

**ELECTRONIC DATA INTERCHANGE
TRADING PARTNER AGREEMENT**

THIS ELECTRONIC DATA INTERCHANGE TRADING PARTNER AGREEMENT (the "Agreement") is made as of _____, 20 __, by and between Kohler Co., a Wisconsin corporation with its principal place of business at Kohler, Wisconsin 53044 (hereinafter referred to as "KOHLER") and _____, a corporation having principal place of business at _____ (hereinafter referred to as "SUPPLIER").

RECITALS:

KOHLER and SUPPLIER desire to facilitate purchase and sale transactions ("Transactions") by electronically transmitting and receiving data in agreed formats in substitution for conventional paper-based documents and to assure that such Transactions are not legally invalid or unenforceable as a result of the use of available electronic technologies for the mutual benefit of the parties.

NOW THEREFORE, the parties intending to be legally bound, agree as follows:

Section 1. Prerequisites.

1.1 Documents: Standards. Each party may electronically transmit to or receive from the other party any of the transaction sets listed in Appendix A, and transaction sets which the parties by written agreement add to the Appendix (collectively "Documents"). Any transmission of data, which is not a Document, shall have no force and effect between the parties unless justifiably relied upon by the receiving party. All Documents shall be transmitted in accordance with the standards set forth in the Appendix.

1.2 Third Party Service Providers.

1.2.1. Documents will be transmitted electronically to each party either, as specified in the Appendix, directly or through any third party service provider ("Provider") with which either party may contract. KOHLER will primarily transmit Documents through STERLING COMMERCE, although any network system may be used.

1.2.2. Each party will be responsible for the costs of any Provider with which it contracts.

1.3 System Operations. Each party, at its own expense, shall provide and maintain the equipment, software, services and testing necessary to effectively and reliably transmit and receive Documents.

Section 2. Transmissions.

2.1 Proper Receipt. Documents shall not be deemed to have been properly received, and no Document shall give rise to any obligation, until accessible to the receiving party at such party's receipt computer.

2.2 Verification. Upon proper receipt of any Document, the receiving party shall promptly and properly transmit a functional acknowledgement in return, unless otherwise specified in the Appendix. A functional acknowledgement shall constitute conclusive evidence a Document has been properly received.

2.3 Garbled Transmissions. If any transmitted Document is received in an unintelligible or garbled form, the receiving party shall promptly notify the originating party (if identifiable) in a reasonable manner. In the absence of such a notice, the originating party's records of the contents of such Document shall control.

Section 3. Transaction Terms.

3.1 Terms and Conditions. KOHLER's standard terms and conditions which appear on its purchase orders, duplicated in Appendix B are incorporated by reference and shall govern the TRANSACTIONS between the parties. In the event of any conflict between the terms of this agreement and those of the Appendices, the terms of this agreement shall govern.

3.2 Confidentiality. No information contained in any Document or otherwise exchanged between the parties shall be considered confidential except by written agreement between the parties or by applicable law.

3.3 Validity; Enforceability.

3.3.1 This agreement has been executed by the parties to evidence their mutual intent to create binding purchase and sale obligations pursuant to the electronic transmission and receipt of Documents specifying certain of the applicable terms.

3.3.2 Any Document properly transmitted pursuant to this Agreement shall be considered, in connection with any TRANSACTION or this Agreement, to be a “writing” or “in writing”, and shall be deemed for all purposes to constitute an “original” when printed from electronic files or records established and maintained in the normal course of business.

3.3.3 The conduct of the parties pursuant to this Agreement, including the use of Documents properly transmitted pursuant to this Agreement, shall, for all legal purposes, evidence a course of dealing and a course of performance accepted by the parties in furtherance of this Agreement and any TRANSACTION.

Section 4. Miscellaneous

4.1 Termination. This Agreement shall remain in effect until terminated by either party with not less than thirty (30) days prior to written notice, which notice shall specify the effective date of termination; provided, however, that any termination shall not affect the respective rights or obligations of the parties arising under any Documents or otherwise under this Agreement prior to the effective date of termination.

