

## **GENERAL TERMS AND CONDITIONS OF SALE from January 1, 2023**

The hereunder general terms and conditions of sale from **SOCIETE NOUVELLE PAKEA FRANCE** (hereafter called **PAKEA**) are applicable

### **1. Generalities:**

Unless otherwise agreed in writing by the parties, all orders received from the buyer or the buyer's acceptance of an offer from PAKEA implies automatic acceptance of the said buyer, and without prejudice to these general sales conditions, and waiver by the buyer of his own general terms and conditions of purchase.

### **2. Contract - Purchase order modification:**

Each quotation issued forms the special conditions that modify or complete the present general conditions. In the case of an order received from the buyer, it will only be considered as definitively accepted, after written acceptance by PAKEA in an acknowledgement of receipt of the order. It is this acceptance that can constitute the special conditions.

All modifications to the order requested by the buyer will only be taken into consideration if it has been received in writing before the products are put into production.

PAKEA reserves the right to modify the prices initially supplied (amendment).

In the event that PAKEA refuses the requested changes, the deposits paid will not be refunded if the order is cancelled by the Buyer.

### **3. Delivery time:**

The delivery time starts running when the order is confirmed in writing by PAKEA or upon receipt of the first instalment as applicable.

If a revision is requested by the buyer once the order has been accepted, PAKEA reserves the right to modify the deadline and the price that had initially been provided.

A delay in the payment of an instalment and/or in the communication of all the required elements may result in a postponement of the delivery time of a project. The buyer is informed that he will not be able to claim any compensation in this particular case.

### **4. Shipment - Risk transfer:**

The delivery and transfer from PAKEA to the buyer of the risks of loss and deterioration of the goods sold, as well as the risks of damage they could cause are carried out upon delivery (as per the Incoterm defined in the contract), or by direct delivery to the buyer, or by simple notice of availability, by delivery in our factories or warehouses of the goods to a freight forwarder or designated carrier by the buyer, or after delivery to the site defined by the buyer.

In the event of the goods being available, the buyer commits to take delivery within 30 days of the notice of availability. Once this period has expired, PAKEA may consider the order cancelled and the sale unilaterally resolved by the buyer, without prejudice to damages that could be due to PAKEA.

### **5. Product samples:**

Samples (raw materials, containers, finished products ...) used by the buyer, if necessary for the execution of the contract, will be requested from the buyer by the PAKEA Project Manager in charge of the project. The samples shall be sent at the expense of the buyer DDP PAKEA - Rixheim plant and must arrive prior to the date indicated by the Project Manager.

Any transport and customs clearance costs for samples supported by PAKEA, will be charged to the buyer.

Unless specifically requested by the buyer, samples are to be sent to PAKEA 4 weeks before the shipping date of the machines.

Samples will not be returned to the buyer.

PAKEA cannot be held responsible for incomplete reception /commissioning of the products due to the lack of compliant samples.

### **6. Price:**

The price given in the offer is only valid for the project and/or references mentioned and does not apply to other offers or projects.

Prices are net, EXW - Rixheim site (unless otherwise stated in the offer), standard cardboard packaging or pallets for short-term storage included, exclusive of taxes, duties or other services to be paid in accordance with the French and foreign regulations in force.

### **7. Payment default:**

In the absence of total or partial payment of the expected amounts on the agreed date, or on one of the due dates, the amounts not yet due and still owed because of the order or other orders shall be immediately payable.

In the event of non-payment on the due date, and after formal notice, the buyer shall be liable to pay a penalty for late payment calculated by applying to the totality of the sums remaining due, an interest rate equal to 12% / year, it being specified that the interest shall be calculated from the normal due date until the date of effective and complete payment.

The formula for calculating interest is as follows: (sums remaining due x applicable rate x (number of days of delay/365)).

**8. Retention of title:**

PAKEA retains ownership of the products sold until actual payment of the full price, in principal and accessories.

These provisions shall not prevent the transfer of the risks provided for in the previous article. For the duration of the retention of title, the products sold must be insured by the buyer with express reference to the right of ownership of PAKEA. The products sold may not be moved from the buyer's usual storage places or undergo any modification or transformation without prior written agreement from PAKEA.

The failure of payment of one of the deadlines may lead to the products being reclaimed, their return will be made under the responsibility, at the expense and risk of the buyer.

**9. Packaging :**

SEI 4 or SEI 4C packaging can be offered on request (this represents an additional cost). We can provide the SEI 4 or the SEI 4C packaging procedure on request.

**10. Transport :**

Transportation costs can be added to the offer on request. These fees will be provided in the option table.

In the case of sea shipment, or in the case of a shipment outside of the EU, PAKEA cannot be held responsible for guaranteeing the final delivery time to the buyer site, the sea shipment period and the clearance time are beyond PAKEA control.

**11. Warranty:**

The equipment sold has a warranty against design or manufacturing defects. The warranty claim must be filed within a period of 12 months at the latest from the date of signature of on-site acceptance but not exceeding 18 months after the delivery.

The technical advice given to the buyer by PAKEA shall in no case lead to the responsibility of PAKEA. By express agreement between PAKEA and the buyer, PAKEA's liability resulting from a design or manufacturing defect of a property is limited to the replacement or repair of the part recognized as defective by the technical services of PAKEA to the exclusion of any other repair, in particular any damage related to the use of the defective product (normal wear and tear, lack of maintenance, failure to comply with the instructions, etc.) defective (normal wear and tear, lack of maintenance, failure to comply with instructions for use ,...) and indirect and/or consequential intangible damage.

