

## GENERAL TERMS AND CONDITIONS OF SALE N° 2009/01 AS AT 1 MAY 2009

### WHEREAS :

**0.1** The customer states that it has taken note of these terms and conditions of sale prior to entering into the agreement with Presta Service, and, in all circumstances, prior to placing work orders with Presta Service.

The conclusion of an agreement with Presta Service and the placing of orders constitutes unconditional acceptance of these general terms and conditions by the customer.

**0.2** Pursuant to Article L.441-6 of the French Commercial Code, these general terms and conditions are systematically provided to all customers who request them, to enable them to place orders.

They may also be found on the website [www.presta-service.fr](http://www.presta-service.fr).

Presta Service reserves the right to amend them, at any time, subject to displaying the amendments on its website.

**0.3** These general terms and conditions of sale automatically apply to all orders for products and/or services placed with Presta Service.

They apply regardless of the customer's nationality, its place of establishment or the place of supply or performance of the service.

They apply save where explicitly provided otherwise by Presta Service in writing.

On the same basis, these general terms and conditions take precedence over the provisions contained in the customer's own documents, in particular its general terms and conditions of purchase and sale.

### CLAUSE 1 : ORDERS

#### **1.1 Contractual framework**

The customer has entered into one of the following four agreements with Presta Service:

General maintenance agreement,  
Remedial maintenance agreement,  
Preventive and remedial maintenance agreement,  
Metal shutters inspection agreement.

The customer may place orders for works or services with Presta Service pursuant to these agreements.

## **1.2 Cancellation of orders:**

All orders are irrevocable and final. Save where expressly otherwise agreed by Presta Service, orders may not be amended or cancelled in whole or in part.

In the event that Presta Service agrees to an order being cancelled, all amounts paid by the customer to Presta Service shall be retained by Presta Service.

The customer shall also be required to pay Presta Service for the cost of supplies that have been specifically purchased or have already been used in executing the order.

Presta Service reserves the right to cancel, suspend or to choose not to process a customer's order where that customer has failed to pay a previous invoice on time and/or has previously breached any of its obligations towards Presta Service.

## **1.3 Quotation:**

The customer may not require Presta Service to produce a quotation for any works or services order of a value of less than €300 excluding VAT.

Where a quotation is produced for amounts higher than €300, any response times specified in the agreement between Presta Service and the customer shall only begin to run once the customer has returned its written acceptance of the quotation.

Works for which quotations are provided shall only be commenced once they have been validated by the customer.

## **1.4 Deposit:**

Save where otherwise agreed, a deposit equal to 30% of the value of the order shall be payable in respect of any order with a value of more than €8,000 excluding VAT.

If a customer has failed to pay a previous invoice on time and/or previously breached any of its obligations towards Presta Service, Presta Service also reserves the right, at any time, to ask that customer to pay a deposit or make a cash payment before execution of the order.

In those circumstances, any response times specified in the agreement between Presta Service and the customer shall only begin to run once the customer has paid the deposit.

If the customer fails to pay the deposit, Presta Service shall not be required to supply the services ordered by the customer.

Any advance paid on the price shall not bear interest, even where it is held for more than three months, since orders are not subject to the provisions of Articles L.131-1 et seq. of the French Consumer Code.

Sums paid in advance shall in no event be deemed to be non-refundable deposits that entitle the customer to cancel the order.

## CLAUSE 2 : DELIVERY DEADLINES

Services ordered by the customer shall be delivered by Presta Service within the deadline specified in the agreement or agreed with the customer.

This deadline shall begin to run on receipt of the customer's order, the payment of the deposit or the acceptance of the quotation on the terms set out in Articles 1.3 and 1.4 of these general terms and conditions.

These deadlines are not of the essence.

As such, Presta Service shall not be liable to a customer for a delay in delivering the services ordered by the customer, where, in respect of services classified as "urgent", that delay does not exceed one week and, in respect of services classified as "normal", that delay does not exceed two weeks, as those terms are defined in the agreement between the customer and Presta Service.

The customer may cancel the order where the delay exceeds the periods set out above. In such circumstances, any deposit already paid by the customer shall be returned by Presta Service.

In no event shall Presta Service be held liable for delays caused by suppliers, sub-contractors or service providers who have been chosen or imposed on Presta Service by the customer.

## CLAUSE 3 : PAYMENT OF THE PRICE

**3.1** Invoices shall be payable in cash and without any discount, save where otherwise agreed.

They shall be payable within 30 days of the date on which the invoice is issued, regardless of the payment method, save where otherwise agreed at the time the order is placed.

No discount shall be applied by Presta Service for payments made prior to the date falling 30 days after the date on which the invoice is issued.

**3.2** Invoices shall be payable to Presta Service's registered office, Zone Industrielle La Vernangère, 208 rue de l'industrie 01390 Saint André de Corcy (France).

Payment shall not be deemed to have been made on the delivery of a bill of exchange or a cheque representing an obligation to pay, but shall require actual payment by the due date.

