

General Terms and Conditions of SERVICES

Terms and Conditions

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1. Enforceability of the General Terms and Conditions

- 1.1 The Client has the possibility, in addition to the acquisition of Equipment from EVERNEX to conclude with EVERNEX a maintenance contract which general terms and conditions (hereinafter the “General Terms and Conditions”) are defined below.
- 1.2 Any subscription of preventive and/or corrective hardware maintenance services (hereinafter the “Services”) are expressly and exclusively governed by these General Terms and Conditions which are part of the Contract (as defined below).
- 1.3 Ordering Services implies for the Client full and unconditional acceptance of these General Terms and Conditions. The fact that EVERNEX does not challenge provisions of the Client’s Order and/or any other documentation with any legal value at a point in time cannot be construed as a waiver to avail itself of these General Terms and Conditions at a later stage.
- 1.4 These General Terms and Conditions constitute, together with the Particular Conditions, the contract governing the relationship between the Parties (hereinafter the “Contract”). In case of contradiction or difficulty of interpretation between the General Terms and Conditions and the Particular Conditions, the Particular Conditions shall prevail. The Contract is the only document governing the relationship of the Parties relating to the Services and it shall prevail over any terms of purchase of the Client.

2. Definitions

For the purpose of these General Terms and Conditions, the following terms, whether used as a singular or a plural, shall have the meaning below:

“Access Constraint”:	Identification of all the means and/or authorizations necessary to access a Physical Address or specific areas within the Physical Address to provide the Services, such as security clearances, certifications, personal badges, etc.
“Client”:	any purchaser of the Services or any customer of the Client benefiting from Services provided by EVERNEX.
“Configuration”:	Document listing for each Equipment, all components and their technical and/or commercial references.
“Critical Default”:	default totally preventing the use of an essential function of the Equipment.

”Default”:	any dysfunction or non-conformity of the Equipment Comparex to the documentation of reference, which prevents the normal use of all or part of the Equipment functions, or which causes an inaccurate result or an inappropriate treatment, whereas the Equipment is operated by the Client in compliance with its documentation and destination.
“Equipment”:	IT equipment or the elements of IT equipment of the Client subject to the Services.
“EVERNEX”:	EVERNEX INTERNATIONAL SAS or any of its affiliates entering into a Contract to provide Services to the Client.
“History of failures and incidents”:	Document identifying all interventions performed on the Equipment during the last 12 months prior to the signing of the Contract.
“Major Default”:	default impacting an essential function of the Equipment without preventing totally its use.
“Minor Default”:	default which is neither Critical nor Major, which causes a disruption of minor or ancillary functions of the Equipment.
“Order”:	any order of Services made by a Client by sending a purchase order to EVERNEX, referring to a Service Offer priorly issued by EVERNEX. To be accepted by EVERNEX, any Order from a Client must have the relevant Service Offer of EVERNEX attached to it or must at least expressly refer to this relevant Service Offer number. A purchase order provided by the Client without the attached or referred Service Offer number may not be accepted by EVERNEX.
“Particular Conditions”:	any specific terms agreed between the Parties, as reflected in the Service Offer attached to an Order or to which an Order expressly refer; or, as the case may be, any applicable Scope Of Work (SOW) expressly referred to in an Order.
“Party(ies)”:	EVERNEX and/or the Client.
“Physical Address”:	Physical location of each Equipment. An address is defined by a country, a postal code, a city, a street, and its number.
“Scope of Work” or “SOW”:	any document issued by EVERNEX detailing the Services, which is either attached to a Service Offer or is issued as a standalone document, as the case may be.

“Services”:	preventive and/or corrective hardware maintenance services provided by EVERNEX, as defined in the Contract.
“Service Offer”:	any document issued by EVERNEX further to a Client’s request, detailing the Services, the conditions of performance of the Services to the Client, the fees for the Services as well as any other specific conditions agreed between the Parties.
“System Log”:	Result of system commands executed on Equipment that identify and list its components and their technical and/or commercial references. This also includes the health status of the various components.

