



GENERAL TERMS AND CONDITIONS OF PURCHASE

1. Definitions; Parties. In these General Terms and Conditions of Purchase (the “Terms”), the following definitions shall apply:

- (a) **“Buyer”** means SMALTO INC. d/b/a PEMCO INTERNATIONAL, a Delaware corporation, the party issuing a Purchase Order under these Terms, or any of its affiliates, including but not limited to **PEMCO Belgium and PEMCO Italy**.
- (b) **“Seller”** means the party to whom a Purchase Order, incorporating the Terms by reference, is issued.
- (c) **“Goods”** means all products, materials, equipment, parts, and other items to be supplied by Seller under a Purchase Order.
- (d) **“Services”** means all labor, work, consulting, installation, maintenance, repair, support, training, professional, or other services to be performed by Seller under a Purchase Order, including any deliverables, work product or Work Product (defined below) to be provided in connection therewith.
- (e) **“Work Product”** means all reports, analyses, documentation, data, software, inventions, discoveries, improvements, designs, and other materials or intellectual property created, developed, or produced by Seller or its personnel related to the provision of Goods and/or in connection with the performance of Services.
- (f) **“Purchase Order”** means any order for Goods or Services issued by Buyer to Seller, whether in writing or electronic form.
- (g) **“Contract”** means the agreement formed between Buyer and Seller consisting of a Purchase Order and these Terms, whether for the supply of Goods, the performance of Services, or both.
- (h) **“Delivery Date”** means the date or dates for delivery of Goods as specified in the Purchase Order.
- (i) **“Specifications”** means all drawings, designs, descriptions, samples, and other technical requirements applicable to the Goods and/or the Services as set forth in the Purchase Order or otherwise provided by Buyer.

2. Agreement and Acceptance.

- (a) A Contract shall be formed upon Seller's acceptance of a Purchase Order. Acceptance may be express or implied and shall be deemed to occur upon the earliest of: (i) Seller's written acknowledgment; (ii) Seller's commencement of performance; or (iii) Seller's delivery of any Goods and/or provision of any Services. Notwithstanding the preceding sentence, the Terms apply exclusively, and additional and/or different terms of Seller apply only to the extent that Buyer has agreed to them in writing.



- (b) Buyer may withdraw or amend a Purchase Order at any time before Seller's acceptance without incurring any liability to Seller.

3. Price and Payment.

- (a) The price for the Goods and/or the Services shall be as stated in the Purchase Order (“**Price**”). Unless otherwise specified in the Purchase Order or as otherwise expressly agreed to in writing by Buyer, the Price includes all costs associated with packaging, labeling, insurance, transportation, customs duties, taxes, and delivery to the designated delivery location.
- (b) Seller shall not increase the Price without Buyer's prior written consent. If no price is stated in the Purchase Order, the price shall be the lower of Seller's published price at the time of order or the price most recently charged to Buyer for the same or similar Goods and/or Services.
- (c) Seller shall submit invoices to Buyer following delivery and acceptance of the Goods and/or Services. Each invoice shall reference the applicable Purchase Order number and provide such detail as Buyer may reasonably require. Payment shall be due within sixty (60) days of Buyer's receipt of a valid invoice, unless otherwise specified in the Purchase Order or as expressly agreed to in writing by Buyer. Payment shall not constitute acceptance of the Goods or the Services or waiver of any claims Buyer may have against Seller.
- (d) Buyer may set off against any amounts due to Seller against any amounts owed by Seller to Buyer under the Contract or otherwise.

4. Termination.

- (a) In addition to the statutory right of rescission, Buyer may terminate the Contract or any Purchase Order, in whole or in part, at any time by written notice to Seller. Upon such termination, Buyer shall pay Seller for conforming Goods delivered and accepted prior to termination or for completed and accepted Services provided, less any amounts owed by Seller to Buyer. In the event of termination, Buyer shall also pay Seller for Seller's actual cost of materials and labor incurred as of the termination date for custom products less salvage value.
- (b) Buyer may terminate the Contract immediately upon written notice if Seller: (i) commits a material breach of the Contract and fails to cure such breach within fifteen (15) days of receiving notice; (ii) becomes insolvent, files for bankruptcy, or ceases to conduct business in the ordinary course; or (iii) undergoes a change of control.
- (c) Upon termination, Seller shall immediately cease work, return all Buyer-furnished materials, and cooperate with Buyer to effect an orderly transition.

