

## GENERAL TERMS AND CONDITIONS OF SALE

### 1. Scope

- 1.1 These general terms and conditions (the "**Conditions**") apply to purchase orders ("PO") placed by the Buyer to EVERAXIS Industries (EVERAXIS) for the supply of products, systems, equipment and parts ("Goods") and/or services ("Services").
- 1.2 These Conditions together with a purchase order ("PO") and any other documents referred to in the PO form the Contract between EVERAXIS and Buyer. These Conditions are the only terms and conditions upon which EVERAXIS will supply Goods and Services to Buyer and apply to the exclusion of any other terms and conditions of Buyer (whether or not such document is referred to in the Contract) and any terms and conditions which may otherwise be implied by custom, practice or course of dealing.
- 1.3 A PO will be binding upon EVERAXIS only upon the earlier of : i) express written acceptance of the PO which shall be made in a timely manner, or ii) the commencement by EVERAXIS of the performance of such PO.

### 2. Delivery and Transfer of risk

- 2.1 Buyer shall place PO to EVERAXIS indicating the reference and quantities of Goods, Services, required delivery date, price and payment terms.
- 2.2 EVERAXIS will use reasonable endeavours to deliver Goods and perform Services according to delivery dates specified in the PO, but any such dates shall be estimates only.
- 2.3 Goods shall be delivered according to the EX-Works INCOTERMS© 2020, except otherwise expressly agreed in writing by both Parties. Transfer of risk shall pass to the Buyer accordingly.
- 2.4 Change request by Buyer to any conditions (delivery date, packaging, quantities etc...) are subject to prices adjustment.
- 2.5 In case of failure of Buyer to take delivery of Goods, EVERAXIS may store or arrange for storage of the Goods until actual delivery and charge Buyer for all related costs and expenses (including, without limitation, storage and insurance).
- 2.6 EVERAXIS shall not be liable for penalties, loss or damages due to delay in shipment or delivery.

### 3. Price, Payment and Title

- 3.1 Price for the Goods and/or Services are specified in EVERAXIS's written acceptance of the PO and except expressly stated otherwise are based on EX-WORKS Incoterms © 2020. Prices include standard packaging but do not include functional testing and acceptance by Buyer. If requested, the scope and price of those Services shall be negotiated between the Parties.
- 3.2 EVERAXIS reserves the right to revise the price in case of major increase of raw materials, labour costs, transportation, energy or production costs, significant change in exchange rate. However, any price increase after the acceptance of a PO by EVERAXIS shall be subject to agreement.
- 3.3 For new Buyer, a down payment of 100 (one hundred) percent of the value of the PO will be requested before shipment of Goods.
- 3.4 Buyer shall pay all invoices in Euros 30 (thirty) days net from invoice, unless otherwise agreed with EVERAXIS. Payment must be made by electronic transfer to the bank account details stated on the EVERAXIS's invoice for the relevant Goods or Services.
- 3.5 All sums payable to EVERAXIS under the Contract will become due immediately upon termination of the Contract.
- 3.6 The Buyer shall not be entitled to any set-off, counterclaim or condition and to any deduction or withholding for or on account of any taxes, levies, duties, charges or fees of any nature, unless Buyer is required by law to make any such deduction or withholding.
- 3.7 If Buyer fails to pay for the Goods and/or Services on the due date for payment, EVERAXIS may apply penalties, as of right, from the date on which the payment was due, in an amount equal to three times the legal interest rate. In addition, EVERAXIS will apply a lump sum of 40 € as recovery costs.
- 3.8 **Retention of title** : title shall pass to Buyer only upon full payment is received by EVERAXIS, notwithstanding the transfer of risk. Buyer shall identify EVERAXIS's Goods in its premises and store them separately from other parts. Buyer may resell the Goods before ownership has passed to it in the ordinary course of Buyer's business.