3. Effective Date – Duration – Termination

- 3.1 The Contract shall take effect on the starting date mentioned in the Particular Conditions. Unless otherwise provided in the Particular Conditions, it is concluded for a one (1) year period, which shall be tacitly renewed unless terminated by either Party by written notice sent by registered letter with acknowledgment of receipt, at least three (3) months before the end of the contractual term.
- 3.2 The Contract cannot be terminated by a Party before its term except as otherwise provided in the Contract or in case of material breach of Contract imputable to the other Party that would not be remedied within thirty (30) days of the prior written notice sent to the defaulting party by registered letter with acknowledgment of receipt.
- 3.3 EVERNEX shall be entitled to terminate the Contract in case of insolvency, dissolution, total or partial cessation of activity of the Client, or in case of receivership, liquidation of similar procedure affecting the Client subject to provisions of articles L.622-13 and L.631-14 of the French Code of Commerce.
- 3.4 The Client shall also be entitled to terminate the Contract for any reason with a prior written notice of sixty (60) days to be sent to EVERNEX by registered letter with acknowledgment of receipt. Such termination shall entitle EVERNEX to claim a termination fee representing 20% of the applicable fees for the remaining contractual period.
- 3.5 In case of an increase of the fees, as provided in Article 7.3 below, the Client may terminate the Contract, with a prior written notice of sixty (60) days, during which the existing fees will continue to apply.

- 3.6** In case the Client refuses the increase of the applicable fees due to abnormal or inappropriate use of the Equipment, characterized by a high failure rate of the Equipment, as provided in Article 7.4 below, EVERNEX may terminate the Contract, subject to a prior written notice of sixty (60) days sent by registered letter with acknowledgment of receipt, during which the agreed fees will continue to apply.
- 3.7** Termination or the expiration of this Contract shall not affect contractual provisions which are by nature designed to survive the Contract.

4. Services

- 4.1** 4.1 Services provided by EVERNEX include, depending on modalities and options defined in the Particular Conditions:
- a corrective hardware maintenance, which consists for EVERNEX to ensure, at Clients request, that the hardware integrity of the Equipment which is the object of the Contract is restored in case of Default.
 - a preventive hardware maintenance, which consists for EVERNEX to ensure that the hardware integrity of the Equipment which is the object of the Contract is maintained and verified. It can be performed (i) either by scheduling onsite visits to control the Equipment environment and perform visual control of the Equipment or (ii) remotely through log system analysis made available by the Client or through remote logging to the Equipment. The frequency of preventive maintenance depends on options chosen by the Client, as defined in the Particular Conditions.
- 4.2** In the performance of the Services, whether preventive or corrective, EVERNEX uses all commercially reasonable means that can reasonably enable to maintain or restore the normal operation of the Equipment which is the object of the Services: labour, testing appliances, tools and, if necessary, supply of spare parts whether new or equivalent in order to replace the Equipment's defective parts.
- 4.3** The supply of spare parts remains at EVERNEX's discretion in the context of its obligation to provide the Services. Unless agreed otherwise, the costs of spare parts are included in the fees related to the Services as described in Article 4 of the General Terms and Conditions. The spare parts which are not in the scope of the Services, as defined in the Contract, are not included in the amount of fixed fees to be paid pursuant to Article 7 below.
- 4.4** If the Client's request is caused by an incident which is not imputable to the Equipment, EVERNEX shall charge the treatment of the incident at an hourly rate, based on related prices applicable at the time of the intervention.

- 4.5 Services of corrective maintenance are performed within the time limits defined in the Particular Conditions, depending on the options chosen by the Client and the gravity of the Default (Minor, Major or Critical).
- 4.6 Services detailed in the Contract are in any event performed in compliance with provisions relating to quality of service (“Service Level Agreement” or “SLA”), inserted in the Particular Conditions or contained in a separate document.
- 4.7 EVERNEX shall be entitled to perform a prior audit of the Equipment subject to the Services, with or without on-site visits.
- 4.8 Unless provided otherwise in the Particular Conditions, the implementation time will be of six (6) weeks. During this implementation time, which is the preliminary period during which EVERNEX gathers the resources necessary for the performance of the Services (and especially ensures the local availability of the spare parts corresponding to Client’s Equipment configuration), the SLA provided by EVERNEX will be on a “Best Efforts” basis. Until the Client has provided all the necessary elements for the execution of the Services as described in Article 9.7, EVERNEX reserves the right not to apply the SLA.

