

# General Terms and Conditions of Business of Preston sp. z o.o. with the registered office in Dąbrowa

- as of 13 September 2016 -

## 1. General Provisions - Scope of Application

- 1.1. These General Terms and Conditions of Business ("GTC") shall apply to any trade contract, in particular sales and delivery contracts entered into between Preston sp. z o.o. ("Seller") and their business partner ("Buyer"), even if a specific contract, order, offer, statement of order confirmation, etc. does not include any direct reference to the GTC.
- 1.2. The GTC shall apply on an exclusivity basis, in particular meaning that the contractual templates used by the Buyer, in particular any general terms and conditions of contract, shall not form a part of the terms of any contract entered into between the Seller and the Buyer (such contract being effective only with the application of the GTC) unless the Seller gives written (or else considered invalid) consent to the application, either in whole or in part, of the contractual templates used by the Buyer.
- 1.3. The GTC shall form an integral part of each order, offer, price list of the Seller, as well as sales or delivery contract entered into with the Buyer. The starting of cooperation with the Buyer on the sale or delivery of goods shall be tantamount to the acceptance of the provisions of the GTC.
- 1.4. The GTC shall apply even if the Seller, being aware of any incompatibility of or discrepancy between the GTC and the contractual template used by the Buyer, undertakes to execute a given order without further reservations.
- 1.5. The provisions of the GTC shall not exclude or limit any rights enjoyed by the Seller under the applicable provisions of law governing any issues not covered by the GTC.
- 1.6. The GTC shall also apply accordingly to any services provided by the Seller.
- 1.7. Any change or exclusion of individual provisions of the GTC shall be subject to prior written consent of the Seller or else shall be considered invalid.

## 2. Entering into Contract

- 2.1. A specific contract shall be entered into as a result of acceptance by the Seller of an order placed by the Buyer ("Order").
- 2.2. The Order may be submitted in a written form to the address of the Seller's registered office or by email to the address of the Account Manager.
- 2.3. For its effectiveness, the Order must specify at least both type and quantity of the ordered goods and their unit prices. It shall not be required to specify unit prices of the goods in the Order if the Buyer has earlier received from the Seller either a price list of the goods or an individual price offer which shall then apply. If the price specified in the Order differs from the one in the price list of the goods or the Seller's price offer, submitted to the Buyer prior to the placement of the Order, the price specified in the price list of the goods or the Seller's price offer shall apply, unless in the statement of Order confirmation the Seller expressly confirms that the prices specified in the Order should apply in that particular case.
- 2.4. Each Order shall remain valid for 3 business days (Monday through Friday, except for statutory holidays in the territory of the Republic of Poland):
  - a) from the Order placement date, provided there is an existing Production File, referred to in Clause 3 of the GTC, for the goods included in the Order;
  - b) from the date of acceptance of the Production File by the Buyer, pursuant to the procedure stipulated in Clause 3 of the GTC.
- 2.5. The Order shall become accepted on the basis of an unreserved statement by the Seller of Order acceptance and confirmation of the Order completion date, made during the Order validity period (hereinafter: "Order Acceptance Confirmation" or "OAC"). The failure of the Seller to respond during the Order validity period shall be deemed a refusal to accept the Order for execution. The provisions of Article 68z and Article 69 of the Civil Code shall not apply.
- 2.6. The binding date for Order completion shall be the date stipulated by the Seller in the OAC, unless the Seller has not set any specific date for Order completion in the OAC - in such a case, the date for delivery completion specified in the Order shall be binding.
- 2.7. Should the Seller accept the Order with reservations (changes or supplementations), the Buyer shall be bound by the modified terms of the Order proposed by the Seller unless they submit, within 2 days, a statement of refusal to accept the modified terms of the Order in the manner stipulated in Subclause 2.2 above.
- 2.8. The Buyer may cancel the placed Order or change its parameters only with the consent of the Seller, given in writing or by e-mail, or else such consent shall be considered invalid.
- 2.9. A contract - the provisions of which shall be governed each time by the provisions of the following documents and in the following order of priority: the Order Acceptance Confirmation, the GTC, the price list of the goods or the Seller's price offer and the Order - shall be entered into between the Parties thereto: (i) in the case referred to in Sub-clause 2.5 above - upon the submission of the OAC to the Buyer with the terms corresponding to the terms of the Order, or (ii) in the case referred to in Sub-clause 2.7 above - upon the expiry of 2 days from the acceptance by the Seller of the Order with reservations (modifications).
- 2.10. The deadline for completion of a given Order shall run from the first business day following the date of the contract, determined pursuant to the provisions of Sub-clause 2.9 above, provided that the Buyer has sent their acceptance of the Production File in accordance with Clause 3 hereof, and submitted all the data, drawings, specifications required to properly execute the Order, and replied to the Seller's questions, and paid an advance for goods, as long as such advance results from the GTC or has been agreed.
- 2.11. The payment of the price of the first three Orders ("Prepaid Orders") placed by the Buyer shall be made following the receipt by the Buyer of notification of readiness for shipment of the goods covered by the Order, unless the Parties decide otherwise. The goods covered by the first three Orders placed by the Buyer shall be shipped within 2 business days from the date of receipt by the Seller of the whole price of the goods included in the Order. Subject to the provisions of Sub-clause 2.12, the payment terms for the subsequent Orders shall be specified in the Order or the OAC; however, the payment of the price of any Order within the scope exceeding the total net value of the Prepaid Orders shall be made according to the rules stipulated for the Prepaid Orders.
- 2.12. In the event of delay in payment of any amount due to the Seller, exceeding 10 days, the next three Orders shall be settled between the Parties according to the rules stipulated for the Prepaid Orders.
- 2.13. For technical reasons, the Seller may exceed the Order quantity, but by no more than 5% of the original quantity. For the same reasons, the Seller may deliver smaller quantity of

