



## Corporation Terms and Conditions

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### 1. Captions & Definitions:

As used herein, the terms "Buyer," shall mean 1<sup>st</sup> Detect Corporation. The term "Seller" shall mean the party identified on the face of the Agreement who is responsible for furnishing the products and/or services. The "Agreement" means the order documents by which the Buyer and the Seller agree to buy and sell the products and/or services, including the face of the order, text, drawings, designs, specifications, form and any other attachments, exhibits, and appendices. "Product(s)" means the product(s) and/or service(s) identified in the Agreement. "Buyer's Authorized Procurement Representative" means the person or persons authorized by Buyer to issue, modify, or change the provisions of the Agreement.

### 2. Assignment:

Neither the Agreement nor any duty or right under it shall be delegated or assigned by Seller without the prior written consent of Buyer's Authorized Procurement Representative, except that claims for monies due or to become due under the Agreement may be assigned to a bank, trust company, or other financial institution, including any Federal lending agency, by Seller without such consent. Buyer shall be furnished with two signed copies of any such assignment. Payment to an assignee of any such claim shall be subject to setoff or recoupment for any present or future claim(s) which Buyer may have against Seller. Buyer reserves the right to make direct settlements or adjustments in price, or both, with Seller under the terms of an agreement notwithstanding any assignment of claims for monies due or to become due hereunder and without notice to the assignee. In no event shall copies of the Agreement, or of any plans, specifications, or other similar documents relating to work under the Agreement, if marked "TOP SECRET," "SECRET," "CONFIDENTIAL," or "PROPRIETARY," be furnished to any assignee or to any other person not entitled to receive the same.

### 3. Formation of Agreement:

The terms and conditions of the Agreement represent Buyer's offer to purchase the Product(s) included in the Agreement. Acceptance is strictly limited to the Agreement's terms and conditions. Unless specifically agreed to in writing by Buyer's Authorized Procurement Representative, Buyer objects to, and is not bound by, any term or condition not included in the Agreement. Seller's commencement of performance or acceptance of the Agreement in any manner shall conclusively evidence acceptance of the Agreement as written.

### 4. Packing and Shipment:

- a. Seller shall pack the materials to prevent damage and deterioration. Seller shall comply with carrier tariffs. Unless the Agreement specifies otherwise, the price includes shipping charges for materials sold F.O.B. destination. Unless otherwise specified in the Agreement, materials sold F.O.B. place of shipment shall be forwarded prepaid and shipping costs added to the invoice. Seller shall make no declaration concerning the value of the materials shipped except on the materials where the tariff rating is dependent upon released or declared value. In such event, Seller shall release or declare such value at the maximum value within the lowest rating. Buyer may charge Seller for damage to or deterioration of any materials resulting from improper packing or packaging.
- b. Unless the Agreement specifies otherwise, Seller will ship the materials in accordance with the following instructions:
  - i. Shipments by Seller or its subcontractors must include packing sheets containing the Agreement number, line item number, description and quantity of materials shipped, part number or size, if applicable, and appropriate evidence of inspections. A shipment containing hazardous and non-hazardous materials must have separate packing. Items shipped on the same day will be consolidated on one bill of lading or air bill unless Buyer's Authorized Procurement Representative authorizes otherwise. The shipping documents will describe the material according to the applicable classification and/or tariff. The total number of shipping containers will be referenced on all shipping documents. Originals of all Government bills of lading will be surrendered to the origin carrier at the time of shipment.
  - ii. Seller will not insure any F.O.B. origin shipment unless authorized by Buyer's Authorized Procurement Representative.

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- iii. Seller will label each shipping container with the Agreement number and the number that each container represents of the total number being shipped (e.g., box 1 of 2, box 2 of 2).
- iv. Buyer will select the carrier and mode of transportation for all shipments where shipping costs will be charged to Buyer.
- v. Seller will include copies of documentation supporting prepaid freight charges (e.g., carrier invoices or UPS shipping log/manifest), if any, with its invoices.