5. Service Modifications

- 5.1 Equipment to be covered by the Services may be added to or removed from the Contract upon agreement of the Parties. Equipment may be removed from coverage under the Contract with sixty (60) days’ prior written notice to EVERNEX. Service charges for Equipment added to the Contract will be at EVERNEX’ then-current monthly rate.
- 5.2 In the case where the Client reduces the number of Equipment covered by the Services resulting in a reduction of the annual fees under this Contract of 20% or higher, the Client shall pay to EVERNEX an indemnity equal to 50% of the portion of Fees corresponding to the Equipment reduction, that should have been paid until the contractual term if the Equipment had not been reduced, notwithstanding additional indemnities which could be set forth in the Particular Conditions.

6. Limits of Scope of Services

- 6.1 The following services are expressly excluded from EVERNEX’s responsibilities and from the scope of Services covered by this Contract:
 - 1 Any maintenance services relating to software, including notably, without limitation, maintenance on networks or computer systems such as software programs, diagnostics of software defaults, new versions or updates of software or programs or drivers or OEM software support.

- 2 Any backup of data belonging to the Client, or under Client's control as the Client remains responsible for the proper execution of its backups prior to any Services performed by EVERNEX.
 - 3 The technical modification of the Equipment.
 - 4 Moving and reinstallation of all or part of the Equipment.
 - 5 The restoration of files in case of accidental destruction or due to the presence of a virus or due to any hardware issue on the Equipment.
 - 6 The back-up of files and data captures.
 - 7 The maintenance of modems / telephone lines.
 - 8 Services of training, installation, support and assistance which may be proposed by EVERNEX under specific contracts of training, installation, support and assistance.
 - 9 Any firmware supply and installations.
 - 10 Any support on operating systems.
 - 11 Any intervention in relation to Equipment which is not mentioned in the Particular Conditions.
 - 12 Any intervention related to an Equipment for which all relevant information necessary for the execution of the Services has not been communicated prior to the signing of the Contract, as outlined in Article 9.7.
 - 13 Some fees incurred due to the Client's failure to comply with its obligations as outlined in Articles 9.3 and 9.10, based on a quotation accepted in advance by the Client.
- 6.2** If not included in the Particular Conditions, the Services listed below are expressly excluded from EVERNEX's responsibilities and from the scope of Services and fees covered by this Contract. Any of the Services listed in this Article 6.2 may be added in the Particular Conditions after the starting date of the Contract upon agreement of the Parties. Those Services will be subject to additional invoicing of Evernex after quotation or Service Offer for the relevant Services listed below is accepted by the Client. Unless provided otherwise in the Particular Conditions, EVERNEX shall dedicate its reasonable commercial efforts to provide the Services listed in this Section 6.2 without application of any SLA:
- 1 any diagnostic and/or intervention or furniture of spare parts following a failure which occurred before the Term of this Contract;

- 2 adding ou removing a component from an Equipment;
- 3 technical feasibility analysis before adding or removing any component from an Equipment;
- 4 replacing parts of an Equipment for esthetic reasons, which do not affect the good functioning of the Equipment.
- 5 The repair of any damage, default, shortcomings, or disruption caused by a geographical, physical, or technical environment, or by planned power cut with violent stop of Equipment, which does not conform to the manufacturer's instructions and specifications or which results:
 - from non-compliance with applicable rules and regulations notably in security matters,
 - from an accident (including fire and floods) or natural disasters,
 - from malicious act, sabotage, robbery by the Client's personnel,
 - from a Force Majeure event, as defined in Article 13.5 below,
 - from defective installation, defective supply of electricity for the Equipment, defective control of temperature or local humidity, defective use, management or control of Equipment by the Client or his agents, or from the use of the equipment for other purposes than the one for which they are destined,
 - from the Client's or its agent's negligence,
 - from the use of spare parts which do not comply with the manufacturer's instructions,
 - from the addition or connection of Equipment, parts or components non included in the list of compatible Equipment and not authorized by the manufacturer,
 - from a default – even temporary – in the supply of energies or cooling (by air or fluids) that are necessary for the good functioning of the Equipment,
 - from the intervention of a third party or technical services other than EVERNEX's (including the Client's or its agent's technical service). Is formally excluded from the maintenance of Equipment which has been the object of attempts of repairs, changes, modification, correction, or any distortion by the Client or his agents without EVERNEX's prior and express approval. This is also valid for any intervention or repair by a third party for maintenance services not provided by EVERNEX,