goods, but maximum by 2% of the original quantity. The Buyer shall not have any rights or claims in the case of delivery of the increased or reduced quantity of goods in accordance with this Sub-clause. Any Order executed within the quantity limits stipulated herein shall be considered properly executed in accordance with the concluded contract.

## 3. Product Characteristics

- 3.1. The goods supplied by the Seller shall conform to the guidelines defined in the Production File prepared by the Seller based on any technical specifications, instructions, parameters, graphic designs, drawings, etc., received from the Buyer before the commencement of production of the goods.
- 3.2. The Production File shall be prepared by the Seller based on the data and information received from the Buyer, but within the scope allowing its proper application in the production process.
- 3.3. The Production File prepared by the Seller shall require the Buyer's acceptance given by putting signature on the Production File (electronic signature is also acceptable), while specifying the date of such signature, or by sending a relevant e-mail to the address of the Account Manager.
- 3.4. In the production process, the Seller shall be only bound by the specifications, parameters, drawings, graphic designs, etc., included in the Production File accepted by the Buyer. The production of the goods in accordance with the guidelines included in the Production File accepted by the Buyer shall be tantamount to the proper execution of the Order (contract), even if the goods do not meet all the initial parameters, provided by the Buyer prior to the preparation of the Production File.
- 3.5. The Seller shall attach attestations and certificates concerning the goods (materials used, semi-finished products) to the delivery documents only if such requirement results from the Order, as long as such attestations and certificates are issued within the scope stipulated in the Order.
- 3.6. Any information concerning the goods offered by the Seller (e.g. weight, dimensions, functional properties, technological data) as well as photos, illustrations of any type, including the aforementioned information, in particular any information included in brochures, catalogues, advertising materials, certificates, etc., shall not be (shall not constitute) any guarantee on the part of the Seller as to the condition, quality or durability of such goods. The data, referred to herein, are indicative and shall apply only within the scope accepted by the both Parties.
- 3.7. Samples of the goods distributed by the Seller are only test samples and their provision to the Buyer shall not be (shall not constitute) any guarantee on the part of the Seller as to the condition, quality or durability of the final goods.

