 and 2.2 herein the User may not show, demonstrate, install or in any other way use the Software without the Licensor's prior written consent.

2.6 The Software may not be transferred, sold, assigned, sublicensed, installed, or otherwise conveyed, whether by operation of law or otherwise, to another party without Licensor's prior written consent.

2.7 Under no circumstances may the User use the Software or a derivative work based on it for any production purposes.

2.8 Any derivative work created by the User based on this Software, with or without the technical support of the Licensor, can be used also for evaluation and testing purposes only and as a proof of concept.

2.9 The User may not modify or adapt the Software in whole or in part, or reverse engineer, decompile, or disassemble the Software, except to the extent agreed with the Licensor.

2.10 The User shall not remove any copyright notices or other proprietary notices from the Software.

2.11 The User shall stop using the Software after the expiration date, if any, set in this Document.

2.12 None of the clauses of this Document can be interpreted in any manner which gives the User more rights except the specifically agreed herein.

3. User's Liability

3.1 In case the User breaches any part of this Document or continues to use the Software after the expiration date, the Licensor shall be entitled to claim damages for the losses and for the missed profits. The User shall be held responsible if any third party as specified in paragraph 2.3 continues to use the Software or any derivative work after the expiration date.

3.2 The obligations of the User related to the restrictions of use and non-disclosure are of a special and unique character which gives them a peculiar value to the Licensor for which the Licensor cannot be reasonably or adequately

compensated in damages in the event the User breaches such obligations. Therefore the Licensor shall, in addition to other remedies which may be available, be entitled to injunctive and other equitable relief in the event of the breach or threatened breach of such obligations.

4. Ownership and non-disclosure

4.1 The ownership of the intellectual property rights of the Software remains unchanged and is protected by copyright laws and international treaty provisions. The User acquires only the non-exclusive right to use the Software as permitted herein and does not acquire any rights of ownership in the Software.

4.2 The User agrees to protect the licensor's proprietary rights over the Software and will take all steps reasonably necessary to prevent the disclosure to any person or legal entity other than its employees and the third parties as specified in paragraph 2.3, of proprietary information provided by the Licensor.

5. Warranty disclaimer

5.1 The Software is provided on an "as-is" basis and is unsupported although the Licensor in its sole discretion may provide (or after providing withdraw or terminate) limited support for the Software. Nothing in this Document shall be interpreted as entitling the User to any support, maintenance or enhancement or to any new versions of the Software, however the Licensor may opt to provide such support or version updates at its sole discretion.

5.2 The User acknowledges that the Software is provided "as-is", with all faults, whether or not immediately apparent, without any warranty whatsoever, solely for the User's evaluation. The Licensor disclaims all warranties and conditions, express or implied, including without limitation the implied warranties or conditions of merchantable quality and fitness for a particular purpose.

6. Limitation of liability

To the extent permitted by law neither the Licensor, its subsidiaries, or affiliates, nor any of its licensors, shall be liable for any loss or damage hereunder, including without limitation any inaccuracy of data, loss of profits, or indirect, special, incidental or consequential damages, arising from this agreement or from the Software and services, if any, provided to the User under this agreement, even if such party has been advised of the possibility of such damages.

6.2 The Licensor shall have no liability if the User or any third party uses or prepares to use the Software or a derivative of it in any manner or for any purpose which violate national or international law.

7. Defense against infringement claims

7.1 The Licensor shall, at its own expense, be entitled to defend (or at its sole option, settle) any claim brought by a third party against the User based on the allegation that the Software directly infringes an intellectual property right or trade secret, registered in the country of Licensor's residence.

7.2 The Licensor shall indemnify the User for any damages and costs the User reasonably incurs that are directly attributable to any such claim and that are assessed against the User in a final, non-appealable judgment or agreed upon by the Licensor in a settlement.

7.3 The Licensor's obligations to defend and indemnify the User with respect to a particular claim are subject to the following cumulative conditions:

- a) the User promptly notifies the Licensor of any such claiming;
- b) the User gives the Licensor full authority, information and assistance to defend any such claim;
- c) the User gives the Licensor sole control of the defense of such claim and of all negotiations which may result in a compromise or settlement of such claim.