– from disruptions affecting or resulting from the Client’s Equipment, servers, exploitation systems, accessories, stationery, consumables (including batteries, cartridges, etc.) not supplied by EVERNEX,

- 6** The verification, control and compliance to rules and regulations in force, or OEM recommendations or best practices, and of the geographical, physical and technical environment in which the Equipment are located.
- 7** The supply of consumable parts, including: batteries, additional tapes and records for safeguard proceeding, or any other accessories related to record support, transceivers etc.
- 8** The replacement of any flash storage of any format (SSD Drives, Flash Module, Flash Accelerator, SD card) that have reached its maximum amount of write cycles as per original vendor specifications.
- 9** The supply of accessories or consumables for printers, such as maintenance kits, alimentation rolls, ink cartridges, toners, ribbons, heads of thermic printing, cleaning kits for head printings, and scanner lamps.
- 10** Any Services provided at non-agreed locations compared to those referred to in the Particular Conditions for preventive maintenance or which fall under the Services subscribed by the Client.
- 11** The replacement of an additional PCI card (graphic card, GPGPU card, raid card, flash card) not disclosed in the quotation phase prior to entering into this Contract.
- 12** Performance analysis when no hardware issue is identified.

6.3 Any Service (whether ad hoc or recurrent) not included in the initial scope of Services detailed in the Contract and which would be further entrusted to EVERNEX by the Client, will be charged by EVERNEX at the then applicable fees for such Services. Any Service not included in the initial scope of the Contract shall be subject to an additional quotation or Service Offer issued by EVERNEX and accepted in writing by the Client. Any additional Service that would become recurrent and would thus modify the initial scope of the Contract will be included by reference in the scope of the Contract by way of an amendment for the then remaining term of the Contract.

6.4 The provision of Services does not entail any transfer of know-how, technology or similar rights, whether or not protected by intellectual property rights under applicable laws, from EVERNEX to the Client.

7. Fees

- 7.1** Services performed by EVERNEX under the Contract are remunerated by fixed and lump sum fees, which amount, and modalities of payment are stipulated in the Particular Conditions and in the provisions below, except for situations when additional fees may be charged in accordance with the Contract. Unless provided otherwise, any indication of fees is to be construed as “without added value taxes” and any such taxes shall be borne, at the applicable rate, by the Client.
- 7.2** Unless otherwise stipulated in the Particular Conditions, the fees charged by EVERNEX may vary each semester on 1st January and 1st July. Such variation in the fees will be made by EVERNEX notifying a fee variation to the other Party at the latest 1 month before the fee variation becomes effective.

The fees will be modified considering the variation of the SYNTEC index (in countries other than France, any index of an equivalent nature of the SYNTEC index).

The indexation formula used is as follows: $F = FI (SI/S)$

In which:

F = Revised fee

FI = Fee before revision.

S = For the 1st revision, this is the value of the SYNTEC index on the date of entry into force of the Contract; for subsequent revisions, this is the value of the SYNTEC index on the date of the previous revision.

SI = value of the last published index at the date of the fee revision. If the SYNTEC index disappears, the Parties shall agree on the choice of a new index. In the absence of agreement, the competent Court shall substitute the index that it considers most appropriate.

It should be noted that if a revision has not taken place in one semester, this will not prevent EVERNEX from revising the fees the following semesters.

- 7.3** In the event of substantial and market admitted modification in the conditions of performance of the Services which would render the performance of the Contract thereof excessively costly and unfair for EVERNEX despite the application of the provisions of Article 7.2 above, EVERNEX should be entitled to increase the amount of the fees charged to the Client, in order to adapt it to the level of the actual market price. Such increase shall be notified to the Client at least one (1) month before it becomes effective. Upon receipt of EVERNEX notification of fee increase, the Client shall have one (1) month to notify in writing to EVERNEX its opposition to such fee increase and decision to terminate the Contract, which termination will be effective 60 days after the Client notification to EVERNEX.