### 5. Quality Control and Inspection:

- a. **Quality System:** Seller shall provide and maintain a quality control system acceptable to Buyer and Buyer's Customer. During the performance of the Agreement, Seller's quality control, inspection systems, and manufacturing processes are subject to review, verification, and analysis by Buyer and Buyer's Customer at no additional expense to Buyer.
- b. **Inspection Verification:** All Products ordered may be subject to:
  - i. Inspection, verification, or testing during the period of manufacture;
  - ii. Inspection or verification prior to shipment; and
  - iii. Final inspection and acceptance at destination, notwithstanding any prior payment or inspection and acceptance. If any inspection or test is made on the premises of Seller or its lower-tier suppliers, Seller shall, without additional cost, provide and shall require its lower-tier suppliers to provide all reasonable facilities and assistance for the safety and convenience of Buyer and Buyer's Customer Inspectors in the performance of their duties.
- c. **Acceptance:** Buyer shall accept the Product(s) or give Seller notice of rejection within a reasonable time after delivery, notwithstanding any payment or prior test or inspection. No inspection, test, delay or failure to inspect or test or failure to discover any defects or other nonconformance shall relieve Seller of any of its obligations under the Agreement or impair any rights or remedies of Buyer or Buyer's Customer.
- d. **Rejection:**
  - i. If Seller delivers a defective or nonconforming Product(s), Buyer may require Seller to promptly correct, replace, or refund the price of the defective or nonconforming Product(s). Redelivery to Buyer of any corrected or replaced Product(s) shall be at Seller's expense.
  - ii. In addition, Buyer may, at its sole discretion,
    - Correct the defective or nonconforming Product(s), or
    - Obtain replacement Product(s) from another source at Seller's expense.
  - iii. Seller shall not redeliver corrected or rejected Product(s) without disclosing the former rejection or requirement for correction. Seller shall disclose any corrective action taken. All repair, replacement and other correction and redelivery shall be completed within the original delivery schedule or such later time as Buyer's Authorized Procurement Representative may direct in writing.

### 6. Delivery, Late Penalties, Advance Manufacturing & Procurement:

Delivery according to schedule is of the essence. The scheduled delivery date in the Agreement accepted by the Seller is binding and constitutes a material element of the Agreement. Seller shall notify the Buyer's Authorized Procurement Representative immediately when Seller becomes aware of a potential schedule impact or late delivery as defined in the Agreement. Seller shall not, without Buyer's Authorized Procurement Representative's prior written consent, manufacture or procure materials in advance of Seller's reasonable flow time or deliver in advance of the schedule stated in the Agreement. In the event of termination, stop work order, or change, no claim will be allowed for any such manufacture or procurement in advance of such reasonable flow time unless Buyer's Authorized Procurement Representative provides Seller with prior written consent. Buyer may return or store at Seller's expense items delivered in advance of delivery dates as specified in The Agreement. If at any time it appears to Seller that the schedule cannot be met, Seller shall notify Buyer as soon as possible as to the cause(s) thereof, the action being taken to remove such cause(s), and when on-schedule status will be achieved. Except in the event of force majeure, any late delivery of Product(s) shall give the right to the Buyer to (i) the payment of a penalty of 10% of the amount of the waited Product(s) per week late, or (ii) terminate the Agreement, in which event Buyer will not be obligated to pay Seller any amount of the Agreement price and will have no further obligation to the Buyer. These penalties are not in full discharge of the obligations

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and do not constitute all-inclusive compensation for the prejudice suffered by the Buyer. The application of the penalties is independent from the other sanctions to which the default of the Seller may give rise. The Buyer shall send to the Seller a detailed list of the late deliveries and of the amounts of the penalties calculated, or a notice of termination of the Agreement pursuant to this clause. The Seller shall make its remarks within fourteen (14) days from receipt of the list or termination, in the absence of which the penalties or termination shall be deemed to have been accepted by the Seller. Seller, at Seller's expense, shall take reasonable action necessary, with or without request from Buyer, to meet the schedule or to recover to the maximum extent possible any delay in meeting the schedule. Such reasonable action by the Seller shall include shipment via expedited routing and carrier. Notification under a clause shall in no way limit Buyer's rights under any Termination or Stop Work Order provisions of the Agreement.

### **7. Warranty:**

Seller warrants that any Product(s) furnished pursuant to the Agreement shall strictly conform to applicable specifications, drawings, samples, descriptions, and other requirements of the Agreement and be free from defects in design, material, and workmanship. This warranty shall begin upon final acceptance and extend for a period of one (1) year. If any defective or non-conforming Product is identified within the warranty period, Seller, at Buyer's option, shall promptly repair, replace, or re-perform the defective or non-conforming Product(s). Transportation of replacement Product(s), return of non-conforming Product(s), and re-performance of all non-conformances shall be at Seller's expense. If Buyer or its customers believes that Seller's attempt to repair, replace, or re-perform the Product(s) may impact schedule or that Seller's capabilities will impact quality, Buyer may elect to re-perform, repair, replace, or re-procure the Product(s) at Seller's expense. All warranties shall run to Buyer and its customers.

