



NEWELL CORP

PURCHASE ORDER TERMS & CONDITIONS

1. FORMATION OF CONTRACT, ACCEPTANCE & AUTHORITY TO COMMIT:

- a) The attached order or any future order is or will be inclusive of the terms and conditions set forth below, unless otherwise agreed, and constitutes Newell Corp, its subsidiaries and related entities, (hereby referred to as "Newell Corp") "Offer" to Seller to purchase or license "Products" (which may include software) and/or "Services".
- b) Only the cognizant Newell Corp Procurement/Contract representative is authorized by Newell Corp to conduct or conclude contract negotiations and to issue binding Offers, Acceptances, or Supplemental Agreements hereto.

2. QUALITY ASSURANCE:

Seller shall perform in accordance to Newell Corp's Supplier Quality Assurance Requirements – SQAR 840, latest revision, which by reference hereto is made a part hereof.

Supplier Quality Assurance Requirements (SQAR 840) are not required when specifically excluded on purchase order. Operations and maintenance items are typically excluded from SQAR 840.

3. DELIVERY & SHIPPING:

Title & Risk of Loss - Title and risk of loss shall transfer from Seller to Newell Corp upon acceptance of the Products at the destination set forth in the Order. Any Products delivered hereunder shall be shipped Free On Board (F.O.B.) to the Newell Corp's specified destination. In the absence of any other F.O.B. point information in the Order, delivery shall be made to Newell Corp's Arlington plant, Arlington, Washington. If the F.O.B. point is designated as the Seller's location, then title and risk of loss or damage to the Products shall pass to Newell Corp upon Seller's delivery of the Products to the carrier.

4. PACKAGING:

Seller shall package Product(s) for shipment to prevent damage or deterioration, in compliance with Buyer's requirements at its own cost, unless otherwise stated in this order.

5. WARRANTY:

- a) **Products** - Seller shall offer to Newell Corp at a minimum its standard commercial Product Warranty, unless otherwise agreed upon and set forth in the order.
- b) **Services** - Seller warrants that all Services will be provided in a good and workman like manner consistent with industry standards for such services. Seller also expressly warrants that all Services performed under this contract will be free from defects and will conform to the requirements of the Agreement and any Statement of Work. Any Services corrected or re-performed will also be covered by this warranty.
- c) The forgoing warranties are in addition to all other warranties expressed or implied by law.

6. INSPECTION, ACCEPTANCE & REJECTION:

Initial Acceptance is not conclusive as to latent defects, fraud, or gross mistakes amounting to fraud.

7. RETURNS & REWORK:

Products being returned to Seller shall be sent C.O.D or sent to Seller with freight prepaid. A description of the malfunction or defect should be enclosed with the product being returned. All goods returned to Seller during the warranty period will be repaired or replaced at no cost to Newell Corp. There will be no credit issued, nor will previous payment terms be affected. If Products are returned after the warranty has expired, then repair or replacement costs will be estimated prior to Seller commencing rework and repair, and subject to Newell Corp's acceptance of the price for the repair or rework, a new purchase order will be issued. Newell Corp will not be obligated to pay for any rework without an authorized (new) purchase order.



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8. SCRAP:

Seller shall be fully responsible for all Buyer furnished materials. Unless specified otherwise in this order(s), Seller will reimburse Buyer, at Buyer's cost for replacement material, for materials damaged or scrap for any reasons, including non-conforming goods, process scrap, et al. Seller shall be entitled to the scrap value for scrap material, including process scrap.