7.4 In the event of abnormal or inappropriate use of the Equipment, characterized by a high failure rate of the Equipment, EVERNEX may decide at any time to increase the annual fees paid in relation to the Services pursuant to Article 7.1. Such increase of the fees shall be notified to the Client at least fifteen (15) days before it becomes effective. Upon receipt of EVERNEX's notification of the aforementioned fee increase, the Client shall have fifteen (15) days to notify in writing to EVERNEX its opposition to such increase. Upon receipt of the Client's refusal of this additional billing, EVERNEX may decide to terminate the Contract, which termination will be effective sixty (60) days after EVERNEX's notification to the Client, in accordance with Article 3.6.

8. Payment modalities – Penalties

- 8.1** Unless provisions to the contrary in the Particular Conditions, maintenance fees are payable annually, a term in advance.
- 8.2** Unless otherwise specified in the Particular Conditions, payments are due at the latest thirty (30) days after the date at which the invoice is issued. EVERNEX reserves the right to demand immediate payment and/or payment guarantees when defaults of payment or the Client's financial situation justify it.
- 8.3** Interest, computed on the basis of three (3) times the legal interest rate, are applied automatically to amounts overdue beyond the above-mentioned time limits, without prejudice of any additional damages.
- 8.4** Any Client who is in a situation of overdue payment shall also be automatically liable for, in addition to interest, a lump sum indemnity for recovery costs amounting to forty (40) euros (Art. L.441-6 and D.441-5 of the French Code of Commerce). If recovery costs exceed this lump sum, EVERNEX shall be entitled to demand a complementary indemnification. In addition, if the Client fails to make any payment on the due date, EVERNEX shall be entitled to charge to the Client a late fee of 1.5% per month on the amount unpaid until payment in full is made.
- 8.5** These damages and indemnities shall be due at EVERNEX's first request.
- 8.6** In case of failure by the Client to pay any instalment mentioned on the invoice, for reasons not attributable to EVERNEX, the full price of the Services shall become by right and immediately payable as well as any amount that would remain outstanding.
- 8.7** Failure to pay any invoice due within sixty (60) days of payment date of the invoice may also entail automatically and by right, without former notice, the cancellation or the suspension of Services until all outstanding amounts are paid in full including amounts related to late payment. Such a suspension or cancellation shall entail no discount or reimbursement of the annual maintenance fees.

- 8.8** In case of late payment, any payment that would be due for other deliveries or services shall become immediately due if EVERNEX does not decide to cancel the related orders.
- 8.9** EVERNEX may retain any advance payment made by the Client, without prejudice to any complementary damages or interests that could be claimed by EVERNEX as a remedy.
- 8.10** Invoices can be questioned within sixty (60) days of their date of issue. Beyond that period, they are considered as accepted and cannot be disputed any more. No discount shall be granted in case of anticipated payment.

9. Client's obligations

During the performance of the Contract, the Client shall, at its own costs:

- 9.1** Host the Equipment in a geographical, physical and technical environment complying with regulations in force, including environmental constraints (temperatures, humidity levels, etc.) and the manufacturer's instructions;
- 9.2** Use the Equipment in a normal and reasonable manner and in accordance with good practice in the IT sector and in the Client's profession;
- 9.3** Allow free access of EVERNEX's representative(s) to the Equipment and facilities during maintenance hours and ensure that each intervention can take place in compliance with applicable rules and regulations, notably for security matters. The SLA will not be applicable until this prerequisite is met by the Client. In case the representative(s) of EVERNEX are unable to access the Equipment and/or the Physical Address, for any reason attributable to the Client, EVERNEX reserves the right to invoice the Client for the travel and mobilization expenses of said representatives, based on a quotation accepted in advance by the Client.;
- 9.4** Ensure that at least one of its employees or agents is present during each maintenance intervention by EVERNEX and that EVERNEX's employees and agents are treated with the same care and respect as Client's employees and agents;
- 9.5** Put at EVERNEX's disposal the resources that are necessary for the performance of the Services: contact with the related technical unit at EVERNEX (by telephone and computer), supply of electricity, internet access (through a 4G/5G networks access or Wifi provided by Client) etc.;
- 9.6** Ensure, prior to each maintenance operation, that all necessary precautions were taken by the Client, for the protection and saving of data, programs and computer files, and that it took all measures to ensure their safety and confidentiality;

