



nDetect Ltd.

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Terms and conditions for the supply of goods and services

1. Definitions

These Terms and Conditions (“Terms”) contain words that shall be deemed to have the following meaning:

- 1.1. “Agreement” means these Terms together with the terms of any Paperwork or associated documents provided by the Supplier.
- 1.2. “Customer” means the organisation or person who purchases goods and/or services from the Supplier.
- 1.3. “Intellectual Property Rights” means without limitation all patents, registered and unregistered designs, copyright, trade marks, know-how, confidential information and all other forms of intellectual property wherever in the world enforceable.
- 1.4. “Paperwork” means a statement of work, quotation, estimate of costs or other similar written document recording or describing the goods and services to be provided by the Supplier.
- 1.5. “Supplier” means nDetect Ltd. of 169 Main Street, Woodborough, Nottingham, NG14 6DD, UK.

2. General

- 2.1. Any terms or conditions sought to be imposed by either party shall not be incorporated into the Contract and shall have no effect unless agreed to in writing by the other party.
- 2.2. Before the commencement of the services or any supply of goods the Supplier shall submit to the Customer Paperwork which shall specify the goods and services to be supplied and the price payable. The Customer shall notify the Supplier immediately if the Customer does not agree with the contents of the Paperwork. All Paperwork shall be subject to these Terms.
- 2.3. The Supplier may, as agent to the Customer, directly or through an intermediary ask another contractor (“Third Party Contractor”) to carry out some or all of any work as detailed in the Paperwork or which the Customer instructs the Supplier to carry out. The Supplier shall pay the reasonable charges of Third Party Contractors on the Customers behalf and recharge them to the Customer in conjunction with the Suppliers own fees. The Supplier will ensure that the Third Party Contractor fees which are recharged to the Customer are in line with the fees detailed in the Paperwork, had the work been completed by the Supplier. The Supplier will take all reasonable care in selecting and instructing a Third Party Contractor.

3. Price and Payment

- 3.1. The price for the supply of good and services shall be as set out in the Paperwork. Where agreed in advance, the Supplier will be entitled to invoice in advance against the agreed Paperwork upon commencement of the work to cover sub-contract and other costs.
- 3.2. The Supplier shall invoice the Customer on delivery of goods or following written agreement between Customer and Supplier that services agreed in Paperwork have been completed. Invoiced amounts shall be due and payable within 30 days, or in accordance with an agreed timeframe as stated in Paperwork, of delivery of goods and/or completion of services;
- 3.3. The Supplier reserves the right to submit interim invoices throughout the supply of goods and services if stated and agreed in Paperwork.
- 3.4. The Supplier shall be entitled to charge interest on overdue invoices from the date when payment becomes due from day to day until the date of payment at a rate of 1.5% per annum above the base rate of the Bank of England.
- 3.5. The price of the goods and services is exclusive of Value Added Tax which shall be charged at the rate prevailing at the relevant tax point.

4. Specification of the Goods

All goods shall be required only to conform to the specification in the Paperwork. For the avoidance of doubt no description, specification or illustration contained in any product pamphlet or other sales or marketing literature of the Supplier and no representation written or oral, correspondence or statement shall form part of the contract.

5. Ownership of Goods

- 5.1. The Customer will own the goods when:
- 5.1.1. goods have been successfully delivered to the Customer and
 - 5.1.2. the Supplier is in receipt of cleared payment in full.

5.2. Goods supplied are not for resale.

6. Delivery

- 6.1. The date of delivery of any goods or services specified by the Supplier is an estimate only. Time for delivery shall not be of the essence of the contract and the Supplier shall not be liable for any loss, costs, damages, charges or expenses of the Customer caused directly or indirectly by any delay in the delivery of the goods or services.
- 6.2. All risk in any goods shall pass to the Customer upon delivery.
- 6.3. The Supplier accepts no responsibility for goods, other than damage due to negligence on the part of the Supplier, after the agreed delivery date, irrespective of their location.

7. Performance

- 7.1. If the Supplier considers it is not reasonably practicable for any reason to carry out any of the work in the Paperwork, the Supplier shall be entitled to refrain from carrying out or completing such work and will consult with the Customer as to what if any work is to be undertaken. The Supplier will, if requested by the Customer, provide a written explanation as to why any work is not considered to be reasonably practicable.
- 7.2. If the cost to the Supplier of carrying out any part of the work detailed in the Paperwork is subsequently increased by reason of increases in the cost materials and/or labour and/or any other factor outside the Suppliers control, then the Supplier shall notify the Customer before undertaking any work to which the increase will apply.