9. INVOICE & PAYMENT:

- a) **Preparation Instruction** - For each shipment of Product(s) or completed item of Service(s), Seller will submit an original invoice to the attention of the Newell Corp Accounts Payable Department. To enable timely payment, Newell Corp's Purchase Order or contract number(s) and any line item number(s), and any designated or mutually agreed upon financial and accounting data must appear on all invoices, shipping documents, quality certificates, correspondence, and packing sheets. Payment of invoices may be delayed pending correction of any errors or omissions.
- b) **Payment Terms** - All payments shall be made in U.S. dollars, unless otherwise agreed upon and set forth in the order schedule. Invoices shall be submitted by Seller to Newell Corp on the date of shipment or completion of Services. Terms are Net thirty (30) days after receipt of a complete and accurate invoice. Determination of the payment due date, whether under net or discount terms, will be based on the latest of (i) the date goods are received or services performed; (ii) the date provided in this contract for receipt of goods or completion of services; or (iii) the date an accurate invoice is received. Late payments owed by Newell Corp to Seller will be subject to no more than a 1.5% per month late charge, if incurred and correctly billed.
- c) **Taxes** - The price of the Products and/or Services quoted includes all applicable federal, state, and local taxes and duties unless otherwise stated in the Order.

10. CHANGES:

After Acceptance, Newell Corp may at any time, by written order signed by its authorized Contracts/Purchasing representative, and without notice to sureties, if any, make changes within the general scope of this order in any one or more of the following; (i) quantity or nature of items ordered; (ii) drawings, designs, or specifications of items; (iii) method of shipment or packing; (iv) place of inspection, delivery or acceptance; (v) description of Services to be performed; (v) time of performance of Services (i.e., hours of the day, days of the week, etc.); (vi) place of performance of Services; or (viii) delivery schedule.

11. TERMINATION FOR CONVENIENCE

Newell Corp reserves the right to terminate this order or any part hereof for its sole convenience. In the event of such termination, Seller shall immediately stop work hereunder, and shall immediately cause any of its suppliers or subcontractors to cease such work. Seller shall be paid a reasonable termination charge consisting of a percentage of the order price reflecting the percentage of work performed prior to notice of termination, plus actual direct costs resulting from termination. Seller shall not be paid for any work done after receipt of the notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided.

12. CANCELLATION FOR DEFAULT:

- a) **Failure to Comply**. If Seller fails to comply with any of the material requirements of the Order, Newell Corp may at its sole option terminate the order for default (as set forth in the sections below) or invoke applicable warranties for non-conformance or non-performance and request contractual remedies. In lieu of this (Termination for Default or warranty remedy), however, Newell Corp may waive the Seller deficiency. In return therefor, Seller agrees to negotiate an equitable reduction in the Purchase Order price in such instance.
- b) Newell Corp may, by written Notice of Default to Seller, cancel this contract in whole or in part (i) If Seller fails to deliver Products or to perform Services within the time specified by this contract or any written extension; (ii) If Seller fails to perform any other material provision(s) of this contract or fails to make progress so as to endanger performance of this contract, and in either of these two circumstances does not



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cure the failure within ten (10) days after receipt of Notice to Cure from Newell Corp specifying the failure or condition of default; or (iii) In the event of Seller's suspension of business, insolvency, appointment of a receiver for Seller's property or business, or any assignment, reorganization or arrangement by Seller for the benefit of its creditors.

- c) In the event of a partial termination, Seller will continue performing work not canceled.
- d) Newell Corp will pay the contract price for Products or Services delivered and Accepted. Payment for Products delivered or Services rendered and accepted by Newell Corp, if any, and for the protection and preservation of partially completed Work Product and materials will be at a price mutually agreed upon.
- e) Newell Corp may withhold from any amount due under this contract any sum Newell Corp determines to be necessary to protect Newell Corp against loss because of outstanding liens or claims of former lien holders.
- f) If, after cancellation, it is determined that Seller was not in default, the rights and remedies of the parties will be as if the contract had been terminated in accordance with Article 11 (Termination for Convenience).

13. FLOW-DOWN OF PRIME CONTRACT REQUIREMENTS:

If this order is released in support of a Newell Corp prime contract with its client, and applicable flow-down terms and conditions are incorporated into this Order, Seller shall take all reasonable and necessary steps to directly comply with and enable Newell Corp to comply with the Prime Contract. If any Prime Contract clause or other provision incorporated herein refers specifically to another provision as governing subcontract arrangements under the Prime Contract, then such other provision also is incorporated herein by reference and Seller shall be required to comply with its terms.