The Client acknowledges that it has been informed of the need to perform a full data backup prior to any performance of EVERNEX Services. The Client shall perform a backup of all data, documents, files, programs and other supporting documents before any maintenance intervention.

The Client remains solely responsible for the backup of its data prior to any Services performed by EVERNEX and acknowledges that it remains solely responsible for the confidentiality and integrity of the backed-up data.

In no event shall EVERNEX be liable for any loss or deterioration of data or any deterioration related to such data or for any loss of revenue, results or even loss of opportunity in this respect.

9.7 The Client undertakes to communicate to EVERNEX, prior to the signing of the Contract, all relevant information necessary for the execution of the Services, namely:

- ✔ Configurations and/or System Logs;
- ✔ History of failures and incidents;
- ✔ Physical Address;
- ✔ Access Constraints.

9.8 The Client shall ensure that no repair or intervention of any nature is performed on the Equipment by any technical service other than EVERNEX Services;

9.9 The Client shall collaborate in full transparency with EVERNEX and communicate to EVERNEX all necessary documents and information for the good performance of Services;

9.10 The Client shall provide the remote connection capabilities to Equipment as per EVERNEX specifications when it is stated to be an absolute pre-requisite to the availability of Services on certain Equipment during the Contract. No penalty related to the SLA shall be applicable when such pre-requisite has not been fulfilled by the Client.

9.11 Unless specifically agreed otherwise, EVERNEX keeps the ownership of all replaced components/parts related to the Services and is formally entitled to keep them following the intervention, to the exclusion of any part that may contain customer sensitive data. If the Client is unable to provide remote connectivity to the Equipment, Equipment monitoring will be conducted on-site by one or more representatives of EVERNEX. EVERNEX reserves the right to invoice the Client for the travel and mobilization expenses of these representatives, based on a quotation accepted in advance by the Client. These costs will apply even if EVERNEX representatives are unable to access the Equipment and/or the Physical Address.

10. Limitation of Liability and Guarantee

- 10.1** It is expressly understood and agreed that EVERNEX's obligation under this Contract is to do its best efforts for the performance of Services which is not an obligation of result. The Client hereby waives any right of action against EVERNEX in case of damage to data, the computer memory or any other document, Equipment or program that it may have entrusted to EVERNEX in relation to the Services or after operation is resumed further to EVERNEX's intervention.
- 10.2** EVERNEX shall not be held liable for any indirect consequential, special, punitive or exemplary damage (including notably, as agreed between the Parties and without limitation, any operating losses, losses of files, programs and/or data, losses of profits, contracts, clients, reputational damage or turnover) that could be potentially incurred by the Client as a result of EVERNEX's failure to abide by its obligations in relation to the Services and/or the installation, use or dysfunction of an Equipment.
- 10.3** In all events, EVERNEX's liability for damages of any kind suffered by the Client, is expressly and strictly limited to the maintenance fees actually paid by the Client to EVERNEX during the twelve (12) months preceding the date of claim.
- 10.4** Any claim against EVERNEX shall be made within six (6) months from the date the cause of such claim is known or should have been known by the Client.
- 10.5** With regards to the supply of spare parts within the context of the provision of Services, Evernex shall provide the guarantees against hidden defects and non-compliant Equipment as set forth by articles 1641 and 1604 of the French Civil Code.