Guarantee coverage by PAKEA does not waive, except with the prior written consent of PAKEA, the payments due.

The warranty begins as soon as the products are delivered.

The installation will not be guaranteed if the commissioning has not been carried out by PAKEA.

The installation will not be guaranteed if the goods have been used outside of the normal operating conditions of use described in the PAKEA documentation (price quotation, order acknowledgement order receipt, user manual).

**12. Liability and Insurance:**

PAKEA shall in no event be liable for indirect or immaterial damage possibly suffered by the buyer or third parties such as operating loss, loss of contract, loss of production... and no compensation will be due for this reason.

PAKEA shall not be held liable for the misinterpretation of specifications. The material cited must be verified by the buyer as conforming to the specifications, and/or applicable quantities. In the event of a dispute, PAKEA will have to provide the quantities and products listed in the purchase order only.

**13. Certificates:**

PAKEA can deliver products, machines or lines in accordance with other directives on request. This can lead to the application of an additional cost.

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**14. Confidentiality:**

Studies, plans, drawings and documents provided by PAKEA remain the sole property of PAKEA. They cannot be communicated to third parties by the buyer.

**15. Scope of supply:**

Are included in our supply:

- Compliance of equipment with safety standards in force at the date of establishment of this document (CE standards).
- An instruction manual for assembly, commissioning, maintenance service and normal maintenance of equipment (in the language of the country of installation of the product).
- A set of electrical and pneumatic diagrams of the products delivered.
- A list of spare parts and standard wear parts recommended for normal product operation

Are excluded from our supply:

- All elements not explicitly mentioned in this document.
- All modifications to existing equipment that is installed on purchaser site unless it is strictly referred to in the offer.
- Electrical and pneumatic power supplies to the machines from the buyer's power supply network.
- Civil engineering works.
- Access to the industrial communication networks

**16. Instruction manuals:**

Instruction manuals will be provided in magnetic format (CD-ROM) or digital format (USB key) in the language of the country where the goods will be installed.

PAKEA can also provide instruction manuals in additional languages on request (additional cost to be quantified).

PAKEA can also provide instruction manuals in hard copy on request.

**17. PLC program:**

No program will be supplied.

**18. Technical specifications:**

All technical specifications, functions, tolerances and rates apply to standard equipment, for tested materials and for trained and qualified operators.

The performance of the equipment sold by PAKEA is highly dependent on the way it is used, the materials used and its processing. It is the purchaser's responsibility to ensure that the equipment is used properly and in accordance with the instructions provided by the manufacturer. PAKEA cannot be held responsible for any defects in the performance of the equipment resulting from improper use or the use of unsuitable materials. In the case of complete lines (set of equipment or machines), the technical specifications of the different equipment and machines cannot always be combined with their nominal values, minimal or maximum. In this case, it will be the nominal values, minimal or maximum of the complete line that will prevail.

Tools: the exact definition of all tools must be communicated to PAKEA no later than 4 weeks after the order date. Otherwise, this could result in an extension on the final deadline date.

The photos illustrating the equipment are not contractual.

We reserve the right to consider technical improvements and modifications without notice.

**19. Order cancellation:**

Order cancellation will induce fees. The cancellation fees are as follows:

		Order cancellation		
		within the first 3 weeks	from 3 weeks + 1 day up to 8 weeks	From 8 weeks + 1 day up to 12 weeks
Project delivery time	from 0 to 12 weeks	25%	100%	
	over 12 weeks	25%	50%	100%

**20. Commercial compliance:**

The buyer agrees to provide PAKEA with the final destination and /or the identity of the end user in writing before the order placement if the goods are to be exported outside of the EU. In the event that the shipment of the goods violates European authorisations or if the buyer fails to provide information on the destination and /or the end user, PAKEA will be entitled to immediately terminate the proposal or contract without any compensation due to the buyer as a result of this termination.

PAKEA reserves the right to refuse the installation of equipment in a country in the event of a serious political event, endangering the safety of its teams.

The Buyer agrees not to export or re-export equipment directly or indirectly to a country for which an export license or other government authorization are required without first obtaining such license or approval from PAKEA in writing.

**21. Exportations outside the EU:**

In accordance with EC Regulation 428/2009, dual-use goods (as per ECCN reference) require a license when exported from the EU. Please feel free to contact PAKEA if you need further information.

**22. Cancellation clause:**

In the event of non-performance by the buyer of any of his or her obligations, and eight (8) days after a formal notice by official letter with acknowledgement of receipt remaining in total or party without effect during this period, the contract of sale shall be resolved automatically and without formality, and without prejudice to the other rights of PAKEA.

**23. Force majeure:**

PAKEA shall not be held liable if the non-execution or delay in the execution of one of its obligations described in the present general conditions of sale results from a case of force majeure. In this respect, Force Majeure is understood to mean any external, unforeseeable and irresistible event when PAKEA has been prevented from giving or doing what it has been obliged to do or for any other reason beyond its control, such as, but not limited to, strikes, demonstrations, bad weather, accidents with the delivery vehicle, damage to its installations, epidemics, ...

**24. Law and jurisdiction:**

All sales concluded and governed by these general terms and conditions of sale are subject to the French law only.

Any dispute arising from the Contract or relating to its validity or interpretation, shall be irrevocably and exclusively handled by the jurisdiction of the Courts of Mulhouse (68).

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