### 3.3 Currency, duties and taxes:

The prices of Presta Service's products, services and subscriptions are expressed in euros, excluding tax and delivery costs (where products are to be delivered).

Any tax, duty, levy or other charge payable under French regulations or those chargeable by an importing or transit country shall be borne by the customer.

Invoices shall be paid in euros.

### 3.4 Disputed invoices:

Any invoice that is not disputed within **one month** of the date on which it is received shall be deemed to have been unconditionally accepted.

Once that period has passed, invoices may no longer be disputed for any reason whatsoever.

### 3.5 Late payment:

Late payment shall, where the amount remains unpaid **fifteen days** after the delivery of formal notice, give rise to a penalty calculated by applying the statutory rate of interest increased by ten percentage points to the VAT-inclusive amount owed by the customer.

In no event shall this increased interest rate be lower than twice the statutory rate of interest.

This enhanced interest shall begin to run on the 31st day following the date on which the invoice is issued and shall cease to run when Presta Service receives payment in full, provided that any part month shall be treated as a whole month.

Any delay by the customer in paying an invoice by its due date shall, without the need for Presta Service to give prior notice or carry out any other formality, cause all amounts owed by the customer to Presta Service to become immediately payable and shall suspend any orders in progress, without prejudice to any other claims that may be brought.

Presta Service also reserves the right to cancel the supply of services ordered by the customer.

## **CLAUSE 4 : FORCE MAJEURE**

### 4.1 Definition:

The following constitute force majeure events: fires, floods, riots, demonstrations, assemblies, terrorist attacks, damage to equipment, wars, strikes (whether total or partial), lock-outs at Presta Service's or its suppliers', sub-contractors' or carriers' factories.

## 4.2 Consequences:

On the occurrence of a force majeure event, all obligations of Presta Service shall be suspended and it shall not be held liable for any reason whatsoever.

Delivery deadlines shall be extended by one month.

Once that period has passed, either party may cancel the delayed order but may not request damages from the other party.

## CLAUSE 5 : CLAIMS

### 5.1 Deadlines

In the event of non-performance, apparent defects or non-conformity of the delivered product and/or the service supplied, the customer shall notify such failings by registered letter (signed for) to Presta Service's registered office within **fifteen days** of receipt of the product and/or completion of the works. If it fails to make a claim within this period, its claim shall be time-barred.

In respect of latent defects, the customer shall notify Presta Service in writing of such defects within **one month** of discovering them. If it fails to do so, it shall lose its right to make a claim in respect of that defect.

Once these periods have passed, the purchase shall no longer be entitled to make any claim or compliant against Presta Service in respect of the products and/or services supplied.

**5.2** Where a claim is made, the customer shall provide evidence of the existence and materiality of the defect, the poor execution of services, missing items and/or non-conformity.

The customer shall take appropriate steps to preserve the delivered goods and supplied services so that Presta Service is able to take note of the defects and involve the suppliers or sub-contractors that supplied the defective goods or service.

Save where otherwise agreed in writing by Presta Service, the purchaser shall not take any action itself or involve a third party in repairing the reported defect or non-conformity.

## CLAUSE 6 : LIMITATIONS AND EXCLUSIONS OF LIABILITY

**6.1** Where it is liable for non-performance, apparent defects, latent defects or non-conformities, Presta Service undertakes, at its discretion:

Either to replace the defective parts or arrange for them to be replaced, to resupply the defective service or arrange for it to be resupplied,

Or to reimburse the customer for the amount of the invoice issued in respect of the defective parts and services,

But it shall not be liable for any damages resulting from losses of any nature (personal injury, property damage, material and non-material damages, whether direct or indirect) caused to the customer by the non-performance, apparent defects, latent defects or non-conformities.

**6.2** Presta Service shall not be held liable for damage of any nature resulting from a failure to maintain and/or monitor a product, from products being used in a manner that is not in accordance with technical specifications, from improper use, from the inexperience of users, from misconduct or accidental damage to equipment or from defects arising as a result of normal wear and tear to equipment.

**6.3** Presta Service shall also not be held liable where the equipment is modified by the customer and those modifications are not approved in writing, and where the product has been worked on by an unapproved third party.

**6.4** Lastly, Presta Service shall not be held liable for the choice of products and equipment made by the customer.

## CLAUSE 7 : JURIDICTION

Any dispute or disagreement that may arise between Presta Service and the customer shall be heard exclusively by the Commercial Court of Bourg-en-Bresse (Ain - France), including in the event of urgent proceedings, third party proceedings or where there are multiple defendants.

## CLAUSE 8 : LANGUAGE AND GOVERNING LAW

**8.1** Any disputes that may arise between Presta Service and the customer shall be subject to French law.

**8.2** French shall be the language used in the dealings between Presta Service and the customer.

## CLAUSE 9 : INVALIDITY

The invalidity of any of the provisions of these general terms and conditions shall not invalidate the remaining provisions of these general terms and conditions of sale.