



ADHESIVE AND SEALANT SYSTEMS

CORPORATE OFFICES: 1014 Uhlhorn St., Evansville, IN 47710 Area 812 463-5230

TS 16949 Certified

Terms and Conditions of Sale

(REVISED JANUARY 11, 2018)

1. **Acceptance of Terms and Controlling Conditions.** The Terms and Conditions, Limited Warranty, and Limitation of Remedies contained herein constitute the complete agreement of Uniseal, Inc. ("Uniseal") and Buyer, unless otherwise provided in writing signed by an authorized representative of Uniseal, and no terms or conditions in any way modifying the provisions stated herein shall be binding upon Uniseal. Acceptance of the Buyer's purchase order by Uniseal, or Buyer's acceptance of Uniseal's sales quotation or proposal, shipment of goods by Uniseal to Buyer, or the issuance by Uniseal of an acknowledgment of order, (hereinafter "Agreement") is made only on the express condition that these Terms and Conditions shall govern regardless of whether Buyer accepts these conditions by a written acknowledgment, by implication or by acceptance or payment for goods ordered hereunder. Uniseal's failure to object to provisions contained in any communication from Buyer or Uniseal's shipment of goods following receipt of any such communication is not a waiver or modification of the terms and conditions contained herein. If Buyer objects to any of the following terms and conditions, any changes must be in writing in Uniseal's Acknowledgment of Order prior to commencement of performance by Uniseal. All orders shall be accepted only at Uniseal's offices in Evansville, Indiana.
2. **Prices:** All prices of goods are subject to change by Uniseal without notice to Buyer prior to Uniseal's shipment of the goods or its issuance of an Acknowledgment of Order, and are subject to change at any time by Uniseal in the event of a change of Buyer's requirements following Uniseal's issuance of its Acknowledgment of Order. Unless otherwise provided on the face of Uniseal's quotation, all price quotations from Uniseal are quoted F.O.B. Uniseal's plant at Evansville, Indiana.
3. **Payment Terms:** Unless provided otherwise in writing in Uniseal's quotation, payment shall be net thirty (30) days from date of shipment, subject to such change as Uniseal in its sole judgment, may impose because of Buyer's financial or credit conditions existing at time of shipment of the goods or its issuance of Uniseal's Acknowledgment of Order.
4. **Shipments:** Unless otherwise provided on the face of Uniseal's quotation, all goods sold by Uniseal to Buyer shall be shipped by carrier F.O.B. Uniseal's Plant, Evansville, Indiana. Uniseal shall have the right to select carrier, and Buyer accepts carrier selected by Uniseal unless carrier is designated by Buyer in its order and such designation is confirmed in Uniseal's Acknowledgment of Order. Risk of loss or damage shall pass to the Buyer at the time Uniseal delivers the goods to the carrier unless Uniseal prepays the freight, in which case risk of loss or damage shall not pass to the Buyer until the goods are delivered to Buyer. Any transportation damages or claims occurring after Uniseal's delivery to carrier or any claim for transportation overcharges shall be directed by Buyer to carrier, together with transportation papers, noting shortage or damage, if any, and signed by carrier's representative. Uniseal may deliver goods in installments, and each shipment is considered a separate and independent transaction and payment shall be made as provided herein for goods delivered in installments. Shortage claims of any type shall be made in writing within ten (10) days after receipt of good by Buyer or shall be deemed to have been waived.
5. **Delays in Delivery** Uniseal shall ship the goods within three (3) weeks after receipt of an order for the goods. If the goods cannot be shipped within three (3) weeks after receipt of an order for the goods, Uniseal will issue an Acknowledgment of Order to Buyer, which Acknowledgment of Order shall serve to notify Buyer of the approximate date upon which Uniseal reasonably expects goods will be delivered to carrier for shipment. Buyer agrees that any shipment within three (3) weeks after receipt of an order for the goods or the approximate shipping date on a written Acknowledgment of Order is within a reasonable time. The shipping date shown on Uniseal's Acknowledgment of Order is an estimate and dependent upon prior sales and circumstances beyond Uniseal's control. Time is not deemed of the essence and Buyer is not entitled to reject an otherwise conforming tender made within a reasonable time.