8. Customer's Obligation

- 8.1. To enable the Supplier to perform its obligations under this Agreement the Customer shall:
- 8.1.1. co-operate with the Supplier;
 - 8.1.2. provide the Supplier with any information reasonably required by the Supplier;
 - 8.1.3. obtain all necessary permissions and consents which may be required before the commencement of the services; and
 - 8.1.4. comply with such other requirements as may be set out in the Paperwork or otherwise agreed between the parties.
- 8.2. The Customer shall be liable to compensate the Supplier for any expenses incurred by the Supplier as a result of the Customer's failure to comply with Clause 8.1.
- 8.3. Without prejudice to any other rights to which the Supplier may be entitled, in the event that the Customer unlawfully terminates or cancels the goods and services agreed to in the Paperwork, the Customer shall be required to pay to the Supplier as agreed damages and not as a penalty the full amount of any third party costs to which the Supplier has committed and in respect of cancellations on less than five working days' written notice the full amount of the goods and services contracted for as set out in the Paperwork, and the Customer agrees this is a genuine pre-estimate of the Supplier's losses in such a case. For the avoidance of doubt, the Customer's failure to comply with any obligations under Clause 8.1 shall be deemed to be a cancellation of the goods and services and subject to the payment of the damages set out in this Clause.
- 8.4. In the event that the Customer or any third party, not being a sub-contractor of the Supplier, shall omit or commit anything which prevents or delays the Supplier from undertaking or complying with any of its obligations under this Agreement, then the Supplier shall notify the Customer as soon as possible and:
- 8.4.1. if applicable, the timetable for the project will be modified as necessary; and
 - 8.4.2. the Supplier shall notify the Customer at the same time if it intends to make any claim for additional costs.

9. Alterations to the Paperwork

- 9.1. The parties may at any time mutually agree upon and execute new Paperwork. Any alterations in the scope of goods and/or services to be provided under this Agreement shall be set out in the revised Paperwork, which shall reflect the changed goods and/or services and price and any other terms agreed between the parties.
- 9.2. The Customer may at any time request alterations to the Paperwork by notice in writing to the Supplier. On receipt of the request for alterations the Supplier shall, within 5 working days or such other period as may be agreed between the parties, advise the Customer by notice in writing of the effect of such alterations, if any, on the price and any other terms already agreed between the parties.
- 9.3. Where the Supplier gives written notice to the Customer agreeing to perform any alterations on terms different to those already agreed between the parties, the Customer shall, within 5 working days of receipt of such notice or such other period as may be agreed between the parties, advise the Supplier by notice in writing whether or not it wishes the alterations to proceed.
- 9.4. Where the Supplier gives written notice to the Customer agreeing to perform alterations on terms different to those already agreed between the parties, and the Customer confirms in writing that it wishes the alterations to proceed on those terms, the Paperwork shall be amended to reflect such alterations and thereafter the Supplier shall perform this Agreement upon the basis of such amended terms.

10. Warranty

- 10.1. The Supplier warrants that the services performed under this Agreement shall be performed using reasonable skill and care, and of a quality conforming to generally accepted industry standards and practices.
 - 10.1.1. Except as expressly stated in this Agreement, all warranties whether express or implied, by operation of law or otherwise, are hereby excluded in relation to the goods and services to be provided by the Supplier. No liability will be accepted by the Supplier for goods or services which the Customer claims are not of such quality or standard unless a written claim is made within fourteen days of the date of receipt of the goods or delivery of the services.
- 10.2. The Supplier shall not be liable to the Customer by reason of any representation, or any implied warranty, condition or other term, or any duty at common law, or under the express terms of the Agreement, for:
 - 10.2.1. any consequential loss or damage (whether for loss of profit or otherwise), costs, expenses or other claims for consequential compensation whatsoever (and whether caused by its negligence, employees or agents or otherwise) which arise out of or in connection with the supply of the goods and/or the services or their use, except as expressly provided in these Terms; and/or
 - 10.2.2. any sum exceeding the value of goods or services to be supplied.

11. Indemnification

The Customer shall fully indemnify the Supplier against all claims, costs and expenses which the Supplier may incur and which arise, directly or indirectly, from the Customer's breach of any of its obligations under this Agreement, including any claims brought against the Supplier alleging that any goods and/or services provided by the Supplier in accordance with the Paperwork infringes any Intellectual Property Rights of a third party.

