

## TERMS AND CONDITIONS OF USE OF PRESTASHOP DOWNLOAD

### PRÉAMBULE

PrestaShop S.A is the designer and publisher of an open source software solution (the “**Solution**”) distributed under the Open Software License (OSL v 3.0), which enables its users to quickly and easily create e-commerce websites. By downloading the Solution, users of this Solution (the “**User**”) agree to the terms of use for this license.

These general terms and conditions of use (the “**T&Cs**”) apply to the PrestaShop e-commerce Solution in all its versions, which enables User to quickly and easily create e-commerce websites for selling goods and services online.

These T&Cs are available in French and other languages.

However, in the event of inconsistencies or contradictions between the French version and translations of this document, the French version prevails.

Together with the **Personal Data Protection Policy**, these constitute the whole terms and conditions of use.

### **1. Acceptance of Terms and Conditions – What should I know and accept before using PrestaShop ?**

The use of PrestaShop in its downloadable version (“**PrestaShop Download**”) is subject to the T&Cs that PrestaShop reserves the right to unilaterally change at any time.

The modifications shall become effective and are applicable as from their publication on the

website [www.prestashop.com](http://www.prestashop.com), and to the acceptance of the Personal Data Protection Policy.

User is deemed to have fully and unconditionally agreed to these T&Cs and the Policy when he ticks the “I have read and agree to the T&Cs and the Personal Data Protection Policy” box before starting to download PrestaShop Download.

If this box is not ticked, User cannot download PrestaShop Download and therefore cannot create an e-commerce website (the “**Merchant Website**”).

User is informed that the use of PrestaShop Download is exclusively reserved for professionals, adults or emancipated (within the meaning of consumer law), and declare that he is acting in this capacity.

This declaration is crucial for contracting with PrestaShop, PrestaShop Download having been established in accordance with the exclusions and limitations of liability provided for in these T&Cs.

As a professional acting for purposes that fall within his commercial, industrial, artisanal or self-employed activity, the User acknowledges that he does not have the right of withdrawal which is for the sole benefit of the consumers within the meaning of the French Consumer Code. The User acknowledges that he does not benefit from an option to withdraw on the digital content downloaded as soon as the download has started, according to article L121-28 of the French Consumer Code.



## 2. Downloading the Solution – How can I access PrestaShop ?

Downloading PrestaShop Download is free of charge and requires the creation of an identifier, following the procedure that is indicated for this purpose on [www.prestashop.com](http://www.prestashop.com).

PrestaShop is subject to an obligation of means regarding the provision of PrestaShop Download.

PrestaShop shall make its best efforts to ensure that the download of PrestaShop Download is available 24 hours a day, 7 days a week, without interruption other than that required for progressive and corrective maintenance.

PrestaShop declines any liability whatsoever and shall not bear any obligation to indemnify in case of dysfunction or non-function of the Solution due to lack of Internet connexion or inadequacy of the User's equipment.

## 3. Scope of the Solution and personalisation the Merchant Website – How can I use PrestaShop?

The Solution's scope is exclusively technical in nature. It allows User to create a Merchant Website operated by the User for the purposes of his online business activity.

The Merchant Website can be personalised by installing Modules and Themes offered on the official marketplace, which can be accessed at <http://addons.prestashop.com> ("PrestaShop Addons") or displayed by default in the Merchant Website Back Office.

Some PrestaShop official Partners identified as such on PrestaShop Addons (the "Partners") offer third party services that can be used by User who, when required, download the interface giving access to those services (the "Connectors") on PrestaShop Addons or directly via their Back-Office.

In all cases, the User remains responsible for installing and configuring Modules, Themes and Connectors.

As part of using the Solution, no technical assistance is provided or guaranteed to the User. However, the User may purchase technical assistance offered by PrestaShop via PrestaShop Addons.

By using PrestaShop Addons, the User must create an account and fully and unconditionally agree to the PrestaShop Addons Terms and Conditions, via a checkbox.

It is the User responsibility to manage the sale, logistic, marketing and finances of the future Merchant Website, towards which PrestaShop remains separate.

PrestaShop does not provide any commitments or warranties regarding, in particular :

- The Merchant Website's suitability of the User's needs;
- The performance of the Merchant Website in search engine rankings;
- Obtaining a minimum number of visits to the Merchant Website;
- The profitability of the Merchant Website;
- The lack of errors or anomalies on the Merchant Website.

Under no circumstances may PrestaShop be held liable for direct and/or indirect damages relating to downloading the Connector(s) and using Partner services.

## 4. User commitments – How can I use PrestaShop ?

- Faithful and appropriate use of the Solution



The Solution can be used to create and operate a Merchant Website that respects public order and morality.

The User commits to respect the current legislation and regulations that apply to its website and to the customers to whom the website is accessible.

The User undertakes to use the Solution according to the usual standards of the profession and, where applicable, to respect the provisions governing relations between professionals and consumers in a remote sales activity of a B to C nature.

- User's obligation to inform

The User commits to immediately inform PrestaShop, in any way (i) of any counterfeit use of the Solution, or use that is liable to be considered as such, of which they may become aware and (ii) of any loss or destruction of data and errors in the Solution, even if it does not inhibit activity.

- Liability for using the Solution

The User shall be solely responsible for the compliance of his Merchant Website with applicable regulation.