### 4. Warranty - Goods

- 4.1 EVERAXIS warrants to Buyer that the Goods will be free from defect in design, material and workmanship and comply to their specification for a period of 24 (twenty-four) months from the date of despatch unless otherwise agreed with Buyer and specified in the acknowledgment of receipt of the PO ("Warranty Period").
- 4.2 EVERAXIS shall at its option, repair, replace, or refund the purchase price (if paid) for Goods which are proved, to the reasonable satisfaction of EVERAXIS, not to comply with the warranty in clause 4.1. The provisions of this clause 4.2 are Buyer's sole and exclusive remedy for a breach of warranty under 4.1 and EVERAXIS's sole liability.
- 4.3 Buyer shall notify EVERAXIS of any defect or suspected defect in Goods within 14 days of Delivery where the defect should be apparent on reasonable inspection, or within 14 days of the defect coming to the knowledge of Buyer where the defect is not one which should be apparent on reasonable inspection, and in any event within the Warranty Period.
- 4.4 The warranty obligation shall not apply if:
  - 4.4.1 Buyer does not comply with its obligations under clause 4.3; or
  - 4.4.2 the defect is attributable to any fair wear and tear relating to the Goods; or
  - 4.4.3 the Goods have been improperly altered in any way or have been subject to misuse or unauthorised repair; or
  - 4.4.4 the Goods have been improperly installed or connected; or
  - 4.4.5 any maintenance requirements relating to the Goods have not been complied with; or
  - 4.4.6 any instructions as to storage of the Goods have not been complied with in all respects.
- 4.5 EVERAXIS's obligation is subject to the Goods being returned by Buyer to EVERAXIS carriage paid. EVERAXIS will deliver any repaired or replacement Goods to Buyer at EVERAXIS's own expense, if the defect has been confirmed.
- 4.6 Any Goods returned to EVERAXIS and for which replacement Goods have been supplied to Buyer, shall belong to EVERAXIS. The warranty will apply to any repaired or replacement Goods supplied by EVERAXIS under clause 4.2 for the remainder of the original Warranty Period.
- 4.7 Warranty conditions for Goods returned by Buyer for repair after expiry of the initial warranty period will be subject to a new quotation.

### 5. Intellectual Property

- 5.1 EVERAXIS is and shall remain owner of all title, rights and interest, and intellectual property rights in the Goods, whether existing or arising out of the performance of any Services and Buyer hereby assigns title to and all present and future rights in such Intellectual Property Rights to EVERAXIS.
- 5.2 "Intellectual Property Rights" shall mean all intellectual and industrial property rights including patents, know-how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights, unregistered trademarks, rights to prevent passing off for unfair competition and copyright, database rights, topography rights and any other rights in any invention, discovery or process, in each case in the United States and all other countries in the world and together with all renewals and extensions.
- 5.3 EVERAXIS grants Buyer a limited, non-exclusive license, non-transferable, non-sub-licensable, (except to end customer) to resell and operate the Goods (excluding the Software which may only be sub-licensed to the extent permitted in these Conditions) in Buyer's ordinary course of business.
- 5.4 Buyer shall not cause or permit the reverse engineering, disassembly, or decompilation of the Goods or otherwise cause or permit any attempt to derive, obtain or modify the source code of the Software, except to the extent required by law.
- 5.5 Buyer shall not and permit anyone to obliterate, omit or obscure any EVERAXIS Trademarks.
- 5.6 To the best of its knowledge, EVERAXIS warrants that the use of Goods or Services do not infringe the intellectual property rights of any third party.

## 6. Indemnification

- 6.1 EVERAXIS will indemnify Buyer against any liabilities, costs and expenses arising out of a claim by a third party alleging a breach by EVERAXIS of its intellectual property rights, provided that:
- 6.2 EVERAXIS i) is notified within 5 business days in writing, ii) has sole conduct and control of the defence (at its costs), iii) the Buyer does not make any acknowledgment of liability or any statement detrimental to the case, iv) Buyer provides EVERAXIS with reasonable assistance in the defence.
- 6.3 In case the use of the Good is enjoined, EVERAXIS shall at its sole option either : i) obtain for Buyer a license to continue using the Goods, ii) replace the Goods with a substantially equivalent Goods, iii) modify the Goods so it becomes non-infringing. In case where the foregoing are not economically viable, Buyer sole remedy shall be a return of the Goods and refund of the price paid.
- 6.4 EVERAXIS shall have no obligation under clause 6 where: the breach is caused i) by Buyer having modified the Goods without authorization, ii) by the combination of the Goods with other equipment or devices not provided by EVERAXIS and where the combination is the cause of the breach, iii) EVERAXIS having followed a design or specification of Buyer, iv) Goods are not use according to their intended and specified use and v) Buyer continues using the Goods after EVERAXIS has requested return, replacement or modification so as to make the Good non infringing.