12. Termination

Either party may terminate this Agreement forthwith by notice in writing to the other if:

- 12.1. the other party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 30 calendar days of being given written notice from the other party to do so;
- 12.2. the other party commits a material breach of this Agreement which cannot be remedied under any circumstances;

- 12.3. the other party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
- 12.4. the other party ceases to carry on its business or substantially the whole of its business; or
- 12.5. the other party is declared insolvent, or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.

13. Intellectual Property Rights

- 13.1. All Intellectual Property Rights produced from or arising as a result of the performance of this Agreement shall, so far as not already vested, become the absolute property of the Customer, upon payment in full of all sums due.
- 13.2. The Supplier warrants that it is not aware of any adverse third party Intellectual Property Rights affecting the goods or services provided, save any expressly disclosed to the Customer.
- 13.3. The Supplier shall do all that is reasonably necessary to ensure that such rights vest in the Customer by the execution of appropriate instruments or the making of agreements with third parties.

14. Force Majeure

Neither party shall be liable for any delay or failure to perform any of its obligations if the delay or failure results from events or circumstances outside its reasonable control, including but not limited to acts of God, strikes, lock outs, accidents, war, fire, the act or omission of government, highway authorities or any telecommunications carrier, operator or administration or other competent authority, or the delay or failure in manufacture, production, or supply by third parties of equipment or services, and the party shall be entitled to a reasonable extension of its obligations after notifying the other party of the nature and extent of such events.

15. Independent Contractors

The Supplier and the Customer are contractors independent of each other, and neither has the authority to bind the other to any third party or act in any way as the representative of the other, unless otherwise expressly agreed to in writing by both parties. The Supplier may, in addition to its own employees, engage sub-contractors to provide all or part of the services being provided to the Customer and such engagement shall not relieve the Supplier of its obligations under this Agreement or any applicable Paperwork.

16. Assignment

The Customer shall not be entitled to assign its rights or obligations or delegate its duties under this Agreement without the prior written consent of the Supplier

17. Invalidity

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any Court of competent jurisdiction such provision shall be severed and the remainder of the provisions herein shall continue in full force and effect as if this Agreement had been agreed with the invalid illegal or unenforceable provision eliminated

18. Liability

- 18.1. The Customer will be responsible for all claims, liabilities, damages, costs and expenses suffered or incurred by the Supplier as a result of the Customer breaching or defaulting in the discharge of their obligations.
- 18.2. Where there exists a requirement to carry out work on the Customers premises and/or install equipment, the Supplier will not accept liability for the cost of repairing or replacing parts of the Customers existing system which occurs due to faults in the Customers system unless the Supplier has been negligent in not realising that such damage may occur or in the way the work was done.
- 18.3. Subject to the provisions of clause 10, except in respect of death or personal injury due to negligence for which no limit applies, the entire liability of the Supplier to the Customer in respect of any claim whatsoever or breach of this Agreement, whether or not arising out of negligence, shall be limited to the price paid by the Customer to which the claim relates.

- 18.4. In no event shall the Supplier be liable to the Customer for any loss of business, loss of opportunity or loss of profits or for any other indirect or consequential loss or damage whatsoever. This shall apply even where such a loss was reasonably foreseeable or the Supplier had been made aware of the possibility of the Customer incurring such a loss.
- 18.5. Nothing in these Terms shall exclude or limit the Supplier's liability for death or personal injury resulting from the Supplier's negligence or that of its employees, agents or sub-contractors.

19. Governing Law and Jurisdiction

Parties to this Agreement agree to submit to the exclusive jurisdiction of the courts of England and Wales.

20. Entire Agreement

This Agreement contains the entire agreement between the parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written. Unless expressly provided elsewhere in the Agreement, this Agreement may be varied only by a document signed by both parties.

21. Third Party Rights

Nothing in this Agreement is intended to, nor shall it confer any rights on a third party.

22. Data Protection

The Customer consents to the computer storage and processing of personal data by the Supplier in connection with this Agreement and to the transmission of this data across the company and its business partners for the purposes of the Suppliers legitimate interests including statistical analysis, marketing of our services and credit control. If the Customer breaches this Agreement, the Customer personal data may be disclosed or passed to third parties to the extent necessary to assist recovery procedures.