



nDetect Ltd.

169 Main Street, Woodborough, Nottingham, NG14 6DD, UK.

<i>Document Name:</i>	Terms and Conditions for the purchase of goods and services
<i>Project Title:</i>	Terms and Conditions
<i>Project Number:</i>	
<i>Document number:</i>	1000020v101
<i>Revision number:</i>	1.0.1
<i>Date of Issue:</i>	16/05/2008
<i>Author:</i>	Simon Godber
<i>Signature:</i>	
<i>Date:</i>	

Version history –

Revision:	Date:	Comment:	Initials
1.0.0	16/05/2008	Initial release.	SG
1.0.1	13/03/2009	Re-formatted as nDetect versioned document	SG

nDetect Ltd Standard
Terms and Conditions of Purchase

1. Definitions

In these Conditions:

“**Purchaser**” means nDetect Ltd.

‘**Supplier**’ means the supplier named on the Purchase Order.

“**Goods**” means all products, articles or materials specified in an Order to be supplied in accordance with the Contract.

“**Order**” shall mean the Purchaser's officially numbered Purchase Order together with all the documents attached or referred to therein.

“**Contract**” shall mean the agreement between the Purchaser and the Supplier.

“**A Correct Invoice**” shall mean a detailed invoice quoting the Purchaser's order number setting out full details of the goods or services supplied and any discounts given.

“**Address**” means the delivery address stated in an Order or such other address as the Purchaser may subsequently notify in writing.

2. Basis of Purchase

- 2.1. An Order constitutes an offer by the Purchaser to purchase the Goods and/or Services at the prices mentioned in this order and upon the terms in these conditions.
- 2.2. The Supplier hereby acknowledges that acceptance of the Purchaser's Order implies acceptance of the terms of these Conditions which shall override any terms and conditions attached to the supply of the Goods and/or Services by the Supplier (notwithstanding any contrary terms in the Supplier's terms and conditions)
- 2.3. No variation or addition to these Conditions or an Order shall be binding upon the Purchaser unless agreed in writing between a director of the Purchaser and an authorised representative of the Supplier.
- 2.4. Subject to any amendment in accordance with Clause 23 these Conditions embody the entire understanding of the parties and override any prior promises, undertakings or representations.
- 2.5. No Order will be binding upon the Purchaser unless signed by an authorised representative of the Purchaser.
- 2.6. All Orders, whether in writing or placed orally by the Purchaser, are upon the terms of these Conditions unless the Purchaser agrees otherwise in writing.
- 2.7. This Order constitutes an offer on the part of the Purchaser and no Contract shall be concluded until the Supplier either expressly by giving of notice of its acceptance to the Purchaser, or implied by fulfilling an Order in whole or in part, accepts the offer.

3. Cancellation

- 3.1. The Purchaser may cancel an Order without liability to the Supplier at any time prior to the receipt of express or implied acceptance in accordance with Clause 2 by giving written notice to the Supplier.
- 3.2. At any time after express or implied acceptance of an Order in accordance with Clause 2, the Purchaser shall be entitled to cancel an Order in respect of all or part only of the Goods and/or the Services by giving notice to the Supplier at any time prior to delivery or performance, in which event the Purchaser's sole liability shall be to pay to the Supplier the price for cancelled Goods or Services less the Supplier's net saving of cost arising from cancellation.

4. Price

- 4.1. The price payable for the Goods or the Services shall be that stated on the front of an Order and, unless otherwise so stated. Shall be:
 - 4.1.1. Exclusive of any applicable Value Added Tax (which shall be payable by the Purchaser subject to receipt of a VAT invoice)
 - 4.1.2. Inclusive of all charges for packaging, packing, shipping, carriage, insurance and delivery of the Goods to the Address and any taxes, levies or duties other than Value Added Tax.
- 4.2. The price shall remain firm for the period of the Contract.
- 4.3. No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior written consent of the Purchaser.
- 4.4. The Purchaser shall be entitled to any discount for prompt payment, bulk purchase, volume of purchase

or otherwise usually granted by the Supplier in such circumstances.

