

**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 and pertain to the region(s) you supply, 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 outlined in the Kohler Co. standard terms and conditions pertaining to the region(s) you supply, the terms and conditions shall govern.

Current Terms and Conditions can be referenced at: <http://www.kohler.com/corporate/supplier/conducting-business.html>

- 3.2 Supply and Purchase Agreement Terms and Conditions. If KOHLER and SUPPLIER has entered into a Supply and Purchase Agreement, the Supply and Purchase Agreement is incorporated herein by reference and shall govern the Transactions between the parties. In the event of any conflict between the terms of this Agreement and the Supply and Purchase Agreement, the terms of this Agreement shall govern.
- 3.3 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.
- 3.4 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, Appendix A, and the Kohler Co. standard terms and conditions / Supply and Purchase Agreement shall constitute the complete agreement of the parties relating to the matters specified in this Agreement and supersede all prior representations or agreements, whether oral or written, with respect to such matters. No oral modification or waiver 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.

Section 5. Additional Conditions

5.1 Purchase Order Terms and Conditions Compliance with Laws.

- 5.1.1 When Applicable, wood packaging and pallets must conform to ISPM15 regulations.
- 5.1.2 Suppliers of products and services should comply with the Kohler Co. Global Supplier Quality Manual.
- 5.1.3 When applicable, product sold against the purchase order must comply with the requirements defined in (Section 93120.2(A)) of the Airborne Toxic Control Measure for Formaldehyde Emissions from Composite Wood Products (ATCM) enacted by the California Air Resource Board (CARB) per 93120-93120.12, Title 17 California Code of Regulations.
- 5.1.4 All products and material delivered to Kohler Co. and its customers or affiliates are guaranteed by the seller to be free from radiation. Seller agrees to indemnify, defend and hold Kohler and its customers or affiliates harmless for any losses or liability arising out of or resulting from radioactive products or material delivered by the seller.

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: <u>Scott A. Voltz</u>	By: _____
Name: <u>Scott A. Voltz</u>	Name: _____
Title: <u>Senior Project Manager - Global Procurement</u>	Title: _____
Date: <u>December 31, 2013</u>	Date: _____

APPENDIX A

STANDARDS

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 Co. under the ANSI X12 Version 004010.

DOCUMENTS

Transaction Set No.	Document Description
810	X12 Invoice
850	X12 Purchase Order
855	X12 Purchase Order Acknowledgement
856	X12 Advance Shipment Notification / Manifest
860	X12 Purchase Order Change Request – Buyer
997	X12 Functional Acknowledgement

EDIFACT

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 Co. via the UN/EDIFACTs Standard.

DOCUMENTS

UN/EDIFACT Tag	Document Description
INVOIC	UN/EDIFACT Invoice
ORDERS	UN/EDIFACT Purchase Order
ORDRSP	UN/EDIFACT Purchase Order Acknowledgement
DESADV	UN/EDIFACT Advance Shipment Notification / Manifest
ORDCHG	UN/EDIFACT Purchase Order Change Request – Buyer
CONTRL	UN/EDIFACT Functional Acknowledgement