The User agrees to comply with the legislation regarding personal data protection, sending emails and spamming, namely the French Data Protection Act no. 78-17 of 6 January 1978 and its amendments, and the European General Data Protection Regulation (the "GDPR") no. 2016/679 on personal data protection.

As such, User **agrees to, but are not limited to**, the following:

- Informing customers of its Merchant Website of cookies or any other kind of tracer being recorded on their terminal and, if necessary, obtain their consent.

- Informing customers of his Merchant Website about how their personal data will be used, set

up technical and organisational data protection measures and comply with opt-in mechanisms relating to commercial solicitation emails.

For more information about the obligations set out in the GDPR, User is invited to read the text available [here](#).

The User assumes complete responsibility for all damages that may arise from the utilisation of the Solution and his Merchant Website.

The User is responsible for all operations performed by themselves or a third party that they have mandated when using the Solution.

The User assumes complete responsibility for the content of the Merchant Website, his business practices and the commercial relationship they maintain with his customers.

PrestaShop is not party to contracts for sales or service provision contracted between the User and its customers via its Merchant Website.

As PrestaShop does not intervene in the contractual relationships between the User and its customers, PrestaShop declines any involvement in any commercial dispute that may arise between the User and its contracting parties. As a consequence, PrestaShop, in any case, shall not be responsible for the failure of the User in the scope of offering, selling, or delivering its products or services.

Except for fraud or willful misconduct, PrestaShop's liability may not be sought for any type of damages, either directly or indirectly.

PrestaShop declines any liability for the content and legal value expected of the elements that appear on the Merchant Website, as well as how they may be assessed by any administration or jurisdiction.

The User agrees to ensure the secrecy of the user name and access code that allow him to



access to the Back Office. Any connection that uses the User's identification and password is considered as having been performed by the User himself.

## 5. Intellectual Property – How should I respect everyone's intellectual property rights while using PrestaShop ?

- Absence of transfer of intellectual property rights

Using the Solution does not result in any transfer of ownership to the User.

Users is granted a simple user license for the Solution.

The User will refrain from adversely affecting, in any way, shape, or form, the intellectual property rights held by the PrestaShop or one of its stakeholders, notably regarding texts, photos, videos, data, posters, logos, brands, and other elements included in the website [www.prestashop.com](http://www.prestashop.com).

- Non-use of the PrestaShop trademark in the domaine name

As the User purchases a domain name for his Merchant Website, he is informed that using PrestaShop's trademark in a domain name is strictly prohibited.

The User therefore commits to not use the PrestaShop trademark in the Merchant Website's domain name and URM.

Any Merchant Website created using the Solution that uses the PrestaShop's trademark in his domain name may result in legal proceedings being brought against them.

- Combat against counterfeit

In a global approach for the combat against counterfeit on the Internet, the User undertakes to ensure that the content of his Merchant Website is in compliance with the

applicable legislation, not to harm third party rights, in particular their copyright and trademark rights, and not to offer for sale counterfeit goods. He declares that he is not the subject of any infringement action or otherwise.

The liability of PrestaShop may not be incurred in the event of sale of the objects that are the result of the counterfeit by one of its customers.

- Merchant Website operation

While using the Solution, the User has the right to use the Solution for one or more Merchant Websites for the world over.

In the same way, Modules, Themes and Connectors developed by PrestaShop or its partners remain their exclusive property. For these Modules, Themes and Connectors, PrestaShop only gives the User a simple right of use limited to a single Merchant Website for the entire legal length of copyright and for the entire world from the point the Module or Theme concerned is purchased, in accordance with the PrestaShop Addons Terms and Conditions.

The User may cease the use of the Solution at any time. The User recognizes that ceasing a Merchant Website's activity must be accompanied by formalities among customers and any ongoing services.

- Commercial references

All texts, photos, videos, data, logos, brands, or any other elements published on the PrestaShop's websites are reserved and protected by intellectual property rights, notably copyright, trademark rights and by legislation concerning database protection.

As a consequence, these elements may not be used, broadcast, or reproduced, even partially, without the express prior authorisation granted by PrestaShop.



However, while the service is used, PrestaShop authorizes the User to cite its company name as a commercial reference.

Similarly, while the service is used, the User explicitly allows PrestaShop to cite their company name and product brands as a commercial reference.

Each Party expressly agrees to not harm the image or reputation of the other Party.

## 6. Personal data – How my data will be used ?

PrestaShop will respect and protect the User's personal data which is collected and processed as part of using the Solution.

For full details about how their personal data will be used, User is encouraged to read the **Personal Data Protection Policy** relating to the use of the Solution.

The User allows that PrestaShop may be required, in accordance with its legal obligations, to reveal personal data about him within the scope of legal proceedings (legal requisitions, judicial decisions, etc.).

The Parties agree that the User's connection and visit logs to the Merchant Website, as well as the information the User gives when downloading, will be considered as conclusive evidence between the two Parties.

In this regard, the User allows PrestaShop, subject to respecting its privacy obligations, to save all information useful in establishing and preserving this evidence.

## 7. Applicable law – Place of jurisdiction – What should I know ?

The T&Cs are exclusively governed by French law.

Any dispute which may arise from the interpretation or performance hereof or which

could be the continuation or consequence, shall prior to any court or arbitration proceedings, be subject to mediation by a mediator referred to by the more diligent party. If the mediation is unsuccessful, the dispute shall be subject to the exclusive jurisdiction of the Paris commercial court, notwithstanding multiple respondents or third party appeals.