



## STANDARD TERMS AND CONDITIONS OF SALE

Everight Position Technologies Corporation

These Standard Terms and Conditions of Sale (these "Terms") govern the sale of all products (the Products") by Everight Position Technologies Corporation ("EVERIGHT POSITION") and are incorporated into any offer by EVERIGHT POSITION to sell such Products. By accepting EVERIGHT POSITION's offer, the buyer of such Products ("BUYER" or "you") shall be deemed to have consented to all of these Terms.

1. Orders. Orders for Products may be placed by emailing (preferred) or faxing a written purchaser order to EVERIGHT POSITION:

Fax: 610-672-9663

Email: sales@evrtp.com

EVERIGHT POSITION will confirm your order by email, along with an estimated ship date for the order. If any information contained in the order is incorrect or incomplete, i.e., pricing, terms, ship to or bill to address, etc., then prior to confirming the order, EVERIGHT POSITION's customer service will contact you and request the necessary information. EVERIGHT POSITION will confirm and process your order only after a corrected purchase order has been received.

2. Changes to Orders. EVERIGHT POSITION will not make any changes of an already confirmed order unless EVERIGHT POSITION and BUYER agree in writing to the change and any resulting changes in price, schedule, or otherwise. Any change in law, rule, regulation, order, code, standard or requirement which requires EVERIGHT POSITION to make a change to an order shall entitle EVERIGHT POSITION to an equitable adjustment in the prices and any time of performance.

3. Pricing. The prices shall be as stated in EVERIGHT POSITION's written offer. All prices are Ex Works (EXW) EVERIGHT POSITION's facility. All prices by email as well as any verbal pricing information are subject to change without further notice. EVERIGHT POSITION's written quotations are valid for 60 days. Orders for Products which EVERIGHT POSITION has already confirmed are not subject to price increase or decrease except as described in Section 2 above. Except to the extent expressly stated in these Terms, EVERIGHT POSITION's prices do not include any freight, storage, insurance, taxes, excises, fees, duties or other government charges related to the Product, and BUYER shall pay such amounts or reimburse EVERIGHT POSITION for any amounts EVERIGHT POSITION pays. If BUYER claims a tax or other exemption or direct payment permit, it shall provide EVERIGHT POSITION with a valid exemption certificate or permit and indemnify, defend and hold EVERIGHT POSITION harmless from any taxes, costs and penalties arising out of same.

4. Payment. Unless otherwise stated in a written agreement signed by EVERIGHT POSITION and BUYER, all payments other than first time orders shall be net 30 days from the invoice date and are payable in U.S. Dollars. First time orders must be paid for in advance, unless otherwise agreed in writing by EVERIGHT POSITION. Orders may be subject to credit approval by EVERIGHT POSITION. Acceptable payment methods are a corporate check (cleared through EVERIGHT POSITION's bank), Master Card,



American Express or VISA; and wire transfer (wire instructions are available upon request). These payment methods may be changed by EVERIGHT POSITION at any time for any reason without prior notice. If your account is beyond 30 days past due or if the credit limit is exceeded, EVERIGHT POSITION reserves the right to withhold manufacture of Products, suspend future deliveries of Products, or require additional security satisfactory to EVERIGHT POSITION until the account is brought current, or take such other remedies as are available to EVERIGHT POSITION by law. BUYER agrees to pay late charges at the interest rate of 9.21% annually (0.7676% monthly) and a dunning letter charge of \$5.00 per reminder that EVERIGHT POSITION assesses on all past due accounts. If BUYER disputes all or any part of an invoice, it shall notify EVERIGHT POSITION in writing of the amount in dispute and the reason for its disagreement within 14 days of receipt of the invoice. BUYER must pay any undisputed portion when due. Any unpaid amount in dispute that is determined to be payable to EVERIGHT POSITION shall include a late charge at the above rate accruing from the payment due date until the date that payment is finally made to EVERIGHT POSITION.

5. Cancellation. BUYER may not cancel or defer any order once an order has been confirmed by EVERIGHT POSITION. BUYER may not return any order other than for warranty returns of defective Products in accordance with these Terms. Once EVERIGHT POSITION has confirmed an order, BUYER shall be responsible for 100% payment for the order unless otherwise agreed in writing by EVERIGHT POSITION.