### **8. Intellectual Property Indemnifications:**

Seller will indemnify, defend and hold harmless Buyer and its customer from all claims, suits, actions, awards (including, but not limited to, awards based on intentional infringement of patents known at the time of such infringement, exceeding actual damages and/or including attorneys' fees and/or costs), liabilities, damages, costs and attorneys' fees related to the actual or alleged infringement of any United States or foreign intellectual property right (including, but not limited to, any right in a patent, copyright, industrial design or semiconductor mask work, or based on misappropriation or wrongful use of information or documents) arising out of the manufacture, sale or use of goods by either Buyer and/or its customer(s). Buyer will duly notify Seller of any such claim, suit or action; and Seller will, at its own expense, fully defend such claim, suit or action on behalf of Buyer and/or its customer(s).

### **9. Rights and Remedies:**

Any failures, delays or forbearances of either party in insisting upon or enforcing any provision of the Agreement, or in exercising any rights or remedies under the Agreement, shall not be construed as a waiver or relinquishment of any such provision, rights or remedies; rather the same shall remain in full force and effect. Except as otherwise limited in the Agreement, the rights and remedies set forth herein are cumulative and in addition to any other rights or remedies that the parties may have at law or in equity. If any provision of the Agreement is or becomes void or unenforceable by law, the remainder shall be valid and enforceable.

### **10. Force Majeure:**

Seller shall not be subject to penalties associated with a Termination for Default (Article 19) because of any failure to perform the Agreement under its terms if the failure arises from causes beyond the control and without the fault or negligence of Seller. Examples of these causes are

- i. Acts of God or the public enemy
- ii. Acts of the Government in either its sovereign or contractual capacity
- iii. Fires
- iv. Floods
- v. Strikes
- vi. Freight Embargoes

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vii. Unusually Severe Weather

### 11. Responsible for Property:

Seller shall clearly mark, maintain an inventory of, and keep segregated or identifiable all of Buyer's property and all property to which Buyer acquires an interest by virtue of the Agreement. Seller assumes all risk of loss, destruction or damage of such property while in Seller's possession, custody or control. Seller shall not use Buyer's property other than in performance of the Agreement. Seller shall notify Buyer's Authorized Procurement Representative if Buyer's property is lost, damaged or destroyed. As directed by Buyer, upon completion or termination of the Agreement, Seller shall deliver such property, to the extent not incorporated in deliverable materials, to Buyer in good condition subject to ordinary wear and tear and normal manufacturing losses.

### 12. Changes:

- a. Buyer may at any time, by written notice, and without notices to sureties, if any, or assignees, make changes within the general scope of the Agreement in any one or more of the following:
  - i. Drawings, designs, or specifications;
  - ii. Method of shipping or packaging;
  - iii. Place of delivery;
  - iv. Period of performance.
- b. If any such change(s) causes an increase or decrease in the cost of, or the time required for performance of any part of the work under the Agreement, Buyer will make an equitable adjustment in price, the delivery schedule, or both and will modify the Agreement.
- c. Seller must assert its right to an equitable adjustment under this clause within thirty (30) days of receipt of the written notice.

### 13. Disputes:

Any dispute under the Agreement which is not settled by an agreement between the parties may be settled by appropriate legal or equitable proceedings. It is understood and agreed that if any such dispute is litigated, it shall be for the purpose of obtaining a judicial determination on the question of law and/or fact which is fair and reasonable; provided, further, that pending such judicial determination, Seller shall proceed in accordance with Buyer's written directions. Nothing in this clause shall excuse Seller from proceeding with the Agreement as required.

### 14. Choice of Law:

Both parties agree that, irrespective of the place of performance of the Agreement, the Agreement will be construed and interpreted according to the applicable laws, statutes, regulations, and other judicial and quasi-judicial agencies of the State of Texas.

### 15. Insurance Requirements:

The Seller shall at its own expense procure and thereafter maintain the following types of insurance covering the period of performance of the Agreement.

