

## GENERAL CONDITIONS OF DELIVERY AND PAYMENT OF PECO DOUWES GROUP

deposited at the Chamber of Commerce in Delft on September 15, 2015

### 1. Applicability

These general conditions apply to all agreements between Peco Douwes Group and its customers and to all quotations or orders placed by the customer, to the exclusion of any general conditions of the customer, of any nature whatever. Departures from the applicability of these general conditions will be binding on us after they have been confirmed in writing to the customer.

At the moment when an agreement is concluded, the customer is deemed to have agreed to the exclusive applicability of these general conditions; the same applies to any further orders placed by the customer, whether placed orally or by telephone or mail or in any other way, with the result that a further written confirmation by us is not necessary.

### 2. Quotations

1. Every quotation remains valid unchanged during such period as is specified in the quotation, and in the absence of such a period the quotation is without obligation.

2. All price lists, brochures and other data supplied with a quotation are as accurate as possible. These are binding on us only if this has been expressly confirmed in writing. We are not bound to supply detailed information.

3. All brochures and price lists sent with the quotations and all technical data supplied in this connection in the form of drawings, designs, models, samples, etc. as well as all other written documents will remain our intellectual property. Without prior written consent the customer is prohibited from copying such information and/or allowing it to be used and/or resold by third parties. The use of this information should be limited to the customer's own use in the context of the quotation and any order that is placed. All information should be immediately returned to us at our first request or if the customer does not conclude an agreement within the period of the offer or cancels an agreement.

4. If no agreement is concluded, we will be entitled to charge the counterparty the costs incurred in making a complicated offer. These cases will be specified by us in advance.

5. The quoted prices are valid only for the specified quantities.

### 3. The agreement

1. An agreement comes into being at the moment when we have accepted and confirmed the order in writing. In the event of a binding quotation period, the agreement is deemed to come into

being at the moment of acceptance of the quotation by the customer. The order confirmation or the binding quotation is deemed to set out the agreement fully and correctly.

2. Any additions and/or changes made later and any undertakings given by us or our personnel are binding only if we have confirmed them in writing.

3. In the case of deliveries or activities that are of such a nature and/or size that no quotation or confirmation of order is sent, the invoice will be deemed to constitute an order confirmation as well and will also be deemed to set out the agreement fully and correctly.

4. Every agreement is entered into subject to the condition precedent that the customer proves to be sufficiently creditworthy to fulfil (in good time) the payment obligations under the agreement.

5. When or after entering into the agreement, we will be entitled to require the customer to provide security for fulfilment by the customer of both the payment obligations and the other obligations.

6. We are entitled to use third parties for the proper performance of the agreement. We will consult with the client about this wherever possible.

### 4. Force majeure

1. For these purposes force majeure means: any circumstance beyond the control of the parties or unforeseen circumstance as a result of which the customer can no longer reasonably require us to perform the agreement. 'Force majeure' is in any event deemed to mean strikes, excessive staff leave and sick leave, transport problems, insufficient supply of raw materials/parts, fire, government measures including import and export bans, imposition of quotas, operational failures affecting suppliers or subcontractors and breach of contract by suppliers or subcontractors, as a result of which we are not able – or are no longer able - to discharge our obligations to the customer.

2. If, in our view, the force majeure will be of a temporary nature, we will have the right to suspend performance of the agreement until the circumstance giving rise to the force majeure no longer exists.

3. If, in our view, the force majeure will be of a lasting nature, the parties may agree an arrangement for the cancellation of the agreement and the resulting consequences. We will never be obliged to pay compensation of any kind whatever.

4. We are entitled to claim payment for such part of the relevant agreement as has been performed

before the occurrence of the circumstance giving rise to the force majeure.