11. Confidentiality

- 11.1** Both the Client and Evernex acknowledge that any information, data and business documentation of any nature, methods, know-how, source codes, manufacturing processes used or implemented by the Client or Evernex under this Contract are and shall remain each Party's exclusive property and shall be kept strictly confidential.
- 11.2** As a consequence, each Party commits not to disclose such information, data and documentation to any third party, and/or not to exploit them for its own account or on behalf of any third party without the Party's prior and express consent. Any source codes and manufacturing processes used or introduced by the Client or EVERNEX under this Contract are and shall remain the exclusive property of the respective party or any licensing third party and shall be kept strictly confidential.
- 11.3** Each Party undertakes to return to the other at the latter's first request, all information, data and documentation received from the other for the purpose of this Contract.

- 11.4** Each Party shall cause its commercial partners, employees or agents to abide by a confidentiality obligation equivalent to the one set forth in this Contract and shall hold harmless and indemnify the other for any breach of such confidentiality obligation by commercial partners, employees or agents.
- 11.5** This confidentiality obligation shall survive termination of contractual relationships between the Parties and shall bind both Parties until: (i) the latest date between five years after the starting date of the Contract and the duration of the Contract, or (ii) the date when related information, data and/or documents fall into the public domain.

12. Non-Hiring

Unless otherwise provided by applicable laws, during the term of the Contract and for a duration of one (1) year as from its termination or cessation for whatever cause, the Client commits not to solicit, hire, employ or appoint whether directly or indirectly any EVERNEX's employee or EVERNEX's independent contractor or subcontractor without EVERNEX's prior and express approval. In case of breach of this commitment, the Client shall pay to EVERNEX a lump sum equal to the gross salary or fees without VAT paid by EVERNEX to the related employee or independent contractor over the last twelve (12) months.

13. Miscellaneous

- 13.1** Amendments: EVERNEX may from time to time and subject to compliance with applicable laws, make modifications to the General Terms and Conditions, subject to such modifications being effective thirty (30) days after the modified General Terms and Conditions are notified to the Client. Unless otherwise provided in the General Terms and Conditions, any modification of the Particular Conditions shall only result from an amendment in writing signed by both Parties.
- 13.2** Severability: Should one clause of the Contract be declared illegal or void by a competent Court ruling according to the law applicable to this Contract, this clause shall be reputed modified in order to reflect, as much as possible, the Parties' initial and common intent in compliance with applicable law, the other contractual provisions remaining fully in force.
- 13.3** Waiver: It is expressly agreed that no failure or delay on the part of either Party in invoking any provisions of the Contract shall not operate as a waiver thereof. Any waiver of any provision hereof shall in any event be the object of an amendment in writing signed by both Parties.
- 13.4** Assignment of Contract: It is expressly agreed that the Client shall not assign or transfer its rights and obligations under this Contract without EVERNEX's prior and written consent.

- 13.5** Force Majeure: Each of the Parties shall not be considered as defaulting when performance of its obligations has been delayed, disrupted or prevented by a case of Force Majeure out of its reasonable control, its suppliers or service providers (“Force Majeure”). Shall notably be considered as events of Force Majeure excusing non-performance of its obligations: any cause beyond its control including, without limitation, fire, strikes, floods, epidemics, natural disasters, quarantine restrictions, wars, transport disruption, shortage of labour, raw materials or means of production. Any cost resulting from a Force Majeure event shall be borne by the other Party.
- 13.6** Relationship: In the performance of the Contract, both Parties shall be deemed to be acting in the capacity of an independent contractor with respect to the other. Neither Party shall be deemed to be a partner of nor joint venture with the other, and the employees and agents of one Party engaged in performing any Services hereunder shall not be deemed to be the employees or agents of the other.
- 13.7** Subcontracting: EVERNEX shall be entitled to sub-contract the performance of any of its obligations under the Contract.
- 13.8** References: Each Party is authorized to name the other Party’s reference in its commercial or marketing materials and publications.

In addition, the Client grants to Evernex the right to use its name and logo (the “References”) on Evernex websites and/or on sales promotion materials during the Term of this Contract, unless the Client notifies in writing to EVERNEX its refusal to use the References at any time during the Term of this Contract.

14. Applicable Law –Jurisdiction

- 14.1** Applicable Law: The Contract is governed by French Law, to the exclusion of any rule of conflict of law. The application of the United Nations Convention on International Sales of Goods executed in Vienna on April 11th, 1980, is formally excluded.
- 14.2** Jurisdiction: Any dispute relating to the interpretation or application of the Contract as well as any dispute relative to the commercial relationships between the Parties shall fall under the exclusive jurisdiction of Courts of the corporate office of EVERNEX, including in case of summary proceedings (“référés”), requests for orders (“procédure sur requête”), action in guarantee or plurality of defendants and notwithstanding any clause to the contrary.