## 4. Price

- 4.1. Unless agreed otherwise, the price binding between the Parties shall be the one according to the following order of priority: (i) the price specified in the OAC; or (ii) the price resulting from the price list of the goods or the Seller's price offer, currently binding upon the Parties, if no price has been specified in the OAC; or (iii) if there is no price list of the goods and no Seller's price offer: the price set in the Order, as long as the correctness of the price set therein is confirmed in the OAC.
- 4.2. The prices of the goods shall be ex works of the Seller. Unless agreed otherwise, the prices shall not include the costs of non-standard packaging of the goods, costs of transport, public levies, including customs duties and goods and services tax (VAT). VAT shall be calculated and shown separately in the invoice at the rate prevailing as of the invoice issuance date. Should the execution of a given Order require the preparation of new tools (matrices, plates, dies, press tools, polymers, etc.) the price payable to the Seller for the execution of such Order shall be increased by the cost related to the preparation of those elements by the Seller.
- 4.3. If, in the period between the entering into a given sales or delivery contract and the delivery of the ordered goods, there is any cost increase for which the Seller is not liable and which could not have been foreseen by the Seller as of the date of such contract, in particular if such an increase is based on the increase in market prices, prices of materials, semi-finished products, meaning that the Seller may purchase such products on less favourable terms than those assumed upon entering into the contract with the Buyer, the Seller shall be entitled to change the agreed price unilaterally, but only by the value corresponding to the increase in the planned costs, without the possibility of adding any extra profit margin.
- 4.4. The provisions of Sub-clause 4.3 above shall apply only if pursuant to the contract the goods are to be supplied within a period of not less than 45 days from the date of the contract.
- 4.5. If the price increase, effected based on the provisions of Sub-clause 4.3 above, exceeds 10% of the initially agreed price the Buyer may cancel a given Order; however, a notice of cancellation must be given within 14 days from the date of notifying the Buyer about the increase in the originally agreed price.
- 4.6. Apart from the payment of the price, the Buyer shall also pay any potential costs of non-standard packaging, transport, loading and unloading as well as insurance of the goods in transit, unless the parties to a contract decide otherwise.
- 4.7. If the price of a given Order is determined in a currency other than Polish zloty (PLN), the Seller reserves the right to adjust it if the exchange rate changes for more than 10%. In such a case, the average exchange rate of the National Bank of Poland as of the date of submission of the Order Acceptance Confirmation shall serve as a reference point.
- 4.8. If, after the entering into a sales or delivery contract, the Seller becomes aware of any circumstances that could affect the Buyer's creditworthiness, as a result of which the payment of the price of the ordered goods would be doubtful, the Seller may refrain from delivering the goods until the Buyer makes an advance payment of the whole price of the ordered goods or provides an adequate security for payment of such price.

## 5. Terms of Payment

- 5.1. Unless agreed otherwise in writing (or else considered invalid), any payments to the Seller shall be made by the due dates specified in the Seller's invoices, without the possibility of making any deductions or setting off any sums.
- 5.2. Should the price not be paid on time, the Seller shall be entitled to suspend any subsequent supplies of the goods unless all the outstanding liabilities, including interest, are paid

- by the Buyer. In such a case, the period for execution of the subsequent deliveries shall be extended by the period of delay in the price payment by the Buyer. In the case where the suspension of deliveries or the extension of their execution period result from the reasons stipulated herein, the Buyer shall not have any claims against the Seller related to the suspension or extension of the period for such delivery execution.
- 5.3. Any payment shall be made by transfer to the bank account of the Seller specified in the invoice. The payment to any account of the Seller other than the one specified in the invoice, resulting in extra costs for the Seller, shall oblige the Buyer to reimburse such extra costs.
- 5.4. With no need for submitting any other statements to that effect, the Seller shall be entitled to apply the received payment towards the oldest outstanding debts. If any costs or interest related to the delay in payment of the price of the goods ordered by the Buyer have already been incurred, the Seller shall be entitled – with no need for submitting any other statements to that effect – to apply the received payment in the first place towards such costs, next towards the interest and, finally, towards the principal amount due.
- 5.5. The date of crediting the relevant amount to the bank account of the Seller shall be considered the payment date.