## 5. Prices

1. Unless a binding period for the offer applies, every price quotation is without obligation.
2. Unless stated otherwise, the prices are:
  - based on the amount of the purchase prices, wages, wage costs, tax and social security contribution, freight charges, insurance premiums and other costs applicable on the date of the quotation or of the order;
  - based on delivery free customer's business premises or other destination in the Netherlands specified by the customer, unless agreed otherwise in writing;
  - exclusive of VAT and other duties;
  - in the case of orders outside the Netherlands, based on delivery ex works/warehouse;
  - exclusive of the costs of assembling the goods and making them operational, unless otherwise stated (in which case the costs must be itemised separately);
  - exclusive of the costs of non-standard packaging;
  - specified in euros, subject to the right of adjustment as a consequence of exchange rate changes.
3. For purchase orders with an invoice value of less than € 450,- exclusive of VAT, we are entitled to charge costs for 'order transition'.
4. In the event of an increase in one or more of the cost price factors, we will be entitled to adjust the order price accordingly, subject to existing statutory regulations.

## 6. Transport costs and transport risk

1. The manner of transport, forwarding, packaging and so forth will be determined by us. Any specific wishes of the customer regarding packaging and/or transport will be implemented only if we have expressly agreed to this in writing and the customer reimburses the costs thereof.
2. The goods will, in principle, be transported at our risk, with the exception of consignments outside the Netherlands. Our liability will at all times be limited to the purchase price of the goods.
3. In exceptional cases, additional transport and handling costs will be itemised separately in the quotation and order confirmation.

## 7. Delivery and delivery time

1. Unless agreed otherwise, delivery will be free customer's business premises or another destination in the Netherlands specified by the customer. Deliveries outside the Netherlands will be ex works/warehouse, unless agreed otherwise.

2. The agreed delivery period or period for completion, as the case may be, will start on the day on which we have all necessary data and papers in our possession. Without prejudice to the provisions of article 16, the time of delivery will be deemed to be the moment when the goods are unloaded (the actual transfer). The risk in relation to the goods then passes to the customer. This also applies if we have to assemble the goods or put them into service. The chosen version of Incoterms (latest edition) applies to deliveries outside the Netherlands.
3. The customer is obliged to check the delivered goods or the packaging, as the case may be, within no more than 24 hours of delivery for any defects or damage, or to make this check within 10 days of our notification that the goods are being held at the disposal of the customer. Any defects and/or damage discovered at the time of delivery should be notified by the customer to us within no more than 24 hours after delivery, failing which we will be entitled not to process any complaints about this.
4. We are entitled to make delivery in instalments (partial deliveries), which may be invoiced separately. The customer will then be obliged to pay in accordance with the provisions of article 14 of these conditions, unless agreed otherwise in writing.
5. If the goods are to be inspected on behalf of the customer, the goods will be deemed to have been delivered, notwithstanding article 7, paragraph 2, when they, or the main components thereof, are ready for testing/inspection at the premises of the relevant manufacturer (third party or ourselves). This will be after the customer has been given written notice hereof. From that moment onwards the goods are at the risk of the customer, even if we subsequently arrange for transport.
6. If the goods have not been collected within 10 days of the notification or, in the case of a call-up contract, the agreed call-up period has not been observed by the customer, we will be entitled to invoice the relevant goods, which will also be stored from that time onwards fully at the expense and risk of the customer. The customer has the duty to arrange for proper insurance.
7. If goods are stored or kept by us after payment by the customer, these goods will be held at the expense and risk of the customer and the customer should arrange for proper insurance.
8. Agreed delivery dates are never intended to be vital deadlines. If the period is exceeded, the customer is entitled to set us a reasonable period of at least 14 days in which to make delivery after all. If delivery then still does not occur, the customer will be entitled to cancel the agreement without our being obliged to pay any compensation of any kind whatever. The period

of 14 days does not apply to specially ordered products with a long delivery period, specific application or requisite inspections. Here a period that should be in proportion to the complexity and delivery period of the product will apply.

#### **8. Acceptance, inspection and claims**

1. If the customer has not lodged a written complaint with us within 7 days of delivery or completion of the goods on account of defects not covered by article 7, paragraph 3, he will be deemed to have accepted the goods. If the customer lodges a claim, he must leave the goods in unchanged condition until we have been able to investigate the complaints.