5. Delivery

- 5.1. The Goods shall be delivered to or the Services shall be performed at the Address during the Purchaser's agreed business hours. The Purchaser reserves the right to make alternative delivery arrangements by written notice and to claim a reduction in the price payable for the Goods of the proportion of the price payable which relates to delivery.
- 5.2. Any Goods supplied or installed under an Order shall be designed, constructed, finished and packaged and marked in a proper manner and in accordance with the Purchaser's instructions, any statutory requirements and any requirements of the carriers. All necessary warning notices clearly displayed so as to be safe and without risk to health and to reach the Address in an undamaged condition in the ordinary course.
- 5.3. Delivery must be made or the Services performed on or before the date or within the period stated on an Order or if no date or period is specified, within a reasonable period, provided that the Purchaser shall be under no obligation to accept delivery of the Goods or provision of the Services before the specified date, but reserves the right to do so. Time shall be of the essence and without prejudice to any other rights which it may have the Purchaser reserves the right to cancel an Order in the event that delivery is not so made or the Services not so performed and to claim damages for any loss incurred in obtaining the Goods or Services from another supplier.
- 5.4. The Purchaser shall be entitled to reject any Goods delivered which are not in accordance with a Contract and shall not be deemed to have accepted any Goods until the Purchaser has had a reasonable time to inspect them following delivery or, if later, within a reasonable time after any latent defect in the Goods has become apparent.
- 5.5. The Purchaser shall not be obliged to return to the Supplier any packaging or packaging material for the Goods whether or not any Goods are accepted by the Purchaser.
- 5.6. If the Goods are to be delivered or the Services are to be performed by instalments, a Contract shall be treated as a single contract and not severable.

6. Documentation and Marking

The Supplier shall provide the Purchaser with such invoices, advice notes, delivery notes, statements and other documentation as the Purchaser may from time to time specify in particular and without limitation:

- 6.1. Each delivery of Goods must be accompanied by a delivery note setting out full particulars of the Goods and quoting the Purchaser's Order number. The outside of each package will be clearly marked with the Purchaser's Order number, quantity, batch number and expiry date of contents (where applicable) and any other information as required under sub-clause 5.2;
- 6.2. The Supplier shall supply the Purchaser on delivery of the Goods or performance of the Service with all operating, maintenance, repair and safety data sheets and instructions and other information as are necessary for the safe operation of the Goods which are required to enable the Purchaser to accept delivery of the Goods or performance of the Service and;
- 6.3. The Supplier shall ensure that the Goods (any components where these are manufactured by different persons) are clearly marked with the manufacturer's name, trademark or distinguishing mark, which clearly identifies the manufacturer.

7. Payment

- 7.1. Unless otherwise agreed in writing, the Supplier shall only be entitled to invoice the Purchaser after delivery of the Goods or performance of the Services.
- 7.2. The Purchaser will pay for the Goods or Services within such time period as may be agreed, but not earlier than 30 days after the end of the month in which a Correct Invoice is received.
- 7.3. The Purchaser shall be entitled to set off against the price any sums owed to the Purchaser by the Supplier.
- 7.4. The Supplier shall have no right to charge interest (or any other sum in addition to the price) to the Purchaser on any outstanding account

8. Risk and Property

- 8.1. Risk of damage to or loss of the Goods shall pass to the Purchaser upon delivery to the Purchaser in accordance with these Conditions.
- 8.2. The property in the Goods shall pass to the Purchaser upon delivery unless advance or progress payments are made for the Goods prior to delivery in which case:
 - 8.2.1. Property in any materials purchased or allocated by the Supplier for the purpose of an Order shall immediately vest in the Purchaser; and
 - 8.2.2. Property in any completed Goods appropriated to an Order shall immediately vest in the Purchaser.

8.3. If the Goods are rejected by the Purchaser for any reason, property and risk in the Goods rejected shall revert to the Supplier

9. Quality Control and Inspection

9.1. If requested by the Purchaser the samples of the goods ordered must be submitted to the Purchaser for approval at no extra charge to the Purchaser and no liability will be accepted by the Purchaser to pay for any Goods produced prior to approval of such samples.

9.2. The Supplier shall establish and maintain such quality control procedures and testing and inspection measures as shall be required by the Purchaser. The Supplier shall upon request, supply to the Purchaser certificates of the results of such testing and inspection.

9.3. The Purchaser shall be entitled to inspect the Goods during manufacture, processing or storage while the Goods are in the Supplier's possession or during the carrying out of the Services as the case may be and the Supplier shall provide or procure the provision of all such inspection facilities as may reasonably be necessary. The Supplier hereby grants an irrevocable licence to the Purchaser to enter the Supplier's premises at reasonable times and on the giving of written notice of its intention so to do for the purpose of exercising the said rights of inspection. No such inspection nor any failure to reject the Goods or the Services shall constitute or imply acceptance of the Goods or the Services by the Purchaser.

