

## M. G. Newell Corporation Standard Terms and Conditions

1. Seller is not bound by any terms on Buyer's order form(s) or other documents. Seller's failure to object to such terms or conditions shall not be deemed a waiver of the terms or conditions set forth herein, which shall constitute the entire agreement between the parties and the final, complete and exclusive statement of the terms of their agreement. No course of prior dealings between Buyer and Seller and no trade custom shall be relevant to supplement or vary any term hereof. Acceptance or acquiescence in a course of performance hereunder shall not be relevant to determine the meaning hereof, even though the accepting or acquiescing party has knowledge of the nature of the performance and opportunity for objection. All sales by Seller of any of its Goods to any Buyer are subject to all these Terms and Conditions, which constitute an integral part of any contract for the sale of Goods. No term or condition contained in any purchase order form submitted by Buyer that varies from or conflicts with any of these Terms and Conditions shall become part of the contract for the sale of Goods unless it is expressly accepted in writing by Seller's authorized representative at its home office. No waiver, alteration or modification of the terms and conditions hereof shall be binding upon Seller unless in writing and signed by an officer of Seller.
2. If Seller's invoice is not paid when due and is referred to an attorney for collection, Buyer agrees to pay to Seller, in addition to the full sum due, reasonable attorney's fees, court costs and other collection expenses, plus interest on the invoice amount at a rate equal to the lower of (a) the highest rate allowed by law, or (b) 18% from the due date to the date of payment.
3. Seller will not issue credit for any allowances, deductions or returned goods unless Buyer requests Seller to authorize return within ten (10) days from date of shipment. Seller will not authorize return of merchandise shipped more than ten (10) days prior to the request for return. All returned goods must be accompanied by Seller's written returned goods authorization, or they will be refused.
4. The contract created by Seller's acceptance of Buyer's order, including the definition of all terms, shall be governed by and interpreted under the laws, including the Uniform Commercial Code, of North Carolina. Buyer agrees that all claims against Seller, other than for breach of warranty (which are restricted under Section 8 hereof), arising from the sale of Goods shall expire and be barred forever unless an action thereon is commenced in a court of competent jurisdiction in the County of Guilford, State of North Carolina within one (1) year following Buyer's discovery of facts indicating to Buyer that such claims may exist against Seller. **NO LAWSUIT PERTAINING TO ANY MATTER ARISING UNDER OR GROWING OUT OF THIS AGREEMENT SHALL BE PROSECUTED IN ANY COURT OTHER THAN A COURT HAVING VENUE IN THE COUNTY OF GUILFORD, STATE OF NORTH CAROLINA, U.S.A.**
5. Terms are net 30 days, unless otherwise stated. Unless otherwise stated, all applicable sales, use, excise, VAT or other taxes shall be paid by the Buyer. At Seller's sole option, it may require an irrevocable letter of credit with a bank acceptable to Seller, to be payable after delivery of the Goods F.O.B. factory, upon presentation of the invoice and carrier, dock or ship's receipt to the bank issuing the letter of credit, and on such other terms and conditions as Seller may require.
6. Title and risk of loss passes to Buyer upon delivery of goods to a common carrier for shipment to Buyer.
7. Seller shall not be responsible for delay, non-delivery or default in shipment due to strikes, war, riots, delay in transportation, fires, floods, accidents, insurrections, lockouts, breakdowns of machinery, or from loss or damage in transit or detention or delay of transportation resulting directly or indirectly from acts of God, stoppage of labor or shortage of space, or inability to deliver due to inability to obtain materials, inventory, labor, fuel or supplies, or any other causes, contingencies or circumstances not subject to Seller's control. Under no circumstances will Seller be liable for any consequential damages suffered or incurred by Buyer by reason of any delay or failure in delivery hereunder whether due to the fault of Seller or otherwise. Delay in delivery shall not excuse Buyer from an obligation to accept delivery. In no case will Buyer be entitled to recover from Seller any damages, consequential or otherwise, caused by any loss or delay in delivery or Seller's failure to meet Buyer's requested delivery date, even when Seller has selected or paid for the services of a particular carrier.
8. (a) **Limited Warranty.** SELLER WARRANTS THAT THE GOODS WILL CONFORM TO THE DESCRIPTION OF THEM AS STATED, OR INCORPORATED BY REFERENCE, ON THE REVERSE HEREOF. (b) **Exclusion of Other Warranties.** SELLER MAKES NO OTHER WARRANTY OF ANY DESCRIPTION, EXPRESS OR IMPLIED, OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. (c) **Exclusive Remedy.** The sole and exclusive remedy for any breach of the foregoing warranty shall be either (1) replacement of the non-conforming goods or (2) refund of the purchase price. Seller shall, in its sole discretion, determine which of these remedies shall be made available to Buyer. (d) **Warranties Made by the Manufacturer.** Seller will, upon request, execute such documents as Buyer may reasonably request to transfer (to the extent assignable or transferable) to Buyer any applicable manufacturer's warranty. (e) **No Other Right to Remedy or Recovery.** Buyer agrees and acknowledges that it is not entitled to any remedy other than as set out above on any legal or equitable theory, including, but not limited to, breach of warranty or contract, strict liability, negligence, or willful infliction of injury or damage. Buyer further acknowledges and agrees that Buyer is not entitled to any recovery of incidental or consequential damages, or recovery of lost profits, business injury, damage to any property other than the goods themselves, damages caused by loss of use of the goods or loss of use of any items of equipment or machinery.
9. Buyer agrees to indemnify and hold Seller harmless from and against any and all claims, demands, actions, losses, costs of expenses, including attorney's fees, arising out of or connected with any injury, including death, to any person or persons (whether third parties or agents, servants or employees of Buyer) and any and all damages to or loss of any property (whether belonging to Buyer or a third party) caused by or resulting from Buyer's use, operation, transportation or possession of the Goods sold pursuant hereto.
10. If any term, provision, section or subsection hereof is adjudged invalid, the remainder will not thereby be invalidated.
11. Seller reserves the right to discontinue the sale of Goods it has not promised to deliver. Seller also reserves the right to change, improve or add any product or specifications at any time and to change Seller's prices accordingly. If any such change causes an increase or decrease in the price of Goods, Seller shall promptly notify Buyer of the same, and upon demand, invoices and payments shall be adjusted equitably.