## 6. Delivery Terms

- 6.1. Unless decided otherwise, deliveries shall be performed ex works of the Seller, where the obligations of the Seller shall include also the loading of goods to the means of transport.
- 6.2. The risk of accidental loss of or damage to the goods shall pass to the Buyer upon release of the goods to the Buyer at the latest, unless it is agreed that the goods are to be shipped and in such a case the risk shall pass to the Buyer already upon release of the goods to the carrier or any other person entrusted with the delivery of such goods. The provisions of this Clause shall also apply to partial deliveries, or if the shipment is transported on the "carriage paid" basis, or if it is agreed that the delivery of the goods is free of charge.
- 6.3. If there are no arrangements or instructions from the Buyer, the Seller shall choose the carrier and the route at their own discretion.
- 6.4. Only at the request and expense of the Buyer, the Seller shall take out a policy of goods (cargo) in transit insurance against any risks specified by the Buyer.
- 6.5. Any costs related to the securing, freight, unloading and insurance of the goods in transit shall be charged to the Buyer, unless the Parties agree otherwise.
- 6.6. The deadlines for delivery may be extended by the duration of any obstacle, provided that the delay results from any circumstances not attributable to the Seller, in particular including any action or omission of the Buyer, in particular any modification made by the Buyer to the specifications or design for the production of the goods or the failure to provide any information or materials to the Seller, in particular the accepted production files required to execute the Order.
- 6.7. The failure to meet the delivery deadline shall entitle the Buyer to exercise their statutory rights only if, despite setting by them an extra time limit for the delivery completion, the Seller still fails to execute such delivery.
- 6.8. All the burdens and risks related to the possession and use of the purchased goods shall also pass to the Buyer upon the moment specified under Sub-clause 6.2 above.
- 6.9. The Seller reserves the right to make deliveries earlier than on the dates specified in the concluded contract and to make partial deliveries.
- 6.10. Should the Buyer fail to accept the goods, the Buyer shall pay the full costs of storage of such unaccepted goods and the costs of their delivery to the storage place. Should the Buyer fail to accept the goods released by the Seller for a period exceeding 30 days from their release date, the Seller may dispose of the unaccepted goods on behalf and at the expense of the Buyer, which shall not override the Buyer's obligation to pay the full price of the goods. The costs of storage or disposal of the goods shall be paid by the Buyer to the Seller within 7 days from the date of receipt by the Buyer of the relevant request for payment.
- 6.11. The materials used by the Seller for standard packaging shall be considered included in the Seller's own costs and shall not be subject to reimbursement, except for Euro pallets, the value of which is added each time to the Order value.
- 6.12. The goods supplied by the Seller should be stored in dry, roofed and well-ventilated rooms, providing protection against direct sunlight and other adverse weather conditions.

## 7. Complaints

- 7.1. While accepting the goods, the Buyer shall inspect the quantity and quality of collective packaging of the goods and to draw up a complaint report if any shortage in quantity or damage to the collective packaging is identified.
- 7.2. If the goods have been delivered through the agency of a forwarding agent and upon their acceptance the Buyer has identified any shortages in quantity or damages to the collective packaging, the Buyer shall demand from the forwarding agent to verify the number of collective packs of the goods, and draw up, in the presence of the forwarding agent, a complaint report, including photo documentation of such damaged collective packaging (packs or pallets), or else such acceptance of the goods shall be considered completed without any reservations. In the case of any shortage in quantity the report must specify the difference between the actual state and the documentation concerning a given Order, e.g. delivery note (WZ) and CMR.
- 7.3. The Buyer shall report any shortage in quantity or damage to the collective packaging immediately upon receipt of the goods, but no later than on the next business day following the acceptance date, or else they shall lose the right to make any reservations about it at a later time.
- 7.4. Within 7 days from the acceptance of the goods the Buyer shall verify in detail the quantity and quality of the goods in the collective packaging. If any shortage in quantity or quality defects of the goods are identified, the Buyer shall draw up a complaint report and notify their reservations to the Seller within 7 days from the date of identification of such shortages or defects, or else they shall lose the right to make any reservations about it at a later time.
- 7.5. The defects should be reported in writing or by e-mail to the following e-mail address: reklamacje@preston.pl and to the e-mail address of the Account Manager. Upon notification of the defects, the Buyer shall attach the complaint report, specifying in particular the Order number, date of receipt of the goods and identification of the shortages or defects of the goods, as well as detailed description thereof.
- 7.6. The fact of lodging a complaint shall not release the Buyer from the obligation to pay the price on the agreed due date.
- 7.7. The Seller shall handle the complaint within 14 days from its correct lodgement.
- 7.8. At the request of the Seller, the Buyer shall send the goods under complaint to enable their visual inspection and proper handling of the complaint. Any costs related to the visual inspection and handling of the complaint (analyses, expert opinions, etc.) shall be borne by

the Seller only if the claimed goods turn out to actually be defective. In any other case, the costs shall be charged to the Buyer.