9.4. If as a result of inspection or testing, the Purchaser is not satisfied that the Goods will comply in all respects with this Contract and the Purchaser so informs the Supplier, the Supplier shall take such steps as are necessary to ensure compliance.

9.5. Such test and inspection certificates as are required by an Order shall be provided by the Supplier without charge.

10. Warranties as to Goods and Services

10.1. The Supplier warrants to the Purchaser that the Goods:

10.1.1. Shall be manufactured and (where applicable) packaged, with competence and due care, of satisfactory quality (within the meaning of the Sale and Supply of Goods Act 1994) and free from the defects in design, material or workmanship;

10.1.2. Will be fit for any purpose held out by the Supplier or made known to the Supplier by the Purchaser;

10.1.3. Will comply in every respect with any relevant specifications, drawings, samples or descriptions; and

10.1.4. Will comply with any statute, statutory order, directive of regulation or relevant British Standard (or equivalent required by the Purchaser) in force at the time of delivery including, without prejudice to the generality of the foregoing all regulations relating to product safety or marking, all as amended, re-enacted or extended at the relevant time.

10.2. Without prejudice to the generality of the foregoing if the Goods are found to be defective within 12 months from delivery or within 6 months of being put into operational services, the Purchaser shall be entitled to avail itself of any one or more of the remedies listed in Clause 17.

10.3. The Supplier agrees to provide the Purchaser before delivery with written details of any harmful or potentially harmful properties or ingredients in the Goods supplied together with any information concerning any changes, which may take place in such properties or ingredients. The Purchaser will rely on the supply of such information from the Supplier in order to satisfy its own obligations under legislation relating to health and safety at work and the control of substances hazardous to health.

10.4. The Supplier undertakes and warrants that he has disclosed any circumstances to the Purchaser which would reduce the useful life of the Goods and, furthermore, hereby undertakes to inform the Purchaser in writing from any such information that should at any time in the future come to the Supplier's attention.

10.5. Subject to these Conditions, the Supplier shall sell the Goods to the Purchaser with full title guarantee.

10.6. The Supplier warrants to the Purchaser that the Services will be performed by appropriately qualified and trained personnel with competence and due care and diligence and in accordance with the Purchaser's instructions for the provision of such Services and will comply in every respect with all relevant specifications.

10.7. The Supplier shall bring to the attention of all employees, agents, sub-contractors and representatives of the Supplier involved in any way in the provision of the Services, the Purchaser's health and safety requirements and contractors on site requirements and the Supplier shall be responsible for ensuring that such requirements are duly observed by all such employees, agents, sub-contractors and representatives of the Supplier.

10.8. The Purchaser is at all times relying on the skill and knowledge of the Supplier in the supply of Goods and Services in execution of an Order.

11. Indemnity

The Supplier shall indemnify the Purchaser in full against all direct or consequential liability, loss, damages, injury, costs and expenses (including legal expenses) awarded against or incurred or paid by the Purchaser as a result of or in connection with:

- 11.1. Breach of any warranty or undertaking by the Supplier in relation to the Goods or Services;
- 11.2. Any claim that the Goods infringe, or their importation, use or resale, infringes the industrial or intellectual property rights of any other person, except to the extent that the claim arises from compliance with any specifications, drawings, samples or descriptions provided by the Purchaser;
- 11.3. Any liability under the Consumer Protection Act 1987 in respect of the Goods;
- 11.4. Any act or omission of the Supplier or its employees, agents or sub-contractors in supplying, delivering and installing the Goods;
- 11.5. Any act or omission of any of the Supplier's personnel in connection with the performance of the Services; and
- 11.6. Any injury or other loss caused to an employee of the Purchaser or any other person on the Purchaser's premises, caused by any default or negligence on the Supplier's part (including without prejudice to the generality of the foregoing any failure by the Supplier of the Supplier's agents, employees or sub-contractors to comply with any provisions of the Health and Safety at Work Act 1984 (and any amendments or modifications thereof) or any regulations or code of practice thereunder). This Indemnity will extend to any civil or criminal action.

12. Insurance

The Supplier shall maintain with a reputable insurance company such insurance cover as is reasonable (or as specifically required by the Purchaser) including without prejudice to the generality of the foregoing employees liability insurance in respect of all employees, agents or sub-contractors of the Supplier who shall be on the Purchaser's premises at any time in connection with the provision of the Services in a amount not less than £5m against all risks of liability for death, personal injury or loss or damage to property and all liability under this Contract and shall on request provide to the Purchaser evidence of such insurance as the Purchaser may reasonably require. If the Supplier fails to comply with such a request or fails to take out such insurance the Purchaser may insure against all such liability of the Supplier and deduct the premiums paid from monies due or to become due from the Supplier.

