

**SETTLEMENT, MUTUAL RELEASE AND COVENANT NOT TO SUE AGREEMENT**

This Settlement, Mutual Release and Covenant Not to Sue Agreement (“Agreement”) is made on this \_\_\_\_ day of November, 2024 (the “Effective Date”) by and between the City of Manitowoc (“City”) and Newell Operating Company (“NOC”), each referred to herein as a “Party” and collectively as the “Parties.”

**RECITALS**

**WHEREAS**, this matter pertains to the Newton Gravel Pit, 3130 Hecker Road, Manitowoc, Wisconsin, WI/WDNR BRRTS Activity # 02-36-000268, which is owned by the City (the “Facility”);

**WHEREAS**, the City and Newell Brands Inc., NOC’s parent, have been identified as responsible parties for the contamination at and emanating from the Facility (such contamination hereafter defined as the “Site”) by the Wisconsin Department of Natural Resources (“WDNR”);

**WHEREAS**, the City has incurred and continues to incur significant costs to investigate and remediate the Site;

**WHEREAS**, the Parties dispute their respective liability for past and future Costs Incurred by the City in connection with the Site;

**WHEREAS**, the Parties wish to resolve their dispute concerning their respective liability for Costs Incurred by the City arising from the Site from January 1, 2022 through and including December 31, 2022; and

**WHEREAS**, by entering into this Agreement, the City and NOC intend to fully and finally resolve all past and present Claims, as defined herein, arising from Costs Incurred by the City from January 1, 2022 through and including December 31, 2022 and arising out of the Site.

**NOW, THEREFORE**, for the good and valuable consideration recited below and such other good and valuable consideration as may have been received, the Parties agree as follows:

1. Definitions.

- a. The definitions in the Recitals are hereby incorporated by reference in this Agreement.
- b. “2022 Costs” means Costs Incurred by the City from January 1, 2022 through and including December 31, 2022 and arising out of the Site.
- c. “Claims” means any and all claims at law or in equity, actions or causes of action of any kind, suits, demands, judgments, assessments, awards, damages, injuries, losses, penalties, fines, sanctions, charges, costs, obligations, liabilities (including without limitation sums paid in settlement of Claims), or other expenses (including without limitation reasonable fees and costs for attorneys, consultants, appraisers, accountants, witnesses, investigators and any other agents of the Parties), court

costs and litigation expenses, and disbursements, and shall include, without limitation, claims for personal injury or death, property damage, statutory or regulatory claims under environmental laws (including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. 9601 *et seq.*), claims for contribution, investigation of property conditions, and any clean-up, remedial, removal, or restoration work. “Claims” shall include all special, incidental, consequential, exemplary, or punitive damages.

- d. “Costs Incurred,” when used in relation to the City’s costs, mean those costs that fall within one or more of the following categories: (i) costs that the City paid or pays during a specified period of time; (ii) costs relating to work performed during a specified period of time, except for work performed by governmental entities other than the City; and (iii) costs relating to invoices that the City receives from any other governmental entity (including the Manitowoc Public Utilities (“MPU”)) during a specified period of time. When used in relation to NOC’s costs, “Costs Incurred” mean those costs that fall within one or more of the following categories: (i) costs that NOC paid or pays during a specified period of time; (ii) costs relating to work performed during a specified period of time, except for work performed by a governmental entity; and (iii) costs relating to invoices that NOC receives from any governmental entity during a specified period of time.
  - e. “Payment” has the meaning set forth in Section 2.
  - f. “Payment Amount” means One Million Four Hundred Sixteen Thousand Four Hundred Eighty Two Dollars and Fifty Cents (\$1,416,482.50).
2. The City Releases and Covenants Not to Sue NOC for 2022 Costs. In consideration of the Payment Amount to be paid by NOC to the City (the “Payment”) as reflected in Section 4 herein, and NOC’s other covenants and obligations under this Agreement, the City hereby releases, forever discharges and covenants not to sue NOC, its direct and indirect parents and subsidiaries, predecessors, successors and affiliates, and their respective officers, directors and employees, from past and present Claims arising out of the Site, whether asserted or not, known or unknown, developed or undeveloped, which the City has or may have against NOC, its direct or indirect parents, subsidiaries, predecessors, successors and affiliates, and their respective officers, directors and employees, in respect thereof, seeking recovery of the 2022 Costs. Notwithstanding anything to the contrary herein, the City expressly reserves and does not release all Claims it may have against NOC for the City’s costs arising out of the Site that, prior to January 1, 2023, did not satisfy the definition of Costs Incurred.
  3. NOC’s Release of and Covenant Not to Sue the City for its 2022 Costs. In consideration of the City’s assumption of liability for its past costs remediating and otherwise maintaining the Site and the City’s other covenants and obligations under this settlement, NOC, on behalf of its parents, subsidiaries, and affiliates and their respective officers, directors and employees, hereby releases, forever discharges and covenants not to sue the City for past and present Claims arising out of or resulting from the Site, whether asserted or not, known or unknown, developed or undeveloped, which NOC has or may have against the City in respect thereof, seeking recovery of Costs Incurred by NOC from January 1, 2022 through and including December 31, 2022. Notwithstanding anything to the contrary herein, NOC expressly reserves and does not release all Claims it may have against the City for NOC’s