5. Change Orders. Buyer may make reasonable changes to any Purchase Order, including, but not limited to, changes in the quantity, delivery time or place, shipping or packing method, or any drawings, specifications or designs. If such a change causes a material increase or decrease in Seller’s cost to produce, or the time required for performance of the Purchase Order, Seller shall notify Buyer within ten (10) days of receipt of Buyer’s change request. No change shall be binding on Seller or Buyer unless agreed in writing by an authorized representative of the party against whom the change is asserted.



6. Warranties.

- (a) In addition to (and not in replacement of) the conformity requirements set forth in the CISG (as defined below), and except as Buyer may have otherwise agreed to in writing, Seller warrants that all Goods shall: (i) conform to the Specifications and any samples provided; (ii) be new, of merchantable quality, and free from defects in design, materials, and workmanship; (iii) be fit for the purposes intended by Buyer and made known to Seller; (iv) be free from any liens, encumbrances, or third-party claims; (v) comply with all applicable laws, regulations, and standards; and (vi) not infringe any patent, trademark, copyright, trade secret, or other intellectual property right of any third party.
- (b) In addition to (and not in replacement of) the conformity requirements under the respective applicable law (as set forth in Section 25), and except as Buyer may have otherwise agreed to in writing, Seller warrants (i) that all Services shall be performed in a professional and workmanlike manner, consistent with industry standards and practices, and in conformity with the Specifications and requirements of the Purchase Order, (ii) that all necessary licenses, permits, and certifications required for the performance of Services have been obtained and are in full force and effect, (iii) that the performance of the Services complies with all applicable laws, regulations, and standards; and (iv) that the provision of the Services and the Work Products does not infringe any patent, trademark, copyright, trade secret, or other intellectual property right of any third party.
- (c) The warranties set forth herein shall survive inspection, acceptance, and payment and shall remain in effect for a period of twenty-four (24) months from delivery or such longer period as may be specified in the Purchase Order or as expressly agreed to in writing by Buyer.

7. Intellectual Property.

- (a) All Specifications, drawings, designs, and other technical information provided by Buyer to Seller are provided on an “as is” basis without warranties of any kind and shall remain Buyer's property. Seller shall not use such materials for any purpose other than the performance of the Contract and shall return or destroy all such materials upon Buyer's request.
- (b) Any intellectual property developed by Seller specifically for Buyer in connection with the Contract shall be owned exclusively by Buyer. Seller hereby assigns to Buyer all right, title, and interest in and to any such intellectual property.

8. Compliance with Laws.

- (a) Seller shall comply with all applicable laws, regulations, and standards in the performance of the Contract, including without limitation laws relating to labor, health and safety, environmental protection, anti-corruption, privacy, export control, sanctions laws, and data protection.
- (b) Seller represents and warrants that neither Seller nor any of its subcontractors will engage in any form of forced labor, child labor, human trafficking, or other exploitative labor practices in connection with the production or supply of the Goods and/or the provision of Services.



9. Insurance.

- (a) Seller shall maintain, at its own expense, insurance coverage adequate to cover its obligations under the Contract, including commercial general liability insurance, product liability insurance, and such other insurance as Buyer may reasonably require. Upon request, Seller shall provide Buyer with certificates of insurance evidencing such coverage.
- (b) When performing Services, developing the Work Product and/or manufacturing and distributing the Goods, Seller shall maintain professional liability (errors and omissions) insurance with coverage limits of not less than 1 million USD per occurrence and in the aggregate, and workers' compensation insurance as required by applicable law. Upon request, Seller shall provide Buyer with certificates of insurance evidencing such coverage.

10. Limitations of Liability.

- (a) Nothing in these Terms shall limit or exclude Seller's liability, whether such liability was foreseeable or not, for: (i) incidental and consequential damages; (ii) death or personal injury caused by negligence; (iii) fraud or fraudulent misrepresentation; (iv) breach of warranties; (v) indemnification obligations under Section 12; or (vi) any other liability that cannot be limited or excluded by law.
- (b) In no event shall Buyer be liable to Seller for any indirect, incidental, special, consequential, or punitive damages, regardless of the cause of action or the theory of liability.

11. Confidentiality. Seller shall keep confidential all information, Specifications, drawings, and data provided by Buyer and shall not disclose such information to any third party or use it for any purpose other than performance of the Contract without Buyer's prior written consent. This obligation shall survive termination or expiration of the Contract.