15. Anti-corruption – Anti-Bribery

- 15.1** The Client represents and warrants that, in the performance of the Contract, he will not, directly or indirectly, perform any act that would cause him to violate, or risk violating, anti-bribery laws. For the purposes of this clause, anti-bribery laws means the Sapin 2 law, the French laws against bribery, influence peddling and any breach

of the duty of probity codified in the French Criminal Code, and all foreign or national anti-bribery laws and regulations applicable in each country in which the Client operates, as amended from time to time, and any law designed to implement the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (hereinafter collectively referred to as “Anti-Bribery Laws”).

- 15.2** In connection with the Contract and the activity arising from it, the Client shall not pay, offer, promise or authorise the payment, directly or indirectly, of money or other value to a public official or anyone else for the purpose of inducing or rewarding that person or anyone else for improper performance of his or her role or duties; or for the purpose of influencing a public official in any decision, act or performance of his or her official role or function, including a decision not to perform that role or function, in order to assist a third party or EVERNEX in obtaining or retaining business or commercial advantage.
- 15.3** The Client agrees that EVERNEX shall have the right, if it has objective grounds to believe that a breach of this clause may have occurred, and upon reasonable written notice, to conduct an investigation for the purpose of verifying the Client’s compliance with the Anti-Bribery Laws and this clause. The Client agrees to cooperate fully with such investigation and audit.
- 15.4** The Client agrees that if EVERNEX knows or has reasonable grounds to suspect that the Client is or has been engaged in conduct which violates this clause, or which violates or is likely to expose EVERNEX to a risk of violation of the Anti-Bribery Laws, EVERNEX may terminate the Contract immediately and claim indemnification from the Client for any prejudice it has suffered.
- 15.5** The Client shall immediately report to EVERNEX any violation of the Anti-Bribery Laws which it becomes aware of or which it has reasonable grounds to believe has been committed in connection with the transactions entered into on behalf of EVERNEX. EVERNEX shall not be liable for any claims arising out of or relating to the unlawful activity or claims alleging unlawful activity by the Client, regardless of the nature or location of such activity. The Client will also indemnify EVERNEX and EVERNEX will not be liable for any damages, penalties, fines and/or costs of any kind incurred as a result of any claim, suit or investigation arising out of or in connection with any breach of this clause by the Client.

16. International trade sanctions – Export controls

- 16.1** The Client warrants on an ongoing basis that itself and its customers receiving Services, will comply with import, export control and economic sanction laws and regulations, including (but not limited to those of the United Nations, the United States, United Kingdom, European Union (France included)) that prohibit or restrict the export, re-export, or transfer of products, technology, services or data, directly or indirectly, to or for certain countries, end uses or end users.

- 16.2** The Client shall provide EVERNEX with information about its customers, products and/or Services necessary for export and sanctions laws and regulations compliance. Failure to comply with these provisions may result, at reasonable opinion of EVERNEX, in immediate termination and/or suspension, in whole or in part, of this Contract effective upon EVERNEX's notice.

17. Modification of General Terms and Conditions

EVERNEX reserves the right to modify and update these General Terms and Conditions from time to time. The version of the General Terms and Conditions binding on the Client is the version in force upon an Order is placed by the Client.

18. Data protection

- 18.1** In the context of performing its Services, EVERNEX may collect and process personal data on behalf of the Client.
- 18.2** In this respect, it is agreed between the Parties that to the extent necessary, EVERNEX will be qualified as a Data Processor and the Client as a Data Controller within the meaning of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 ("GDPR").
- 18.3** EVERNEX's Services shall therefore be subject to Appendix "Data Protection Agreement" whenever GDPR is applicable. Both Parties shall comply with any mandatory rules and regulations relating to data privacy applicable to the Contract and Services.

Contact Us

If you have any questions regarding these Terms and Conditions, please [contact us](#).