4.2 Severability. Any provision of this Agreement, which is determined to be invalid or enforceable, will be ineffective to the extent of such determination without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such remaining provisions.

4.3 Entire Agreement. This Agreement and Appendices A, and B constitute the complete agreement of the parties relating to the matters specified in this Agreement and supercede all prior representations or agreements, whether oral or written, with respect to such matters. No oral modification or wavier of any of the provisions of this Agreement shall be binding upon either party. No obligation to enter into any TRANSACTION is to be implied from the execution or delivery of this Agreement. This agreement is for the benefit of, and shall be binding upon, the parties and their respective successors and assigns.

4.4 Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Wisconsin.

4.5 Force Majeure. No party shall be liable for any failure to perform its obligations in connection with a TRANSACTION or any Document where such failure results from any act of God or other cause beyond such party’s reasonable control (including, without limitation any mechanical, electronic, or communications failure) which prevents such party from transmitting or receiving any Documents.

4.6 Limitation of Damages. Neither party shall be liable to the other for any special, incidental, exemplary, or consequential damages arising from or as a result of any delay, omission, or error in the electronic transmission or receipt of any Documents pursuant to this Agreement, even if either party has been advised of the possibility of such damages.

IN WITNESS WHEREOF, the parties, by their dual authorized corporate officer, have executed this Agreement as of the latter of the dates shown below.

KOHLER CO.

(SUPPLIER)

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX A

STANDARD

ANSI X12

Selected standards include, as applicable, all data dictionaries and segment dictionaries referenced in those standards for the transaction sets listed in the DOCUMENTS section of this Appendix below. These are the transaction sets currently available for communication with Kohler.

DOCUMENTS

Transaction Set No.	Document Description
810	X12 Invoice
850	X12 Purchase Order
856	X12 Ship Notice/Manifest
860	X12 Purchase Order Change Request - Buyer
997	X12 Functional Acknowledgement

APPENDIX B
PURCHASE ORDER TERMS AND CONDITIONS

ACCEPTANCE OF CONTRACT

Seller shall be bound by this offer and its terms and conditions when it executes and returns the acknowledgement or when it delivers to Buyer any of the items ordered or renders for Buyer any of the services ordered herein. Acceptance is expressly limited to the terms and conditions stated herein. Any additional or different terms proposed by Seller are rejected unless expressly assented to in writing and signed by Buyer's authorized agent. All specifications, drawings, and data submitted to Seller with this order are hereby incorporated herein and made a part thereof.

CHANGES

The Buyer reserves the right at any time to make changes in any one or more of the following: (a) Specifications, drawings and data incorporated in this contract where the items to be furnished are to be specifically manufactured for the Buyer; (b) Methods of shipping or packaging; (c) Place of delivery; and (4) Time of delivery. If any such change causes an increase or decrease in the cost of or the time required for performance of the contract, an equitable adjustment shall be made in the contract price or delivery schedule or both. Any claim by Seller for adjustment under this clause shall be deemed waived unless asserted in writing within ten (10) days from the receipt by Seller of the change. Price increases or extensions of time for delivery shall not be binding on Buyer unless evidenced by a Purchase Order Change Notice issued and signed by Buyer.

DELIVERY

Time is of the essence in this contract and, if delivery of items or rendering of services is not completed by the time promised, the Buyer reserves the right without liability, in addition to its other rights and remedies, to terminate this contract by notice effective when received by Seller as to stated items not yet shipped or services not yet rendered and to purchase substitute items or services elsewhere and charge the Seller with any loss incurred. Any provisions herein for delivery of articles or the rendering of services by installments shall not be construed as making the obligations of Seller severable. Shipments sent C.O.D. without Buyer's written consent will not be accepted and will be at Seller's risk. No charges will be allowed for boxing, crating, or special packaging unless expressly agreed to in writing by Buyer.