## 7. Limitation of Liability

- 7.1 **Neither Party can exclude its liability in case of fraud, wilful misrepresentation, gross negligence, death, personal injury or where it is not permitted by French law to exclude or limit its liability.**
- 7.2 **Subject to 7.1, neither Party shall be liable to the other Party for any indirect, consequential damages and loss of profit (whether direct or indirect), loss of revenue, loss of contract, loss of customer, loss of production, interruption of business, loss of data, arising out of a Contract.**
- 7.3 **Subject to 7.1 and 7.2, the liability of EVERAXIS is limited to direct damages caused by a breach of its obligation under a Contract and shall in no event exceed the greater of : i) under the PO 100% of the amount paid by Buyer for the Goods subject to the claim under a PO or ii) 10 000 euros.**

## 8. Confidentiality

- 8.1 Confidentiality shall mean any information or data relating to Goods, software, and Services and information relating to a Party's business including that of its parent, associated, affiliated companies or which is otherwise related to the Contract, which is disclosed whether in writing, orally or by any other means to one Party by the other Party or which is otherwise obtained by the Receiving Party from the Disclosing Party, after the date of the Contract. This shall not apply to information which: (i) is in or comes into the public domain in any way without breach of the Contract by the Receiving Party; or (ii) the Receiving Party can show: (a) was in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the Disclosing Party and was not previously acquired by the Receiving Party from the Disclosing Party under an obligation of confidence; or (b) to have been independently developed by or for the receiving Party at any time without use of Confidential Information disclosed to it by the disclosing Party; or (c) to have been obtained by it or made available from a source other than the disclosing Party without breach by the receiving Party or such source of any obligation of confidentiality or non-use towards the disclosing Party; or (d) is hereafter furnished by the disclosing Party to a third party without restriction on disclosure or use; or (e) is disclosed by the receiving Party with the prior written approval of the disclosing Party. Each Party will only use such Confidential Information to perform its obligations and exercise its rights under these Conditions.
- 8.2 Copies or reproductions of the Confidential Information shall not be made except to the extent reasonably necessary for the Contract and all copies and reproductions made shall be the property of the disclosing Party.
- 8.3 Nothing contained in the Contract shall be construed as overriding or prejudicing any Export Rules applicable to any part of the Confidential Information and the Disclosing Party will declare in writing when such rules are applicable. Where Export Rules apply, a Receiving Party shall not in any way transfer Confidential Information outside of the country in which it received it or to foreign persons, businesses or governments without the prior written consent of the Disclosing Party.

## 9. Force Majeure

- 9.1 Neither Party shall be in breach of the Contract or otherwise liable to the other Party for any failure to perform or delay in performing its obligations under the Contract due to Force Majeure.
- 9.2 "Force Majeure" means any cause or event which is beyond the control of a Party such as, without limitation, Acts of God, acts of war, fire, storm, earthquake, general strike, transportation strike or delay, raw materials shortage, power or energy failure, trade prohibition, pandemics, orders of a government in the event of a pandemic or other event.
- 9.3 If the Force Majeure event continues for more than 180 days, either Party may give written notice to the other to terminate the Contract, without any indemnity due by either Party to the other.

## 10. Termination

- 10.1 Either Party may terminate the Contract immediately by notice in writing served on the other Party if that other Party:
  - 10.1.1 is in material breach of any of the terms of the Contract and, where the breach is capable of remedy, the Party in breach fails to remedy such breach within 30 days of a written notice from the Party not in breach, specifying the breach and requiring it to be remedied. The Parties agree that failure to pay any sum due in accordance with the Contract is a material breach of the terms of the Contract; or
  - 10.1.2 is Insolvent or ceases to trade or appears in the reasonable opinion of the other Party likely to cease to trade.
- 10.2 EVERAXIS may by notice in Writing served on Buyer terminate the Contract immediately if Buyer commences the manufacture of any goods which are similar to or may compete with the Goods.
- 10.3 The termination of the Contract is without prejudice to the rights, duties and liabilities of either Party accrued prior to termination and any terms which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.
- 10.4 EVERAXIS will be entitled to suspend any deliveries and/or performance otherwise due to occur following service of a notice specifying a breach under clause 10.1.1, or if Buyer is in breach of clause 12.1 or is in breach under any other agreement between the Parties, until such breach is remedied or the Contract terminates, whichever occurs first.