6. Delivery; Shipment; Risk of Loss. Unless otherwise stated in a written agreement signed by EVERIGHT POSITION and BUYER, all Products are sold EXW, Everight Position, Narberth, Pennsylvania, USA. Ship dates are based upon production schedules at time of quotation or at time of order. Shipping and delivery dates are approximate only. EVERIGHT POSITION shall not be liable for any loss, expense or damages (consequential or otherwise) incurred by BUYER or BUYER's customers for any delayed delivery or failure to meet the specified delivery schedule. Title to the Products and risk of loss shall pass to BUYER when the Products leave EVERIGHT POSITION's facility.

7. Penalty Clauses. No penalty clause for EVERIGHT POSITION's failure to meet shipment or delivery deadlines shall be included in any contract, quotation, request for proposal or other document or shall otherwise be binding upon EVERIGHT POSITION unless such clause is specifically approved in advance in writing by an executive officer of EVERIGHT POSITION.

8. Installment Shipping. If your order requires separate or installment shipments, each shipment shall be considered a separate transaction. BUYER shall pay for each shipment in accordance with these Terms. If BUYER believes a shipment or portion of a shipment fails to comply with the specifications of its written purchase order or these Terms, BUYER may refuse to accept only such shipment or portion thereof (and no other shipment) that BUYER reasonably believes to be noncompliant. If BUYER defaults under these Terms in any manner, EVERIGHT POSITION may decline to make future shipments, and if EVERIGHT POSITION chooses to continue to make shipments, EVERIGHT POSITION shall not be deemed to have waived such default.



9. Limited Warranty. Each product sold by EVERIGHT POSITION is warranted for a limited period of time by the original manufacturer. Please contact EVERIGHT POSITION for more information on the warranty of a specific product.

A. During the applicable warranty period, following the return of the Products or applicable parts to EVERIGHT POSITION in the manner described below, EVERIGHT POSITION will organize a repair, or at its option replace, any Product or part that the OEM finds to be defective in material or workmanship, without charge to BUYER for parts, service labor or associated customary shipping charges. Replacement or repaired Products or parts will be warranted for only the unexpired portion of the original warranty period. All Products or parts replaced under this limited warranty will become the property of EVERIGHT POSITION.

B. If you (or any subsequent owner or end-user of the Products) experience any technical problems with the Products during the applicable warranty period, please contact EVERIGHT POSITION directly with the part name, serial number and a description of the error.

C. Following your submission of the information above, EVERIGHT POSITION will process the RMA request and send an RMA Number to include in the shipment with the Products to return and begin the repair or replacement process.

D. The limited warranty described in this Section 9 is conditioned upon BUYER's storing, installing, operating and maintaining the Products in accordance with manufacturer's instructions. This warranty does not apply to damage caused by accident, misuses, fire, flood, acts of God or from failure to properly install, operate or maintain a Product. EVERIGHT POSITION will invoice BUYER (or a subsequent owner or end-user) for the cost and expenses of the repair or replacement (including the costs of assessing and reporting the damage) if it is reasonably determined that BUYER (or such subsequent owner or end-user) is at fault.

E. The limited warranty described in this Section 9 is in lieu of any other warranties, expressed or implied, including merchantability or fitness for a particular purpose, which are expressly excluded.

F. This warranty does not cover any product that is described as being experimental or developmental or as a test, prototype or model; any such product is provided to BUYER "as is" and EVERIGHT POSITION disclaims all warranties, expressed or implied, with respect to such product.

G. EVERIGHT POSITION MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES RELATED TO COURSE OF DEALING, CUSTOM AND/OR USAGE OF TRADE.

10. LIMITATION OF LIABILITY. NEITHER EVERIGHT POSITION NOR ITS SUPPLIERS SHALL BE LIABLE, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, INDEMNITY OR ANY OTHER LEGAL THEORY, FOR LOSS OF USE, REVENUE, SAVINGS OR PROFITS, OR FOR COSTS OF



CAPITAL OR OF SUBSTITUTE USE OR PERFORMANCE, OR FOR INDIRECT, SPECIAL, LIQUIDATED, PUNITIVE, EXEMPLARY, COLLATERAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER LOSS OR COST OF A SIMILAR TYPE, OR FOR CLAIMS BY BUYER FOR DAMAGES OF BUYER'S CUSTOMERS.