Uniseal is not liable for any damage or penalty for failure to ship or delays in shipment whether reasonable or unreasonable, caused by the following matters affecting manufacturing or shipping: fire, flood, other casualties, or acts of God; wars, riots, civil commotion, embargoes, governmental regulations, or Uniseal's inability to obtain necessary materials from the usual sources of supply; shortage of rail cars or semi-tractors and trailers or delays in transit; existing or future strikes or other labor troubles affecting production or shipment, whether employees of Uniseal or employees of others, and regardless of responsibility or fault on part of any employer; any other contingencies affecting Uniseal's shipment not reasonably within the Uniseal's control whether or not a class or kind mentioned herein.

If Uniseal is wholly or partially unable to perform because of any cause beyond its reasonable control, Uniseal may allocate production and deliveries among Uniseal's customers or may terminate the Agreement without any further liability to Buyer. The delivery schedule of any goods is extended by the period of time equal to the time lost because of any excusable delay enumerated in the preceding paragraph.

In the event Uniseal shall inexcusably fail to deliver the goods to the carrier for shipment as described above, or, within ten (10) days thereafter, and if after that time Buyer makes demand for delivery thereof, and delivery is not forthcoming within an additional ten (10) days, then Buyer's sole and exclusive remedy shall be to terminate the Agreement and to secure a refund from Uniseal of all sums, if any, paid to the Uniseal on account of the Agreement. Buyer agrees that no other remedy, including, but not limited to, incidental or consequential damages for lost profits, lost sales, or lost production or any other incidental or consequential loss, shall be available to it and Uniseal shall not be liable for such incidental or consequential damages or lost profits, lost sales, lost production due to Uniseal's failure to deliver goods to carrier for shipment and/or Uniseal's failure to ship.

6. **Cancellation and/or Termination by Buyer and Returns:** Accepted orders are not subject to cancellation by Buyer except upon written approval of Uniseal. Uniseal will not accept returns of conforming products except in unusual circumstances with the prior written approval of Uniseal. Any returned shipments must be sent F.O.B. Uniseal's plant at Evansville, Indiana.
7. **Termination by Uniseal:** If at any time Uniseal determines the financial responsibility of Buyer is unsatisfactory, Uniseal may require payment for any shipment in advance or satisfactory security. If the Buyer fails to make payments in accordance with the Agreement or fails to comply with any provision of the Agreement, Uniseal may cancel any unshipped portions of the products and the Buyer will remain liable for shipped goods. If Uniseal elects to continue to make shipments after the Buyer has failed to make payment for the shipment in advance or fails to provide satisfactory security, any action by Uniseal shall not constitute a waiver of any default by the Buyer or in any way affect Uniseal's legal or equitable remedies for any such default.
8. **Assignment:** Any assignment of the Agreement or any assignment of any rights hereunder by the Buyer without the written consent of the Uniseal shall be void. Any valid assignment made hereunder shall be binding upon and benefit the successors and assigns of the Buyer and Uniseal.
9. **Infringement:** Buyer, its successors and assigns, warrant that goods manufactured to Buyer's specifications do not and will not infringe any letters patent, granted by the United States of America or any foreign country, or any trademark or trade names, and Buyer agrees to indemnify and hold Uniseal harmless, and Uniseal's successors and assigns against and from all claims, demands, damages, losses, liability, costs and expense including attorney's fees, attributable to such infringement and buyer agrees to defend, at its own expense, any claims or actions of law, or in equity arising therefrom.



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10. **Limited Warranty:** Uniseal warrants to Buyer that:

Any product which is manufactured and sold by Uniseal which proves to be defective in either material or workmanship and which is returned to Uniseal F.O.B. Uniseal's plant in Evansville, Indiana (i) within six (6) months after shipment by Uniseal, or (ii) prior to the product's expiration, whichever occurs first, will be replaced F.O.B. Uniseal's plant at Evansville, Indiana, without charge.

This warranty shall NOT apply to defects resulting from normal wear and tear, carelessness on part of Buyer or user, mis-application or accident, use of the product after the expiration of any shelf life set forth on any technical data sheet for the product, or other causes beyond Uniseal's reasonable control. Product manufactured and sold by Uniseal may contain up to five percent (5%) reclaimed material, which shall not give rise to a warranty claim so long as said product conforms to a specifications and control plan requirements.

a. Uniseal may, at its option, refund the purchase price of the product and sold by Uniseal in lieu of any obligation of replacement herein.

EXCLUSION OF WARRANTIES:

THE WARRANTIES DESCRIBED HEREIN SHALL BE IN LIEU OF ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND SHALL BE IN LIEU OF ALL OTHER OBLIGATIONS AND LIABILITIES, INCLUDING NEGLIGENCE, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SALE OR FURNISHING OF GOODS, THEIR DESIGN, SUITABILITY FOR USE, INSTALLATION AND OPERATION. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF.