2. If it has been agreed that the customer will have the goods inspected by the factory or by us and he does not exercise this right within 10 days of the date on which he is given notice of the opportunity to do so, the goods will be deemed to have been definitely accepted by the customer. Unless agreed otherwise in writing, the costs of inspecting the certificate and of the certification are to be borne by the customer.

3. Claims in respect of externally observable defects should be submitted immediately during the testing or inspection in the relevant factory of the supplier or in our business premises or, if no testing or inspection takes place, within the period specified in article 7.3.

4. Consignments that are returned will be accepted by us only if:

- a) we have given our written agreement in advance;
- b) this occurs free of charge, unless agreed otherwise;
- c) this concerns stock or standard materials, and
- d) the delivery has taken place not more than 6 weeks ago.

5. If no fault on our part can be demonstrated, we will pass on 10% (for at least € 25,00) of the net price in costs. All freight costs incurred by us will be set off against the amount to be credited.

#### **9. Tolerances relating to product and quantity**

1. We cannot accept liability for colour differences that amount to no more than differences of shade. The customer cannot derive from this the right to refuse to accept the delivery.

2. In the event of mass production articles from our delivery programme, we reserve the right to deliver 10% more or 10% less than the quantity ordered.

3. For the permissible tolerances, reference should be made to the standards fixed internationally for the relevant articles, in so far as these were not expressly deviated from in writing when the offer was made and in so far as a

special specification has not been agreed in writing.

#### **10. Intellectual property rights**

1. We have or, as the case may be, will retain the intellectual property in products developed by us, whether or not in agreement or consultation with or on the instructions of a customer.

2. Where articles are manufactured by reference to drawings, samples, models or other instructions received by us from our customer, or through him from third parties, our customer fully guarantees that no patents, trademark use rights, trade models or any other rights of third parties will be affected by such manufacture and/or delivery and our customer indemnifies us against all claims that may be enforced against us.

#### **11. Guarantee and service**

1. Defects in delivered goods intended for lasting use may be repaired or the defective goods may be replaced by a fresh delivery, solely at our discretion, during 12 months after delivery, if the defects are attributable, in our opinion or the opinion of the manufacturer, to construction faults, the used materials or the manner of execution, as a result of which they are incapable of being used by the customer for the intended purpose. Consumable goods are not covered by this guarantee.

2. The customer should report the defects to us within 14 days of the date on which he discovers or could reasonably be expected to have discovered them.

3. Goods which are eligible for repair and/or examination should be sent to our address free of charge. This should be done only after advance notification to the customer's usual contact within our organisation. If repair or examination work has to be carried out other than at our own business premises, we will be entitled to charge the travelling and accommodation expenses to the customer, as well as any transport costs and the costs of the equipment to be used. Examination and repair work will, in principle, be carried out at our business premises and during normal working hours. Only if a separate service contract has been concluded may work be carried out outside normal working hours. If it transpires that the goods presented for examination or repair do not have any defects, all costs incurred will be borne by the customer.

4. All entitlement to repair or replacement will lapse if the customer himself makes changes or repairs (or causes them to be made) to the delivered goods or if he does not use the goods exactly in keeping with any directions for use supplied with them or treats or uses them injudiciously in some other way or for a purpose other than that originally intended.

5. Non-performance by the customer of one of his obligations will relieve the supplier of his obligations under this article.

6. Apart from the obligation under paragraph 1 of this article, we have no obligation to pay any compensation whatever. Nor are we liable for damage or injury caused to things or persons during work carried out at the customer's premises pursuant to the obligations of this article.