13. Tooling

- 13.1. All tools, jigs, dies, fixtures, moulds, patterns, plant, plates or other equipment supplied or paid for by the Purchaser or for which the Purchaser is liable to pay under an Order or which is manufactured using drawings, artwork or samples supplied by the Purchaser or the Purchaser's own customer or bearing the name or any trade name of the Purchaser's customer shall be owned by the Purchaser. All such items and similar items provided to the Supplier by the Purchaser or the customer of the Purchaser are referred to in this Clause as "the Tooling".
- 13.2. All Tooling shall be maintained and kept in good repair and replaced when necessary by the Supplier.
- 13.3. The Tooling shall not be used by the Supplier except in the manufacture of the Goods or the provision of the Services in accordance with an Order other than with the written consent of the Purchaser.
- 13.4. The Tooling shall remain the absolute property of the Purchaser or the Purchaser's customer (as the case may be) but shall for so long as it is in the possession or control of the Supplier be at the sole risk of the Supplier. The Supplier shall accordingly ensure that it is properly and securely retained and identified as the property of the Purchaser or the Purchaser's customer (as the case may be) and shall not part with possession of it or make it available to any third party.
- 13.5. The Supplier shall maintain with a reputable insurance company insurance cover for the replacement cost of the Tooling and shall have the interest of the Purchaser or the Purchaser's customer (as the case may be) noted on the policy.
- 13.6. The Supplier shall forthwith upon the request of the Purchaser return all Tooling in its possession to or at the direction of the Purchaser and hereby grants permission to the Purchaser to enter upon the Supplier's premises to collect any such Tooling if the Supplier shall fail to return such Tooling when requested.

14. Confidentiality and Design

Any Order placed by the Purchaser shall be treated as confidential and in particular the Supplier shall not make use of the Purchaser's name or the name of any of the Purchaser's customers for publicity purposes without the prior written consent of the Purchaser. All designs, drawings, specifications and information supplied by the Purchaser or produced by the Supplier at the expense of the Purchaser in

connection with an Order shall remain the Purchaser's property and are confidential and must only be used for the purpose of this Order, the particulars contained thereon must not be disclosed to anyone other than the Supplier's employees without the Purchaser's written consent. They must be used solely for the purpose of manufacturing the Goods or performing the Services and no similar goods or parts may be made for any other purpose. All such documentation and all copies thereof must be returned to the Purchaser on completion of an Order or at any time on demand by the Purchaser in either case, at the expense of the Supplier.

15. Force Majeure

The Purchaser shall not be liable to the Supplier or be deemed to be in breach of contract by reason of any delay in performing or any failure to perform any of the Purchaser's obligations in relation to an Order if the delay or failure was due to any cause beyond the Purchaser's reasonable control including, but not limited to, industrial action, war, fire, prohibition or enactment of any kind.

16. Termination

16.1. The Purchaser shall have the right at any time by giving notice in writing to the Supplier to terminate an Order forthwith without liability to the Supplier in any of the following events:

16.1.1. If the Supplier commits a breach of any of the terms or conditions of a Contract;

16.1.2. if the Supplier being a company enters into liquidation whether compulsorily or voluntarily or has a petition presented for the appointment of an administrator or compounds with its creditors or has a receiver or administrative receiver appointed of all or any part of its assets or takes or suffers any similar action in consequence of debt, or being an individual or partnership shall suspend payment or propose to enter into any composition with creditors or become unable to pay its debts (or have no reasonable prospect of so doing) or suffer a bankruptcy order or if anything analogous to any of the foregoing under the law of a jurisdiction occurs in relation to the Supplier.

16.1.3. If the financial position of the Supplier shall deteriorate to such extent that in the opinion of the Purchaser the capability of the Supplier adequately to fulfil its obligation hereunder has been placed in jeopardy.

16.1.4. If the Supplier ceases or threatened to cease to carry on its business or trade.

16.2. Without prejudice to the rights of the Purchaser under Clauses 3 and 16.1.1 – 16.1.4 the Purchaser may for any other reason whatsoever terminate the Contract and/or Orders at any time by giving reasonable notice to the Supplier and specifying the date from which termination shall be effective.