7.4 **Exceptions:** The Licensor shall have no liability under this Document with respect to any claim based upon:

- a) Software that has been modified by anyone other than the Licensor;

b) use of other than the then-current release of the Software, if the infringement could have been avoided by use of the most recent version supplied by the Licensor;

c) use of the Software in conjunction with User's or third party data, where use of such data gave rise to the infringement claim;

d) use of the Software with other software or hardware, where use with such other software or hardware gave rise to the infringement claim;

e) third party software or technology included within the Software; and/or

f) use of any Software which use breaches this Document.

7.5 Remedy by the Licensor: If the Licensor determines that the Software is likely to be the subject of a claim of infringement, the Licensor shall have the right:

a) to replace User's copy of the Software with non-infringing software that has substantially equivalent functionality, or

b) to modify the Software so it becomes free of infringement, or

c) to terminate the Agreement with the Licensee.

7.6 Exclusive remedy: The provision of this clause states the exclusive liability of the Licensor and the exclusive remedy to which the User is entitled with respect to any claim of intellectual property or trade secret misappropriation or infringement by the Software, any part thereof, and any material or services provided hereunder, and are in lieu of all other remedies, liabilities and obligations.

8. Fees and payments

The Licensor will provide the trial license free of all charges and fees for the specified period. The Licensor may decide to provide limited paid support for the Software at an daily rate to be agreed on separately.

9. Duration

The License granted herein shall commence on the date that the Licensor delivers the Software to the User and remain in effect for a period of three (3) months.

10. Termination

10.1 The License will automatically terminate as of the date set forth in this Agreement or after the trial period expires. The Licensor may terminate the Agreement with a written notice to the User at any time.

10.2 After any termination or expiry the User shall cease using the Software and delete it from the User's systems.

10.3 All disclaimers of warranties, limitations of liability, and provisions for the protection of Licensor's proprietary rights in the Software as specified herein shall survive any termination of the Agreement.

11. General provisions

11.1 The Software may contain or include software applications or libraries for which the licensor itself had to acquire a license to use from a third party. This third party software may be subject to additional license terms which are included in a separate document within the software package. All third party applications and libraries shall be used on an "as-is" basis, subject only to any warranties and licenses provided by their suppliers.

11.2 Governing law: This Agreement and all matters related to the interpretation and effect of this Agreement will be governed by the laws of the Netherlands and shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods (CISG). The parties have agreed to exclusive personal jurisdiction procedure and venue for legal dispute arising from or connected with this Agreement shall lie with the courts of Amsterdam.

11.3 Dispute resolution: The parties shall attempt to resolve any dispute first of all through the informal means described in this clause. Each party shall appoint a representative who shall negotiate in good faith to resolve a dispute, without the need for any formal proceeding. Formal proceedings for the resolution of a dispute may not commence until the earlier of: (1) The designated representatives mutually conclude that resolution through negotiation does not appear likely, or (2) Thirty calendar days have passed since the

initial request to negotiate the dispute was made; provided however that a party may file for formal proceedings earlier solely to avoid the expiration of any applicable limitations period, to preserve a superior position with respect to other creditors, or to apply for interim or equitable relief.

11.4 Notices: All notices, demands, or other communication by any party to the other shall be considered to have been duly given when made in writing and delivered by email to the addresses listed in the AUTHORS.txt file included in this Software. Notice will be effective upon delivery.

11.5 Amendment in writing: No variation of this Agreement, in whole or in part, shall be valid and binding unless it is agreed in writing amendment and signed on behalf of both parties by a duly authorized representative.

11.6 Severability: If any provision or part of any provision of this Document is determined by a court of competent jurisdiction to be or becomes illegal, unenforceable or in conflict with any law governing this agreement, such provision shall be adjusted to the minimum extent necessary (most closely reflecting the legal and economic intent of the parties), to cure such unenforceability, illegality, or conflict, and the remainder of this Document (as well the remainder of the relevant provision) shall remain in effect.

11.7 The Document, as may be amended from time to time constitutes the entire Evaluation License and supersedes all previous communications, non-fraudulent representations, and prior and contemporaneous agreements (written or oral) between the Licensors and the User with respect to the subject matter herein.