## 12. Liability

1. Subject to provisions of peremptory law we will not be obliged to pay compensation for damage of any kind whatever. The counterparty indemnifies us against all costs, damage and interest to which we may be subject as a direct consequence of claims of third parties against us in respect of incidents, acts or negligence, for which we are not liable to the counterparty under these conditions, including product liability. Subject to the other provisions of this article, we will in any event not be liable for damage caused by injudicious use of the delivered goods or by the use thereof for a purpose other than that for which the goods are suitable according to objective criteria. Nor will we be liable for damage caused by a defect in our product if:

- a) we have not delivered the product directly;
- b) it is likely, in view of the circumstances, that the defect that caused the damage did not exist at the moment when we put the product into circulation and therefore occurred later;
- c) the defect is a consequence of the fact that the product complies with peremptory government regulations;
- d) it was impossible, given the state of the scientific and technical know-how at the time when we put the product into circulation, to discover the existence of the defect;
- e) where the product is itself a component, the defect is attributable to the design of the product of which the component forms part or to the instructions given by the manufacturer of the product.

2. Notwithstanding the provisions elsewhere in this article, our liability is limited (among other things) by the maximum amount of any claim covered by our product, consequential loss and transport insurances in the relevant case. Notwithstanding the provisions elsewhere in this article, liability for damage caused by us to the counterparty (loss of profits) will always be limited to the net invoice value of the delivered product.

3. If the applicable guarantee/claim obligations are fulfilled and/or the assessed damage is paid by us and/or our insurer(s), this will be deemed to be in full and final payment of the claim. Our counterparty expressly and fully indemnifies us against all other claims.

4. If we assist in the assembly of the goods and/or in making them operational, without this being mentioned in the order, this will be done at the request and at the expense and risk of the customer.

5. Where the counterparty or a party acting on its behalf takes receipt of the delivered goods, the mere fact of the receipt means that we are indemnified against all claims of the counterparty and/or of third parties for the payment of compensation, regardless of the cause of the damage, save for fulfilment of the guarantee obligations.

6. If we have to buy the goods elsewhere, any contractual or other provisions applicable to that transaction and constituting a limitation on us will also apply to the counterparty, if and in so far as we are able to invoke such provisions.

## 13. Payment

1. Unless agreed otherwise, payment should be made net, without any deduction or set-off, within 30 days of the date of the invoice by deposit in or transfer to a bank or giro account designated by us. We will be entitled to award a prompt payment discount. The value day indicated on our bank/giro statements is decisive and is therefore treated as the day of payment.

In the case of orders with a value in excess of € 50,000,- exclusive of VAT, where the creditworthiness of the customer cannot be insured on the usual terms and/or where the order concerns an investment project and provided that it has not been agreed otherwise, we may require payment of the agreed price in a number of instalments, depending on the product and/or the conditions applied by our manufacturer.

2. If the customer does not make payment in time, he will, without notice of default, owe interest equal to a half percent above the statutory interest rate per month (+6% on an annual basis), for which purpose part of a month is treated as a full month, on the invoice amount and all costs (minimum +15%), including legal assistance, incurred in collecting the contractual price.

3. Each payment by the customer will be allocated first of all to pay the interest owed by him, and the collection costs and/or administrative costs, and will thereafter be deducted from the oldest outstanding claim.

4. In cases where the customer:

- a) is declared bankrupt, waives any right to an estate or files for a suspension of payments or where all or part of his assets are attached;
- b) dies or is made the subject of a guardianship order;
- c) does not perform any obligation to which he is subject by law or under these conditions;

d) fails to pay an invoice amount or part thereof within the prescribed period;

e) discontinues or transfers his business or a large part thereof, including contributing his business as a payment towards a company to be formed or an existing company, or changing the objects of his business;

we will be entitled, merely by virtue of the occurrence of one of the above-mentioned circumstances, to cancel the agreement without recourse to the courts, and to claim forthwith the full amount that is owed by the customer on account of work performed and/or deliveries made by us, without any warning or notice of default being necessary, the above being without prejudice to our right to obtain payment of costs, damage and interest.