## 11. Law and Jurisdiction

- 11.1 The Contract is governed by French Laws, excluding their conflict of laws provision. The application of 1980 United Nations Convention on Contracts for the International Sale of Goods is expressly excluded.
- 11.2 Any dispute or claim arising out of the existence, construction, performance, interpretation or validity of the Contract, shall be settled by the relevant the Courts of the Court of Appeal of Lyon.
- 11.3 The clause 11.2 will not prevent a Party from seeking injunctive relief in the case of any breach or threatened breach by the other Party of any obligation of confidentiality or any infringement by the other Party of the affected Party's Intellectual Property Rights in any court of competent jurisdiction.

## 12. Export/Import

- 12.1 Buyer acknowledges that the Goods (including any Software) may be subject to Export/Import Laws and agrees to comply strictly with them.
- 12.2 Buyer will notify EVERAXIS of end-user country and the identity of its client in that country (and if different, the end-user) within 14 calendar days of submitting its purchase order to EVERAXIS and will provide any required export/import documentation within 30 calendar days after EVERAXIS's request for the same. Buyer acknowledges that any delay in providing any such information and/or documentation will entitle EVERAXIS to make an equitable adjustment to the charges for such Goods and/or Services and, notwithstanding any payment which may have been received by EVERAXIS for the same, delay production and/or delivery of such Goods and/or supply of such Services
- 12.3 In addition to the provisions of clause 2, the Parties agree that Delivery of the Goods and/or commencement of the Services will not begin until such authorisations, consents or permits required under Export/Import Laws have been received by EVERAXIS and Buyer has complied with clause 12.2.
- 12.4 Buyer acknowledges and agrees that the Goods shall not be directly or indirectly exported, re-exported, trans-shipped or otherwise transferred to any country in respect of which the U.S.,

the EU or any of its Member States, the UK or maintains an embargo, to any person or entity on any sanctions list, including but not limited to (i) the U.S. Department of the Treasury's Office of Foreign Assets Control Specially Designated Nationals and Blocked Persons List, (ii) the U.S. Department of Commerce Denied Parties or Entity List, (iii) any comparable list maintained from time to time by the European Union or any of its Member States, or the United Kingdom (collectively, "Denied or Restricted Parties"), or otherwise in violation of Export/Import Laws. Where required to comply with Export/Import Laws, Buyer will obtain all required authorisations, consents and permits from any government authority with responsibility for the administration of Export/Import Laws before exporting, re-exporting, transshipping or transferring the Goods or associated technical data or technology provided by EVERAXIS.

- 12.5 Acceptance of these Conditions certifies to EVERAXIS that Buyer is in compliance with all applicable registration or authorisation requirements including, without limitation, those required under the U.S. International Traffic In Arms Regulations and that such registrations and authorisations exist and will remain valid during the term of the Contract.
- 12.6 Buyer confirms that the Goods will not be exported, re-exported, trans-shipped or otherwise transferred to any Denied or Restricted Parties.

### 13. Data Protection

- 13.1 Each Party undertakes to comply with all applicable Data Protection Laws in connection with the performance of its obligations under the Contract and process data accordingly.
- 13.2 Data Protection Laws refer to the French Data Protection Law, to the General Data Protection Regulation (EU) 2016/679.
- 13.3 If personal data is disclosed by a Party subject to European Data Protection Laws, and the recipient Party is established in a country outside of the European Union (as it is made up from time to time), the Parties shall either:
  - 13.3.1 comply with their respective obligations under the EU Model Controller to Controller Clauses and in such circumstances the parties hereby agree that the EU Model Controller to Controller Clauses will be incorporated by reference with the consequence that no separate signature will be required to make them binding between the respective parties; or
  - 13.3.2 with the prior consent of the disclosing Party, put in place an alternative agreed transfer mechanism that is approved by the European Commission.
- 13.4 Buyer can send a request at [data.protection@everaxis.com](mailto:data.protection@everaxis.com) to request access, correction or removal of its personal data.