INSPECTION

Materials or equipment purchased hereunder are subject to inspection and approval at the Buyer's destination. Buyer reserves the right to reject and refuse acceptance of items which are not in accordance with the instructions, specifications,

drawings and data or Seller's warranty (express or implied). Buyer will charge Seller for the cost of inspecting merchandise rejected. Items not accepted will be returned to seller at Seller's expense. Neither acknowledgement of receipt by Buyer's receiving Department nor payment for any article hereunder shall be deemed an acceptance thereof.

WARRANTY

By accepting this order, Seller hereby warrants that the articles and services to be furnished hereunder will be in full conformity with Buyer's specifications, drawings and data, or Seller's samples, and will be of merchantable quality and fit for use intended by Buyer. Seller agrees that this warranty shall survive acceptance of the items. Said warranties given to Buyer by Seller.

BUYER'S REMEDIES

In the event of Seller's breach of this contract, without Buyer's other rights and remedies and notwithstanding any limitation in Seller's express warranty or otherwise, Buyer expressly reserves that right, at the election of Buyer and without limitation of Buyer's rights to recover its incidental and consequential damages from Seller, to "cover" the goods and recover from Seller the difference between the value of the goods and the contract price.

PROPERTY FURNISHED TO SELLER BY BUYER

Unless otherwise agreed in writing, all special dies, molds, jigs, fixtures, inventory and any other property furnished to the Seller by the Buyer, or specifically paid for by the Buyer, for use in the performance of this contract, shall be and remain the property of the Buyer, shall be subject to removal upon the Buyer's request, shall be used only in filling orders from the Buyer, shall be held at the Seller's risk, and shall be kept insured by the Seller at the Seller's expense while in its custody or control in an amount equal to the replacement cost thereof, with loss payable to the Buyer. An itemized list of such equipment, inventory and other property held by Seller as of July 1 and copies of policies or certificates of such insurance will be furnished to Buyer on or before July 30th of each year.

PATENTS

Seller undertakes and agrees to defend at seller's own expense, all suits, actions, or proceedings, in which Buyer, any of Buyer's distributors or dealers, or the users of any of Buyer's products are made defendants for actual or alleged infringements of any U.S. or foreign letters patent resulting from the use or sale of the items purchased hereunder (except infringement necessarily resulting from adherence to specifications or drawings, other than those of Seller's design or selection, originally submitted to Seller by Buyer)

and further agrees to pay and discharge and all judgements or decrees which may be rendered in any such suit, action or proceedings against such defendants therein.

PRICE

Buyer shall not be billed at prices higher than stated on this Purchase Order unless authorized by a Purchase order Change Notice issued and signed by Buyer. No Purchase order Change Notice will be issued unless Buyer is notified at least 30 days prior to the effective date of change. Seller represents that the price charged for the items or services covered by this order, is the lowest price charged by the Seller to Buyers of a class similar to those specified in this order and that prices comply with applications similar to those specified in this order and that prices comply with applicable government regulations in effect at the time of quotation, sale or delivery. Seller agrees that any price reduction made in merchandise covered by this order subsequent to the placement of this order will be applicable to this order.

PAYMENT

Buyer's Vendor Code and Purchase order number must appear on all invoices for payment. Buyer will not pay for shipping and transportation unless expressly authorized by this order. Seller agrees to provide Buyer with copies of bill of lading or express receipt evidencing the shipping charges. It is understood that the cash discount period will date from the receipt of goods or the invoice whichever is later. In no event is Buyer obligated to make payment prior to its normal payment cycle. Standard payment terms are net 60 days.

COMPLIANCE WITH LAWS

In accepting this order, Seller represents that it has and will continue, during the performance of this order, to comply with the provisions of all federal, state, and local laws and regulations from which liability may accrue to Buyer from any violation hereof. By acceptance hereof, seller certifies that the articles and services to be furnished hereunder comply with all applicable standards and regulations promulgated under the Occupational Safety and Health Act of 1970.