17. Remedies

17.1. Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with a Contract then the Purchaser shall be entitled (whether or not any part of the Goods or Services have been accepted by the Purchaser) to exercise any one or more of the following remedies in its sole discretion:

17.1.1. To rescind an Order;

17.1.2. To return the Goods to the Supplier at the cost and risk of the Supplier on the basis that a full refund for Goods so returned shall be paid forthwith by the Supplier.

17.1.3. To require the Supplier at the Supplier's expense to remedy defects in the Goods or Services and carry out any other necessary work to ensure that the terms of an Order are fulfilled;

17.1.4. To refuse to accept any further deliveries of the Goods or the provision of any further Services without the Purchaser having any further liability to the Supplier;

17.1.5. To carry out at the Supplier's expense any work necessary to make the Goods or Services comply with an Order; and

17.1.6. Claim such damages as may have been sustained in consequence of the Supplier's breach.

18. Assignment

An Order is personal to the Supplier who shall not without the Purchaser's prior written consent assign or sub-contract any of its rights or duties hereunder.

19. General

19.1. No faulty or surplus goods manufactured under an Order in accordance with or partly in accordance with the Purchaser's Specifications, drawings, samples or descriptions whether rejected by the Purchaser or not, shall be offered for sale or sold by the Suppliers to third parties.

19.2. No waiver by the Purchaser of any breach of this Contract by the Supplier shall be considered as a waiver of any subsequent breach of the same or any other provision.

19.3. If goods are delivered to the Purchaser in excess of the quantities ordered, the Purchaser shall not be bound to pay for the excess unless it so elects and any excess will be and remain at the Supplier's risk and will be returnable at the Supplier's expense.

19.4. Any notice required or permitted to be given by either party to the other under these Conditions shall be in writing addressed that other party at its registered office or principal place of business or such other address as may at the relevant time have been notified pursuant to this provision to the party giving the notice.

19.5. If any provision of these Conditions is held by any competent authority to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

20. Health & Safety and Environmental Protection

20.1. The Supplier shall:

20.1.1. In relation to all persons likely to be affected by the execution of an Order and coming into contact with the Goods, take all such steps as may be reasonably practicable to ensure their health and safety;

20.1.2. Not treat or dispose of any waste as a result of executing an Order in a manner likely to cause harm to the health and safety of any person or the environment and shall comply with every relevant statutory duty;

20.1.3. During the execution of an Order take such steps as are reasonably practicable to avoid harm to the environment; and

20.1.4. Give the Purchaser notice in writing within a reasonable time prior to delivery of the Goods of anything, which is toxic, explosive or otherwise hazardous to the health and safety of person or property. The notice shall identify the hazard, and give full details of the precautions to be taken when coming into contact with such things together with details of the safe manner of use, handling and storage.

21. Governing Law

An Order and these Conditions shall be governed and construed in accordance with the laws of England and the parties submit to the non-exclusive jurisdiction of the English Court.

Where the Services are to be provided at the Address the following Clause shall apply:

22. Protection of the Site

22.1. The Supplier shall provide all necessary protection of the premises at the Address and of plant, components, goods, materials and consumables and all things at the Address during the performance of the Services.

22.2. The Supplier shall restrict its activities solely to the areas of the premises designated by the Purchaser.

22.3. The Supplier shall employ for the Services and retain during all working hours, competent personnel to the reasonable satisfaction of the Purchaser. Should the Purchaser be dissatisfied with the personnel and give notice thereof to the Supplier in writing, the Supplier shall exclude from the provision of the Services such personnel and substitute other personnel in their place.

22.4. The Supplier shall take all measures which under or by virtue of the provisions or any statutory requirement or the working rules of any industry, are required for the welfare, health, safety and protection of personnel employed at the Address by the Supplier (or its permitted sub-contractors).

22.5. The Purchaser operates a No Smoking policy in all or its buildings and all personnel employed by the Supplier (or its sub-contractors) must comply with this ruling.

22.6. Electrical or other equipment belonging to the Supplier (or its sub-contractors) shall not be used without the Purchaser having received prior notification and an opportunity to verify its safety.

22.7. The Supplier shall in carrying out the Services abide at all times with the Purchaser's work place regulations.

22.8. The Services shall be carried out in compliance with all applicable statutory requirements (Whether national or international), Codes of Practice and British or European Standards

23. Year 2000 Compliance

The Supplier warrants and represents that neither the performance, functionality or use of the Licensed Software Materials and/or the Hardware nor the provision of Services, will be effected whether wholly or in part as a result of the change in year digits caused by the beginning of the year 2000 either before, during or after 1st January 2000.