- 7.9. If the complaint is found justified in the case of:
- any shortage in quantity of the goods – the Seller shall be obliged, at their own option, to replenish the missing quantity of the goods or to reduce the price of the goods by issuing a relevant correcting invoice within 21 days from the date on which the complaint has been found justified,
  - any quality defect in the goods – the Seller shall be obliged, at their own option, to supply new, defect-free goods or to reduce the price of the goods by issuing a relevant correcting invoice within 21 days from the date on which the complaint has been found justified.
- 7.10. The rights under statutory warranty for physical defects in goods, referred to herein, shall expire after a year from the day on which the goods have been released to the Buyer.
- 7.11. Subject to the foregoing, the Parties shall exclude the liability of the Seller on account of statutory warranty for physical defects in the goods. Article 609 of the Civil Code shall not apply.
- 7.12. The Seller's liability for defects in the goods shall be excluded in the case when the Buyer has taken – either on their own or through third parties – any actions aimed at removing the identified defects. The same shall apply in the case of any modifications in the goods, made by the Buyer or third parties without prior written (or else considered invalid) consent of the Seller.
- 7.13. The Seller shall not be liable for any defects resulting from the improper storage of the goods.

## 8. Scope of Liability

- 8.1. The aggregate liability of the Seller for all and any damages caused to the Buyer in connection with the failure to perform or improper performance of a given contract, in particular a goods delivery or sales contract, shall be limited to direct losses (with the exclusion of any lost profits) and to the maximum amount being an equivalent of the total net price payable to the Seller for the performance of the given delivery or sales contract or to the net remuneration for the service provided.
- 8.2. The limitation of liability, referred to in Sub-clause 8.1 above, shall not apply to any damage intentionally caused to the Buyer by the Seller.

## 9. Intellectual Property Rights

- 9.1. If the products, goods, etc. supplied by the Seller include (incorporate) any intellectual property rights, the transfer of such rights to the Buyer shall require the conclusion by the Parties of a relevant agreement transferring the rights to the Buyer or a relevant licence agreement, which shall govern – exclusively and independently of the GTC – any issues relating to the possibility of using the intellectual property rights by the Buyer. The GTC shall not confer upon the Buyer any rights or licences to any intellectual property rights of the Seller.

## 10. Final Provisions

- 10.1. The assignment by the Buyer of any rights or obligations to any third party shall require prior written (or else considered invalid) consent of the Seller.
- 10.2. Subject to the following sentence, any disputes arising from or related to trade relations between the Seller and the Buyer shall be finally resolved by the common court competent for the registered office of the Seller. The Seller shall be entitled to refer any matter concerning claims against the Buyer also to the court competent for the registered office of the Buyer or any other court the competence of which is permitted under the applicable provisions of law.
- 10.3. The legal relations between the Seller and the Buyer shall be governed by the laws of Poland. The application of the Convention on Contracts for the International Sale of Goods shall be excluded in its entirety.
- 10.4. By accepting the GTC, the Buyer consents to their personal data being processed by the Seller for the purpose of proper performance of any contract concluded by the Parties, in particular any goods delivery or sales contract. The Buyer shall exercise all the rights under the provisions of the Act of 29 August 1997 on Personal Data Protection (Journal of Laws of 2016 item 922), and in particular the right to request to supplement, update or correct personal data and to get access to their own personal data.
- 10.5. If any of the provisions of the GTC is or becomes unlawful, invalid or ineffective in any respect in accordance with the applicable laws of any jurisdiction, such irregularity shall neither affect nor limit: (i) the lawfulness, validity and effectiveness in such jurisdiction of the remaining provisions of the GTC; and (ii) the lawfulness, validity and effectiveness of any provisions of the GTC in accordance with the laws of other jurisdictions.
- 10.6. In the case of any issues not governed by the provisions of the GTC the provisions of the laws of Poland, and in particular of the Civil Code and of the Act on Payment Terms in Trade Transactions, shall apply accordingly.
- 10.7. By accepting these GTC, the Buyer hereby authorises the Seller to disclose the business name (trade name) of the Buyer for marketing purposes; however, such disclosure shall be limited only to the information that the Seller cooperates/has cooperated with the Buyer within the scope of supply of the Seller's goods to the Buyer.
- 10.8. The Seller reserves the right to amend the GTC. Any amendments to the GTC made by the Seller shall not require consent of the Buyer. Any amendments to the GTC shall become legally effective from the moment of submitting them to the Buyer or making them available to the Buyer before entering into a given contract in such a manner that the Buyer is able to store and reproduce the amended GTC in the ordinary course of activities. The up-to-date GTC shall be also published on the website of the Seller, i.e. at [www.preston.pl](http://www.preston.pl), with the possibility of downloading a relevant file. The legal relations between the Seller and the Buyer, existing prior to the entry into force of any amendments to the GTC, shall be governed by the previously valid provisions of the GTC.