- i. Worker's Compensation Insurance including Employer's Liability with minimum limits of \$500,000 per occurrence;
- ii. Commercial General Liability Insurance with limits of at least \$1,000,000 combined single limit for personal injury, advertising injury, bodily injury, and property damage for each occurrence and aggregate; and
- iii. Comprehensive Automobile Liability Insurance with limits of at least \$1,000,000 combined single limit for bodily injury and property damage for each occurrence.

All Commercial General Liability Insurance shall designate Buyer as an additional insured. All such insurance must be primary, not contributory, and required to respond and pay prior to any other available and collective coverage.

The Seller shall furnish a certificate or adequate proof of the foregoing insurance as directed by the Buyer's Authorized Procurement Representative. Insurance certificates will indicate that the insurance

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carriers shall endeavor to provide Buyer thirty (30) days prior written notice of material change or cancellation. Any deviation from the above stated insurance requirements requires a written waiver from Buyer's Authorized Procurement Representative.

Failure of Seller to furnish certificates of insurance or to procure and maintain the insurance required herein or failure of Buyer to request such certificates, endorsements or other proof of coverage shall not constitute a waiver of Seller's obligations hereunder.

### **16. Intellectual Property:**

The term "Intellectual Property" shall mean patented and unpatented inventions, mask works, copyrightable material or data, computer software, trade secrets, know-how and proprietary information of either party to the Agreement. Ownership of Intellectual Property owned or licensed to Buyer or Seller prior to the start of the period of performance of the Agreement (hereinafter referred to as "Background Technology"), that is provided for the purpose of performance of the Agreement remains the property of the Party that made the Background Technology available. Background Technology of the parties shall be identified in the text of the Agreement.

Intellectual Property developed solely by Seller or jointly by Seller and Buyer and funded by Buyer during the term of the Agreement shall be the exclusive property of Buyer.

### **17. Non-Disclosure of Proprietary Information:**

Information and data provided by Buyer to Seller remains the property of Buyer. Seller agrees to protect from disclosure any Buyer proprietary information regarding Buyer's business, its clients, and their business and personal activities that Seller may receive, directly or indirectly, in connection with or as a result of services rendered or to be rendered by the Seller under the Agreement. Unless specifically authorized in writing by Buyer, Seller shall not publish, communicate, divulge, disclose, use, or make accessible to anyone for any purpose such proprietary information. This obligation to protect proprietary information shall survive the termination of the Agreement. Promptly upon expiration or termination of the Agreement, the Seller shall return or destroy, as directed by Buyer, all proprietary materials, and copies thereof, in his possession or control.

### **18. Gratuities:**

Buyer may, by written notice to Seller, terminate for default the right of Seller to proceed under the Agreement if Buyer has reasonable cause to believe that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Seller or any agent or representative of Seller to any officer or employee of Buyer with a view toward securing an agreement or securing favorable treatment with respect to awarding or amending or the making of any determinations with respect to the performance of the Agreement. The rights and remedies of Buyer provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

### **19. Termination for Default:**

- a. Buyer may, by written notice to Seller, terminate all or part of the Agreement if Seller:
  - i. Fails to comply with any of the terms of the Agreement;
  - ii. Fails to provide adequate assurance of future performance;
  - iii. Files or has filed against it a petition in bankruptcy; or
  - iv. Becomes insolvent or suffers a material adverse change in financial condition.
- b. Seller shall have ten (10) days (or such longer as Buyer may authorize in writing) to cure any such failure after receipt of notice from Buyer. Default involving delivery schedule delays, bankruptcy or adverse change in financial condition shall not be subject to the cure provision.
- c. Following a termination for default of the Agreement, Seller shall be compensated only for Products actually delivered and accepted. Buyer may require Seller to deliver to Buyer any supplies and materials, manufacturing materials, and manufacturing drawings that Seller has specifically produced or acquired for the terminated portion of the Agreement. Buyer and Seller shall agree on the amount of payment for these other deliverables.

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- d. Upon the occurrence and during the continuation of a default, Buyer may exercise any and all rights and remedies available to it under applicable law and equity including without limitation the termination of the Agreement. If after termination for default, it is determined that Seller was not in default, such termination shall be deemed a Termination for Convenience.
- e. Seller shall continue to provide all Product(s) under the Agreement that are not terminated.