12. Indemnification.

- (a) Seller shall indemnify, defend, and hold harmless Buyer and its affiliates, officers, directors, employees, agents, and customers (the "**Buyer Indemnitees**") from and against any and all claims, damages, losses, liabilities, costs, and expenses (including incidental damages, consequential damages, and reasonable attorneys' fees) arising out of or relating to: (i) any breach of the Contract by Seller; (ii) any defect or non-conformity in the Goods; (iii) any act or omission of Seller or its subcontractors; (iv) any claim that the Goods infringe the intellectual property rights of any third party; or (v) any violation of applicable law by Seller.
- (b) Seller shall indemnify, defend, and hold harmless Buyer and all Buyer Indemnitees from and against any and all claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to: (i) any act, omission, negligence, or willful misconduct of Seller or its agents, employees, contractors, or subcontractors in the performance of Services; (ii) any claim that the Services or Work Product infringe the intellectual property rights of any third party; (iii) any claim by Seller's agents, employees, contractors, or subcontractors relating to their engagement by Seller, including claims for wages, benefits, or employment status; or (iv) any injury to persons or damage to property



caused by Seller or its agents, employees, contractors, or subcontractors while performing Services at Buyer's premises or any other location.

13. Time of the Essence. Buyer reserves the right to cancel any Purchase Order, or any part thereof, if delivery is not made within the time specified in the Purchase Order or if Goods furnished or Services performed do not meet specifications called for by the Purchase Order or in another writing agreed to by Buyer and Seller, unless such delay or specification change is agreed to in writing by Buyer.

14. Quantities. Goods shipped must not be in excess of specified quantities for specified dates. Over shipments of Goods may, at Buyer's option, be returned to Seller, which return shall be at Seller's expense.

15. Packaging. All Goods are to be packed in suitable containers for protection in shipment and storage. A packing slip describing the contents and purchase order number must accompany all shipments. No charge is allowed for boxing, packing or crating, unless agreed to by Buyer in writing in advance.

16. Delivery/Title; Late Delivery.

- (a) Seller shall deliver the Goods in the quantities, at the location, and on the Delivery Date specified in the Purchase Order or as otherwise expressly agreed in writing by Seller and Buyer. Seller shall perform the completed Services as specified in the Purchase Order. Time is of the essence with respect to Seller's delivery/performance obligations.
- (b) Unless otherwise specified in the Purchase Order or as expressly agreed to in writing by Buyer, delivery of the Goods shall be made DDP (Delivered Duty Paid, Incoterms 2020) ("**Delivery**") to the location designated by Buyer. Title, risk of loss or damage to the Goods shall pass to Buyer upon Delivery at the Buyer-designated location and completion of unloading. Seller shall pay for labor, services, materials, equipment and parts thereof, and other expenses incurred by it or its suppliers in connection with the order of Goods or provision of Services and indemnify and defend Buyer and the Buyer Indemnitees against all claims and liens arising out of unpaid accounts.
- (c) Seller shall provide Buyer with all shipping documents, certificates of origin, customs documentation, and other documents reasonably required for importation and use of the Goods.
- (d) Partial deliveries and early deliveries are not permitted without Buyer's prior written consent. Buyer reserves the right to reject any delivery that does not comply with the Purchase Order or to accept such delivery without waiving any rights or remedies.
- (e) If Seller fails to deliver the Goods by the Delivery Date, or perform the Services at the time detailed in the Purchase Order, Buyer may, at its option and without prejudice to any other rights or remedies: (i) require Seller to deliver the Goods or re-perform the Services within an additional period of time fixed by Buyer; (ii) procure substitute goods or services from an alternative supplier and recover from Seller any additional costs incurred; (iii) declare the Contract avoided in whole or in part; or (iv) claim damages for any loss suffered as a result of the delay.
- (f) Seller shall notify Buyer immediately upon becoming aware of any circumstance that may affect timely delivery. Such notice shall include the reasons for the delay, the expected duration, and proposed measures to mitigate the impact.



17. Inspection; Acceptance of Goods.

- (a) Buyer's acceptance of delivery is subject to an examination to inspect the Goods for defects as soon as this is pertinent in the ordinary course of Buyer's business. Buyer's inspection may include, without limitation, examination of quantity, quality, condition, and conformity with Specifications. Buyer shall notify Seller of any lack of conformity within a reasonable time after discovery.
- (b) Acceptance of Goods shall not occur until Buyer has had a reasonable opportunity to inspect the Goods and has not rejected them. Payment for, use of, or processing of the Goods shall not constitute acceptance or waiver of any defect or non-conformity.
- (c) With respect to defects or non-conformities that could not reasonably have been discovered upon initial inspection, Buyer may give notice of such defects within a reasonable time after their discovery, but in no event later than three (3) years from the date the goods arrive at the destination.