#### **14. Duty of notification**

If the customer is obliged by law, once it has become apparent that he is not able to make payment, to notify government bodies or industrial insurance boards, he will also be obliged to notify us in writing at the same time.

#### **15. Reservation of title**

1. All goods delivered by us, even goods assembled by us pursuant to the agreement at the premises of the customer or his principal, will remain our property until everything which the customer owes us, under this agreement or any agreement connected with it, has been paid in full, including interest and costs.

2. If the delivered goods are treated, processed or mixed by the customer or at his premises, we will become part owners of the newly created goods and/or the composite goods created with the delivered goods, namely up to the value of the delivered – original – goods.

3. As long as the delivered goods are not used and ownership has not passed the customer is

obliged to keep them separate from other goods in a clearly identifiable way.

4. In the event of, inter alia, non-payment of an amount that is due and payable, suspension of payments, filing for suspension of payments, bankruptcy, the making of a guardianship order, death, and liquidation of things belonging to the customer, we will be entitled, without notice of default and without recourse to the courts, to recover possession of the delivered goods as our property for which payment has not been made or not made in full, after setting off any amount already paid, but without prejudice to all rights to require payment for any loss or damage.

5. The customer should enable us always to immediately recover possession of goods that are as yet unpaid or hired goods, wherever they may be.

6. The goods may be resold or used by the customer in the course of his normal business operations, but may not be encumbered in any way. If goods that have not yet been paid for are resold, the customer is obliged to reserve title to the goods and, at our first request, to assign to us all claims to the amount owed by way of undisclosed pledge.

#### **16. Disputes and applicable law**

1. All our offers and agreements and their execution are governed by Dutch law. The applicability of the Vienna Sales Convention (CISG) is excluded.

2. All disputes between the parties will be decided by the District Court, subject to the right of appeal and appeal in cassation.

#### **17. Deposit**

These General Conditions have been deposited at the Chamber of Commerce in Delft on September 15, 2015

## SPECIAL CONDITIONS RELATING TO SERVICING AND ASSEMBLY/INSTALLATION WORK

deposited at the Chamber of Commerce in Delft on September 15, 2015

### 20. General

1. These Special Conditions apply in addition and as a supplement to the above provisions of articles 1-19, unless expressly provided otherwise below.

2. The term 'we' includes a third party contractor involved in the assembly/installation work who carries out the work on our instructions.

### 21. Delivery/completion

1. Our written order confirmation is binding as regards the installation work and the delivery/completion period which this entails. It should be noted that the agreed delivery dates are approximations. The delivery periods will start from:

- a) the date on which the agreement comes into being;
- b) the date on which the customer has supplied us with all necessary information;
- c) the date on which the customer has paid an advance instalment stipulated in the agreement;
- d) the date on which the customer has forwarded us the drawings, designs etc. approved by an authorised person.

The delivery period starts from whichever is the last of the above dates.

2. Notwithstanding article 7, paragraph 7, the customer will not be entitled to refuse to take delivery of the installation or to cancel the agreement in cases where the delivery period is exceeded. If the delivery period is exceeded by a lengthy period, we will consult with the customer about a fair and reasonable solution. If the agreement is cancelled, the customer will pay for the work done to date. Cancellation of the agreement cannot result in any obligation on us to compensate damage of any kind whatever. As long as the customer fails to promptly discharge his obligations, we may suspend the delivery/completion.

3. The work will be treated as delivered/completed:

- a) if the customer has approved the work after inspection;
- b) after we have informed the customer that the work has been installed, assembled and/or made operational. The customer should provide us with the requisite testing facilities. The lack of a part which should have been delivered by a third party supplier/subcontractor is not a reason for treating the work as not completed;
- c) after 8 days have passed since we have given written notice that the work is complete and operational and the customer has failed to inspect or test the work (or cause it to be inspected or tested) within this period;

d) after the customer has actually started using the work. Where a part is used, that part will be treated as completed.

4. Minor, non-essential defects will be repaired by us as quickly as possible and may not constitute a reason for the customer to withhold approval.