### **20. Stop Work Order:**

- a. Buyer's Authorized Procurement Representative may, by written order, stop all or part of the work to be performed under the Agreement for a period not to exceed 100 days. Within such period of any suspension of work, Buyer shall:
  - i. Cancel the stop work order;
  - ii. Terminate the Agreement in accordance with the "Termination for Convenience" article;
  - iii. Terminate the Agreement in accordance with the "Termination for Default" article; or
  - iv. Extend the stop work period.
- b. Seller shall resume work whenever a suspension is cancelled. Buyer and Seller shall negotiate an equitable adjustment in the price and/or schedule if the Agreement is not terminated, the suspension results in a change in Seller's cost of performance or ability to meet the Agreement's delivery schedule, and Seller submits a claim for an adjustment within twenty (20) days after the suspension is cancelled.

### **21. Termination for Convenience:**

- a. Buyer reserves the right to terminate the Agreement, or any part hereof, for its sole convenience. In the event of such termination, Seller shall immediately cease all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. In the case of termination for convenience by Buyer of all or any part of the Agreement, Seller may submit a claim to Buyer within sixty (60) days after the effective date of termination. In no event shall Buyer be obligated to pay Seller any amount in excess of the Agreement price. Provisions of this article shall not limit or affect the right of Buyer to terminate the Agreement for default.
- b. Seller shall continue to provide all Product(s) under the Agreement that are not terminated.

### **22. Order of Precedence:**

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence:

- i. The face and text of the Agreement
- ii. The Agreement's Statement of Work
- iii. Other documents or exhibits attached to the Agreement

### **23. Interpretation of Agreement:**

Seller shall exercise due diligence to identify and alert Buyer as soon as possible of any ambiguities, discrepancies, inconsistencies, or conflicts in or between any of the technical or contractual provisions of the Agreement, including any appendices, attachments or exhibits.

### **24. Compliance with Laws/Export Compliance:**

Seller shall comply with all applicable statutes and government rules, regulations, and orders, including those pertaining to United States Export Control.

### **25. US Citizenship:**

Buyer may be required to obtain information concerning citizenship or immigrant status of Seller's personnel or Seller's subcontractor personnel entering the premises of Buyer. Seller agrees to furnish this information before commencement of work and at any time thereafter before substituting or adding new personnel to work on Buyer's premises. Information submitted by Seller shall be certified by an authorized representative of Seller as being true and correct.

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### **26. Standards:**

Seller shall assign personnel satisfactory to Buyer. At any time and for any reason, Buyer may require Seller to withdraw the services of any person and require Seller to promptly provide replacements for such persons satisfactory to Buyer. In addition to the other indemnification provisions within the Agreement, Seller specifically agrees to indemnify and hold harmless Buyer from and against any liabilities, claims, charges or suits for alleged losses, costs, damages or expenses arising from Buyer's exercise of its rights under the Agreement.

### **27. Independent Contractor:**

Seller is an independent contractor for all purposes. Seller shall have complete control over the performance of, and the details for accomplishing the Product(s) to be furnished under the Agreement. In no event shall Seller or its agents, representatives or employees be deemed to be agents, representatives or employees of Buyer. Seller's employees shall be paid exclusively by Seller for all services performed. Seller shall comply with all requirements and obligations relating to such employees under federal, state and local law (or foreign law, if applicable). Such compliance shall include, but not be limited to, laws regarding minimum wages, social security, unemployment insurance, federal and state income taxes and worker's compensation insurance.

### **28. Access to Plants and Properties:**

Seller shall comply with all the rules and regulations established by Buyer for access to and activities in and around premises controlled by Buyer or Buyer's Customer.

### **29. Publicity:**

Without Buyer's Authorized Procurement Representative's prior written approval, Seller shall not, and shall require that its subcontractors at any tier shall not, release any publicity, advertisement, news release or denial or confirmation of same regarding the Agreement. Seller shall be liable to Buyer for any breach of such obligation by any subcontractor.

### **30. Survivability:**

- a. If the Agreement expires, is completed, or is terminated, Seller shall not be relieved of those obligations contained in the following clauses:
  - i. Warranty (Article 7)
  - ii. Choice of Law (Article 14)
  - iii. Intellectual Property (Article 16)
  - iv. Non-Disclosure of Proprietary and Confidential Information (Article 17)
  - v. Compliance with Laws/Export Compliance (Article 24)
  - vi. Independent Contractor (Article 27)
- b. Any U.S. Government flowdown provisions included in The Agreement that by their nature should survive.

### **31. Additional Terms:**

The Seller and Buyer shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.