### 14. Compliance -Ethics

- 14.1 EVERAXIS attaches a great importance to Ethics in business, especially labour laws, human rights, competition law, money-laundering, anti-bribery and anti-corruption laws, environment. EVERAXIS Code of Ethics can be found at [www.everaxis.com](http://www.everaxis.com)
- 14.2 Each Party shall at all times comply with all Anti-Bribery and Corruption Laws and shall ensure that its officers, employees, agents, subcontractors and any other persons who perform services for or on behalf of that Party in connection with the Contract shall not, engage in any activity, practice or conduct which causes or could cause it or any member of its Group or the other Party or any member of the other party's Group to breach of commit an offence under any Anti-Bribery and Corruption Laws.
- 14.3 Each Party shall at all times comply, and shall ensure that its officers, employees, agents, subcontractors and any other persons who perform services for or on behalf of it in connection with the Contract comply, with the other party's anti-bribery policy in force from time to time as provided to that Party.
- 14.4 Each Party shall ensure that its subcontractors involved in the performance of the Contract does so only on the basis of a written contract which imposes on that subcontractor terms equivalent to those imposed on the Parties under this clause. Each Party is responsible for the observance of its subcontractors of the terms of the written contract.
- 14.5 Each Party shall promptly report to the other any request or demand for any improper financial or other advantage of any kind received by a Party, or which a Party gives or intends to give, in each case whether directly or indirectly, in connection with the performance of this Agreement.
- 14.6 Each Party will promptly give the other written notice of any breach of this clause 14. Breach of this clause shall be deemed a material breach of the Contract which is not capable of remedy and each Party may exercise its rights to terminate the Contract under clause 10.1.

- 14.7 Each Party shall indemnify each member of the other Party's from and against any and all losses, liability, damages, claims, demands, actions, costs, (including costs incurred in preventing, avoiding or mitigating loss), charges, interest, payment actions, proceedings, penalties, fines, adverse judgments, orders or other sanctions, expenses or liabilities (including lost opportunity costs, additional administrative and management time, loss of anticipated savings and costs and expenses of the other Party's Group and legal expenses calculated on a solicitor and client basis) suffered, incurred or arising as a result of any breach by a Party of this clause 14 or by any subcontractor of any equivalent provisions contained in the relevant subcontract.

### 15. Buyer's obligations – Goods and Services

- 15.1 Buyer shall provide or procure the provision to EVERAXIS of all facilities and such other assistance and services as may be necessary to the extent and quality necessary to enable EVERAXIS to fulfil its obligations under the Contract. This assistance shall include (but not be limited to) the timely provision of and access to information, data, accommodation, computing resources, appropriate Buyer employees and a safe working environment.
- 15.2 If Buyer fails to provide any instructions, documents, licences or authorisations or to attend at qualification tests, in each case required to enable the Contract to be performed on time (except solely on account of EVERAXIS's default), EVERAXIS will not be in breach of the Contract.

### 16. Miscellaneous

- 16.1 These Conditions together with a purchase order ("PO") and any other documents referred to in the PO form the Contract between EVERAXIS and Buyer and embody the understanding between the Parties and supersede all previous oral and written agreement. Any change to these terms shall be made in writing and signed by a duly authorized representative.
- 16.2 If any provision of the Contract is found by any court or tribunal of competent jurisdiction to be illegal, invalid or unenforceable then that provision will be severed from the Contract but this will not affect any other provisions of the Contract which will remain in full force and effect.
- 16.3 Any failure or delay by a Party to exercise any right, power or remedy will not operate as a waiver of it.
- 16.4 EVERAXIS may assign, delegate, license, hold on trust or subcontract all or any of its rights or obligations under the Contract.
- 16.5 The Contract is personal to Buyer which may not assign, delegate, license, hold on trust or subcontract all or any of its rights or obligations under the Contract without EVERAXIS's prior written consent.
- 16.6 The Parties to the Contract do not intend that any of its terms will be enforceable by any person which is not a party to the Contract.
- 16.7 Nothing in the Contract shall be construed as the intent to create a joint-venture or a partnership.
- 16.8 Any notice required to be given by one Party to the other Party under these Conditions shall be in writing addressed to the recipient (if EVERAXIS) at its registered office or principal place of business or (if Buyer) to the address on its purchase order or address on EVERAXIS's written acknowledgment of order.
- 16.9 A notice will be deemed to have been duly served:
  - 16.9.1 if delivered by hand on signature of a delivery receipt; or
  - 16.9.2 if delivered by pre-paid post (airmail if overseas) 5 Business Days after being posted. Business Day shall mean Monday to Friday, excluding bank holidays in France.

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