costs arising out of the Site that, prior to January 1, 2023, did not satisfy the definition of Costs Incurred.

4. Payment. Within thirty days of the Effective Date, NOC shall make payment in the amount of the Payment Amount to the City by check made payable to the City of Manitowoc.
5. Miscellaneous.
  - a. This Agreement constitutes a compromise and settlement and is not to be interpreted or construed as an admission by any of the Parties of any issue of fact, liability, causation, wrongdoing or omission of any kind, or of the merit or lack of merit of any of their positions. Each Party hereto expressly denies any liability to the other as well as any liability for the Site. Neither this Agreement nor the consideration described herein, shall be used as evidence of liability or wrongdoing at any time in any way, nor used or cited as a basis for any future allocation of costs in connection with the Site.
  - b. For the purpose of construction and interpretation, this Agreement shall be deemed to have been drafted jointly by the Parties and shall not be construed against either Party.
  - c. Each Party represents that it has had the opportunity to consult with its attorneys, and has carefully read and understands the scope and effect of the provisions of this Agreement.
  - d. This Agreement may be signed in counterparts, each of which shall be deemed original, but all of which together shall constitute one and the same instrument. A signature transmitted by facsimile or electronically shall be deemed an original. This Agreement shall be deemed to have been executed when all Parties have signed and delivered the same or separate copies thereof.
  - e. NOC does hereby represent and warrant that the NOC signatory is duly authorized to execute and deliver this Agreement in such manner as to create legal, valid, and enforceable obligations of NOC.
  - f. The City does hereby represent and warrant that the City signatory is duly authorized to execute and deliver this Agreement in such manner as to create legal, valid, and enforceable obligations that bind the Parties in accordance with the terms hereof.
  - g. This Agreement shall be interpreted and enforced in accordance with the laws of Wisconsin. Any litigation arising hereunder shall be filed and maintained only in the Circuit Court for Manitowoc County.
  - h. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless approved in writing by both Parties. Either Party's failure at any time to enforce any of the provisions of this Agreement shall in no way be construed as a waiver of such provisions and shall not affect such Party's right thereafter to enforce each and every provision hereof in accordance with its terms.

- i. All agreements and understandings between the Parties related to the subject matter herein are embodied and expressed herein. The undersigned hereby declare and represent that no promise, inducement, representation, or agreement not herein expressed or referenced has been made between the Parties relating to this subject matter.

***--REMAINDER OF PAGE LEFT BLANK--***

***SIGNATURES CONTAINED ON NEXT 2 PAGES***

Signed, sealed and delivered this \_\_\_\_\_ day of November, 2024.

CITY OF MANITOWOC

By: \_\_\_\_\_  
\_\_\_\_\_ (Name Printed)

By: \_\_\_\_\_  
\_\_\_\_\_ (Name Printed)

Signed, sealed and delivered this \_\_\_\_\_ day of November, 2024

NEWELL OPERATING COMPANY

By: \_\_\_\_\_  
\_\_\_\_\_ (Name Printed)