14. INTELLECTUAL PROPERTY RIGHTS:

Seller will promptly disclose to Newell Corp in writing any invention, works of authorship, improvement, development, discovery or mask work conceived or reduced to practice by Seller, either solely or in collaboration with others, using funds paid by Newell Corp under this Order. Services provided hereunder and custom deliverables paid for by Newell Corp shall be deemed "work for hire", Seller will assign all such inventions, works of authorship, improvements, developments, discoveries or mask works to Newell Corp if fully funded by Newell Corp. Seller will execute all documents and do whatever is reasonably necessary to ensure that Newell Corp will obtain full title to such inventions, works of authorship, improvements, developments, discoveries or mask works and to enable Newell Corp to secure copyright protection or file and prosecute applications for patents at Newell Corp's expense.

15. HOLD HARMLESS:

Seller shall indemnify and hold harmless Newell Corp, its personnel and agents, from and against any claims, demands, loss, damage or expense relating to bodily injury or death of any person or damage to property to the extent proximately caused by the negligent or willful acts or omissions of Seller, its personnel or agents in the course of providing Products or performing Services hereunder, provided Newell Corp shall have given Seller prompt notice of any claim hereunder, Seller has sole control of the defense of any such claim, Customer cooperates fully (at Seller's expense) in such defense and Customer makes no settlement or compromise of any such claim without Seller's prior written consent.

16. COMPLIANCE WITH LAWS, STATUTES AND REGULATIONS:

The parties hereto will comply with all applicable laws, statutes and government rules, regulations, ordinances, and orders.

17. APPLICABLE LAW:

The validity, performance, and construction of this contract shall be governed by and construed in accordance with the law of the State of Washington, with no consideration given to that state's conflict of laws rules, regardless of the places of execution or performance of this contract.

18. DISPUTES:



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The parties agree that in the event of a dispute or alleged breach they will work together in good faith to resolve the matter internally by escalating it to higher levels of management, and, if necessary, to use a mutually agreed upon alternative dispute resolution mechanism (other than binding arbitration) prior to resort to litigation.

19. RIGHTS AND REMEDIES:

The rights and remedies of the parties set forth in this contract are cumulative and in addition to any other rights or remedies that they may have at law or equity. Notwithstanding the foregoing, in no event shall either party be liable for any incidental or consequential or special damages, including but not limited to lost profits or loss of good will. Except in the cases of a breach of confidentiality or intellectual property infringement, the liability of either Newell Corp shall not exceed the amount due by Newell Corp for outstanding Products and/or Services under the applicable order or Statement of Work. Notwithstanding the foregoing, claims against Seller for third-party injury, third-party damage and/or loss are not limited, waived, released or disclaimed by any term set forth herein.

20. ADVERTISING RESTRAINTS:

Seller agrees that it shall not use Newell Corp's name in any of its promotional or marketing efforts without Newell Corp's prior written approval. Seller also agrees that entering into this Agreement does not constitute an endorsement of products or services of either party. Neither party will use the other party's name, trade marks, or service marks in any advertising, publicity release, or sales presentation without the written consent of the other party.

21. PRECEDENCE:

If the various parts of this contract are inconsistent, the following Order of Precedence will apply: (i) special terms and conditions set forth on the face of the Purchase Order or in the Subcontract or Services Agreement (the "Agreement"); (ii) the terms and conditions of this form; (iii) applicable Product or Service specifications or Statement of Work; (iv) all other attachments incorporated in this contract by reference.

22. WAIVERS AND AMENDMENTS:

Any waivers or amendments to this Agreement shall be effective only if made in writing and signed by authorized representatives of both parties. No failure or delay in exercising any right under this Agreement will operate as a waiver thereof, nor any partial exercise of any right or power under this Agreement preclude further exercise.

23. NOTICES:

Any notice or communication given pursuant to this Agreement shall be in writing and shall be effective either when delivered personally to the designated party for whom it was intended, or five (5) days following deposit of same into the United States mail (certified mail, return receipt requested, or first class postage prepaid), addressed to the parties designated in the Agreement at the address set forth on the initial page of this Agreement/order. Either party may designate a different designated recipient or address by written notice to the other given in accordance herewith.