EVERIGHT POSITION'S MAXIMUM LIABILITY UNDER THIS CONTRACT SHALL BE THE ACTUAL PURCHASE PRICE RECEIVED BY EVERIGHT POSITION FOR THE PRODUCT AT ISSUE OR ONE MILLION DOLLARS, WHICHEVER IS LESS. BUYER AGREES THAT THE EXCLUSIONS AND LIMITATIONS SET FORTH IN THIS SECTION 10 ARE SEPARATE AND INDEPENDENT FROM ANY REMEDIES WHICH BUYER MAY HAVE HEREUNDER AND SHALL BE GIVEN FULL FORCE AND EFFECT WHETHER OR NOT ANY OR ALL SUCH REMEDIES SHALL BE DEEMED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE. THESE LIMITATIONS OF LIABILITY ARE EFFECTIVE EVEN IF EVERIGHT POSITION HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

13. Indemnification by BUYER. BUYER shall indemnify, defend and hold harmless EVERIGHT POSITION, and its respective directors, officers, employees and agents (each a "EVERIGHT POSITION Indemnified Party") from and against any and all losses, damages and costs (including attorneys' fees) incurred by a EVERIGHT POSITION Indemnified Party to the extent arising out of or in connection with any claims made or suits brought by any third party against a EVERIGHT POSITION Indemnified Party relating to (a) BUYER's products, (b) the use of the Products in BUYER's products, (c) a recall of BUYER's products, and (d) EVERIGHT POSITION's compliance with BUYER-furnished specifications, design or instructions or use of BUYER-furnished components. Any claim by BUYER or any third party relating to the Products shall be subject to the limited warranty described in Section 9 and limitation on liability described in Section 10.

14. Legal Compliance. BUYER agrees to comply with all applicable laws and regulations relating to the purchase, resale, export, transfer, disposal or use of the Products.

15. Force Majeure. If EVERIGHT POSITION's performance is delayed due to a cause beyond its reasonable control, including without limitation acts of God (including without limitation weather events such as tornados, hurricanes, floods or earthquakes), strikes, labor shortage or disturbances, fire, explosion, accident, war or civil disturbance, carrier delay, failure of normal sources of supply, or actions or inactions of governmental authorities, the time of EVERIGHT POSITION's performance shall be extended by a period of time equal to the period of such delay. EVERIGHT POSITION will notify BUYER within a reasonable time after EVERIGHT POSITION becomes aware of any such delay.

17. Entire Agreement. These Terms, together with any written purchase order or acknowledgement issued or signed by EVERIGHT POSITION constitute the full, entire and integrated agreement between EVERIGHT POSITION and BUYER (together, the "Agreement") and supersede all prior negotiations, correspondence, understandings and agreements between EVERIGHT POSITION and BUYER. These Terms supersede any additional, conflicting or different terms contained in BUYER's purchase order, request for proposal, document or other written communication from BUYER, which terms shall not be binding on EVERIGHT POSITION (despite any failure to object to such additional, conflicting or different terms) unless EVERIGHT POSITION expressly consents to such terms in writing.

18. Waiver. The failure or delay of EVERIGHT POSITION or BUYER in exercising any right, power or privilege under these Terms shall not operate as a waiver nor preclude any other or further exercise of



such right, power or privilege. No waiver of any provision of these Terms shall be valid unless in writing and signed by the party granting such waiver, and no such waiver shall be deemed a waiver of any subsequent breach of the same or similar nature.

19. Headings. The headings contained in these Terms are for reference purposes only and shall not affect in any way the meaning or interpretation of these Terms.

20. Severability. If any provision of the Agreement is held by a court of competent jurisdiction or found by an arbitrator to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of the Agreement, and the Agreement shall be construed by limiting or invalidating such provision to the minimum extent necessary to make such provision valid, legal and enforceable.

21. Governing Law. The Agreement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Pennsylvania without regard to its principles of conflicts of laws.

22. Dispute Resolution. All disputes or claims relating to, arising out of or in connection with the Agreement shall be resolved by arbitration located in Pennsylvania, by a single arbitrator, under the Commercial Arbitration Rules of the American Arbitration Association then in effect. The official language of the arbitration shall be English. BUYER irrevocably and unconditionally (a) waives any objection to the laying of venue of any such arbitration, (b) irrevocably submits to the jurisdiction of any such arbitration, and (c) agrees to be bound by the award of such arbitration. BUYER EXPRESSLY WAIVES ANY RIGHTS THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION RELATING TO OR ARISING IN ANY WAY FROM THE AGREEMENT. Each party agrees that an award in any arbitration proceeding brought hereunder shall be binding and may be entered in any court having jurisdiction or enforced in any other manner provided by law or at equity. If a party is required to enforce the arbitration award in court, the prevailing party in such court proceeding shall be entitled to recover its reasonable expenses, attorneys' fees and costs incurred in such enforcement.