18. Performance of Services; Personnel Requirements.

- (a) Seller shall perform all Services in a timely, professional, and workmanlike manner, in accordance with the standards of care, skill, and diligence customarily exercised by qualified professionals in the same field performing services of a similar nature. Seller shall perform Services in accordance with the Specifications, schedules, and requirements set forth in the applicable Purchase Order and any statement of work or other documentation incorporated by reference therein.
- (b) Seller shall assign only qualified, trained, and experienced agents, employees, contractors, or subcontractors to perform Services. Buyer may, in its reasonable discretion, require Seller to remove and replace any such agent, employee, contractor, or subcontractor whose performance is unsatisfactory or who fails to comply with Buyer's policies, and Seller shall promptly comply with any such request at no additional cost to Buyer.

19. Work Product.

- (a) All Work Product shall be deemed "work made for hire" (as designated under Delaware law or comparable legal theory under the respective Gap-Filling Law (as defined below)) to the fullest extent permitted by the respective applicable law as set forth in [Section 25](#). To the extent that any Work Product does not qualify as work made for hire under the applicable Gap-Filling Law, Seller hereby irrevocably assigns to Buyer all right, title, and interest in and to such Work Product, including all intellectual property rights therein. Seller shall execute all documents and take all actions reasonably requested by Buyer to effectuate such assignment and to enable Buyer to obtain, perfect, and enforce its rights in the Work Product.
- (b) Seller grants to Buyer a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use any pre-existing intellectual property of Seller that is incorporated into or necessary for the use of the Work Product.



20. Assignment.

- (a) Seller shall not assign, transfer, or subcontract any of its rights or obligations under the Contract without Buyer's prior written consent. Any purported assignment or subcontracting without such consent shall be void.
- (b) Buyer may assign the Contract or any of its rights hereunder to any affiliate or to any successor in connection with a merger, acquisition, or sale of all or substantially all of its assets.

21. Force Majeure.

- (a) Neither party shall be liable for any delay or failure in performance resulting from causes beyond its reasonable control, including acts of God, war, terrorism, civil unrest, labor disputes, government action, natural disasters, pandemics, or interruption of transportation or utilities (“**Force Majeure Event**”), provided that the affected party gives prompt notice of the Force Majeure Event and uses reasonable efforts to mitigate its effects.
- (b) If a Force Majeure Event continues for more than thirty (30) days, Buyer may terminate the Contract in whole or in part by written notice to Seller without liability, except for payment for conforming Goods delivered and accepted prior to termination or Services performed and accepted prior to termination.

22. Trade Compliance. Seller represents to Buyer:

- (a) Neither Seller nor any of its officers, directors, employees, agents, or representatives is a person or entity identified on, or owned or controlled by any person or entity identified on, any restricted or denied party list maintained by the United States Government or the European Union, including without limitation: (i) the Specially Designated Nationals and Blocked Persons List maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury; (ii) the Entity List, Denied Persons List, or Unverified List maintained by the Bureau of Industry and Security of the U.S. Department of Commerce; (iii) the Debarred List maintained by the Directorate of Defense Trade Controls of the U.S. Department of State; or (iv) any other applicable restricted party list.
- (b) Seller has not been, and is not currently, the subject of any investigation, inquiry, or enforcement proceeding by any governmental authority with respect to any actual or alleged violation of applicable trade compliance laws.

23. Severability. If any provision of these Terms is held to be invalid, illegal, or unenforceable, the remaining provisions shall continue in full force and effect. The invalid, illegal, or unenforceable provision shall be modified to the minimum extent necessary to make it valid, legal, and enforceable while preserving the parties' original intent.

24. Remedies; Waiver. No waiver of any provision of these Terms shall be effective unless in writing and signed by the waiving party. No failure or delay by Buyer in exercising any right or remedy shall operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy.



25. Governing Law. The Contract shall be governed by the United Nations Convention on Contracts for the International Sale of Goods (the “**CISG**”). To the extent that issues arise that are not governed by the CISG or involve the provision of Services, the laws of the jurisdiction of the Buyer's company formation shall apply, excluding its conflict of laws principles (the “**Gap-Filling Law**”).

26. Interpretation. These Terms apply to (i) the sale of Goods governed by the CISG and to the extent not addressed in the CISG, by the Gap-Filling Law, and (ii) the provision of Services governed by the Gap-Filling Law. These Terms generally specify if a provision or sentence applies to Goods only, Services only or both Goods and Services. Sentences and provisions in these Terms without a reference to either Goods or Services apply to both the sale of Good and the provision of Service.

27. Entire Agreement. The Contract, including these Terms and the applicable Purchase Order, constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations, and agreements relating thereto.