5. Advice/data concerning the placement and/or use of the installation are provided to the best of our knowledge, without a given result being guaranteed, unless agreed otherwise.

### 22. Scope of the work

1. The assembly/installation work to be carried out includes the activities as described in the order confirmation and, if and in so far as agreed, includes the guidance/tuition for the personnel designated for this purpose by the customer in the use and operation of the installation that is to be delivered. This will be arranged in mutual consultation, without our guaranteeing a particular result in respect of the guidance/tuition.

2. Unless expressly agreed otherwise, the following activities, deliveries and provisions are not our obligation; the customer is obliged to ensure that they are carried out in time so that the work to be performed by us is not delayed:

- a) The customer must in any event ensure that the workplace is properly accessible.
- b) Extra help in moving parts which cannot reasonably be managed by two people and the provision of the lifts and/or hoists to be used for this purpose.
- c) The provision, erection and, after completion of the work, removal of scaffolding, platforms and ladders.
- d) The provision of fuels and auxiliary materials such as compressed air, gas, water and electricity and the requisite supply and drainage pipes necessary for implementation of the activities and for any testing and commissioning of the equipment, and the delivery of switching and security equipment and cables for the electric motors and/or other electrical equipment to be supplied, with the exception of starting resistors and control resistors that form part of the electrical equipment.
- e) The provision, during the work and in the immediate vicinity of the work to be performed, of a dry, heated, illuminated and separately lockable room of sufficient size as an area for the relevant workers and for the storage of the materials and tools to be used and the personal property of the workers.
- f) Parts of installations which have become dirty or damaged should be restored to proper working order, unless our subordinates are responsible for the dirt or damage.

g) The lighting of the workplace in such a way that the installation/assembly work can be carried out.  
3. The customer will also ensure that applications are made and/or amounts due are paid in time in respect of supply lines, connections, encroachments tax, Nuisance Act permits, and building/refurbishment permits etc.  
4. Unless expressly agreed otherwise in writing, replaced/removed materials will become our property.

### **23. Changes in the amount of work**

1. We are entitled to carry out and charge for additional work without the prior consent of the customer, if the extra work does not exceed 10% of the amount originally agreed.  
2. Changes to the order made by the customer or caused by a change of circumstances as a result of which the original agreement cannot be maintained (in full) will be carried out and charged for as changes in the agreed amount of work. This will always be done within the limits of reasonableness and fairness.  
3. If the change in the amount of work is more than 10% of the original sum, the parties will consult together about the measures to be taken. In the event of cancellation by the customer, we are entitled to invoice the costs incurred or goods delivered up to that time.

### **24. Guarantee/liability**

1. The supplier guarantees that the delivered/assembled goods meet the agreed specifications and the requirements that can reasonably be made of them regarding usability and fitness for purpose during 12 months. The guarantee obligation is confined to repairs and/or replacement of any defects, provided that the claim is submitted in time.  
2. We will not be liable for:  
a) the design of the installation and/or parts thereof or for all other data/information if this does not come from us;  
b) influences on the installation by the application of material and/or directions for use and/or operation which do not come from us;  
c) failure to strictly observe the directions for use and operation and/or the energy supply;  
d) normal wear and tear and damage/wear and tear caused by overloading or by the influence of abnormal conditions;  
e) the application of the statutory security requirements. In these cases the supplier's guarantee will cease to apply, without prejudice to the provisions of article 12.

### **25. Claims**

The customer is obliged to submit any claim concerning the capacity of a component or the

installation directly to us in writing within one month of completion of the work.

### **26. Payment**

In the event of assembly/installation, we are entitled to require instalment payments as follows:

- 33% upon conclusion of the agreement;
- 33% at the time of testing/approval or when the goods (or the main components thereof) are ready for dispatch;
- 34% within 30 days of the expiry of the second instalment period.

### **27. Deposit**

These Special Conditions have been deposited at the Chamber of Commerce in Delft on September 15, 2015.