LOCKOUT/TAGOUT REQUIREMENTS

Services and equipment provided by Seller to Buyer must comply with the requirements of the OSHA standard entitled "Control of Hazardous Energy Sources (Lockout/Tagout)", which is found in 29 CFR 1910.147. Any equipment sold to or installed for Buyer that falls within the scope of this standard (i.e., has the capability of causing harm as a result of unexpected startup, movement or release of energy) must be equipped with lockable energy isolating

devices such as valves, slip blanks, disconnect switches, etc., as appropriate to enable total isolation of the equipment. Push buttons, selector switches and other control circuit type devices do not satisfy this requirement. Work done by Seller for Buyer must be performed in accordance with a written lockout/tagout program if there is any possibility of injury to either Seller's, Buyer's or other contractors' employees as described above. In the event that Seller does not have an adequate, written program, Seller must utilize Buyer's Lockout/Tagout Program. Regardless whose program is used, all work done under lockout/tagout conditions must be coordinated closely between Seller and affected Buyer employees to ensure mutual safety.

TERMINATION

Buyer may terminate this order for its convenience, in whole or in part, by written or telegraphic notice at any time. If this order is terminated for convenience, any claim of Seller shall be subject on the basis of reasonable costs it has incurred in the performance of this order.

DELAYS AND CONTINGENCIES

Neither party shall be liable for failure to perform all or any part of this order because of circumstances beyond the reasonable control of said party, including but not limited to acts of God or of the public enemy, fire, strikes, sabotage, embargo, war, regulations or orders of federal, state, or municipal governments, or of any administrative bureau or agency thereof, provided that notice be given to the other party.

INDEPENDENT CONTRACTOR

Seller shall perform the work necessary for performance of this contract with Seller's employees and agents under the control of Seller. Buyer's Standard Contractor Clauses are incorporated herein by reference whenever they are attached hereto or the goods are to be installed or serviced or the services are to be performed on Buyer's premises or using tools or material supplied by Buyer.

PRODUCT LIABILITY

Seller hereby indemnifies and agrees to defend Buyer against all claims for property damage and personal injury which may arise out of the performance of the services or the use by Buyer or other persons of the articles or completed services furnished hereunder.

TITLE AND RISK OF LOSS

Unless otherwise stated on the face of this order, the risk of loss and expense of transportation shift to Buyer at the F.O.B. destination with the title passing F.O.B. destination.

TAXES

Unless the purchase is subject to sales and/or use taxes as indicated on the front of this Purchase Order, this price shall not include sales, use, excise, or similar state or local taxes applicable to the goods or services furnished hereunder or to the materials used therein. Where such taxes are applicable, they shall be shown separately on Seller's invoice. For each state to which the goods are shipped to in which the services are performed, comply with applicable instructions.

Texas Taxes: Buyer hereby claims an exemption from payment of State and Local Sales, Excise and Use Taxes upon its purchase of taxable items from seller. This certificate will remain in effect until Seller is otherwise notified. This certificate does not cover: 1) Purchase of taxable items to be resold without further fabrication or manufacturer; 2) Sales or rentals to any purchaser other than the permit holder; 3) Sales or rentals of motor vehicles subject to the Motor Vehicle Sales and Use Tax (Chapter 6, Title 122A). The permit holder agrees not to permit others (including its contractors and repairman) to use the Buyer's Direct Payment authorization to purchase material tax free. Buyer agrees to accrue and pay taxes to the Comptroller of Public Accounts as required by Statute Effect Date: September 1974.

Other State Taxes: Buyer's Exemptions Certificate (if applicable) is included in the purchase order or has previously been sent to Seller. Any questions concerning taxes should be referred to Buyer's Tax Department located in Kohler, WI.

EQUAL OPPORTUNITY

During performance of this order, Seller agrees as follows:

Seller will not discriminate against any employees or applicants for employment because of race, color, religion, sex, or national origin. Seller will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, veteran, or handicap status. Such action shall include, but not limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection of training, including apprenticeships. Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting office setting forth the provisions of this nondiscrimination clause. Seller will comply with the rules, regulations and others of the Secretary of Labor issued pursuant to Executive Order 11246 of September 24, 1965, as amended.

APPLICABLE LAW

This purchase order shall in all respects be construed by the laws of the State from which Buyer issues it.