Buyer shall not be required to deliver any defective product to Uniseal if it is destroyed as a result of its defect or if the product has been used or incorporated and made an essential part of some other product or item making its return to Uniseal impractical, and Uniseal is reasonably satisfied that the product was defective at the time of sale. If both conditions are met, Uniseal shall replace the product or refund the purchase price in the same manner provided herein as if Buyer had delivered it to Uniseal.

b.. **Merger Clause:** Uniseal's sales representative may have made oral statements about products described in Uniseal's quotation or products may be described in catalogs, technical data sheets, or material safety data sheets furnished to Buyer. Such statements do not constitute warranties, shall not be relied upon by Buyer, and are not part of contract for sale. The entire contract is embodied in this writing. This writing constitutes the final expression of parties' agreement, and it is a complete and exclusive statement of the terms of that agreement.

11. **Limitation of Remedies:** Buyer's sole and exclusive remedy against Uniseal for defective or nonconforming goods shall be for replacement of defective products as provided for in subparagraph a. of paragraph 10 hereof or for the refund of payments as provided for in subparagraph b. of paragraph 10 hereof, as decided solely by Uniseal. The sole purpose of this stipulated exclusive remedy provision shall be to provide the Buyer with free replacement of defective products and/or for refund of payments as herein provided for. This exclusive remedy shall not fail for its essential purpose so long as Uniseal is willing and able to replace defective products or refund payments in accordance with this Agreement. Buyer agrees that no other remedy, including, but not limited to, the right to reject or revoke acceptance of the goods, incidental or consequential damages for lost profits, lost sales, loss of production, injury to person, damage to property, or any other incidental or consequential loss shall be available to it and Uniseal shall not be liable for such incidental or consequential damages for lost profits, lost sales, loss of production, property damage, personal injury, or any other incidental or consequential loss.
12. **Limitation of Action:** Any action for breach of warranty or any other action under the Agreement or because of this sale must be commenced one (1) year after such cause of action arises.
13. **Governing Law:** These Terms and Conditions of Sale shall be covered by the law of Indiana as such is applied to contracts made and to be performed entirely in Indiana by Indiana residents and, all actions hereunder shall be brought in the United States District Court for the Southern District of Indiana, Evansville Division, or in the Vanderburgh County Circuit or Superior Courts in Indiana and in no other jurisdiction.
14. **U.S. Government Contracts:** If goods purchased by Buyer hereunder are to be used in performance of United States of America government contract or subcontract, a U.S. government contract number shall appear on the Agreement.
15. **Use of Goods/Confidentiality:** Buyer shall use and require its employees to use all available safety precautions, in addition to any specifically set forth in any manuals, material safety data sheets, technical data sheets or instruction sheets which may furnished by Uniseal relating to Uniseal's products. If Buyer does not receive material safety data sheets for any products from Uniseal, Buyer shall be responsible for requesting them from Uniseal. If Buyer fails to strictly observe each and every one of the obligations set forth in this paragraph or if Buyer's use of any of Uniseal's products is in violation of any American National Standards Institute or Occupational Health and Safety Act, or other work place law, regulation or standard, Buyer agrees to protect, indemnify, and hold harmless Uniseal of and from any and all claims, demands, damages, actions, and causes of action, as well as any and all liability, loss, or expense of any kind, including reasonable attorneys' fees arising from, connected with or in any way pertaining to any of Uniseal's products. Buyer acknowledges that certain information marked by Uniseal as "Confidential" that might be provided to Buyer, including material safety data sheets, technical data sheets, and instruction sheets, are the proprietary information and trade secrets of Uniseal. By placing a purchase order with Uniseal, or by otherwise accepting goods from Uniseal, Buyer agrees to keep such information confidential and to not disclose the same to any party without the express prior written consent of Uniseal or as required by applicable law. Buyer agrees to indemnify Uniseal for any and all damages, loss, and expense incurred by Uniseal as a result of Buyer's breach of the preceding sentence.
16. **Notification:** Buyer shall notify Uniseal promptly, and in any event within thirty (30) days, of any accident or failure involving Uniseal's products which results in personal injury or damage to property and shall cooperate fully with Uniseal in investigating and determining causes of such accident or failure. In addition to the indemnity herein provided for in paragraph 15, as a separate condition of this contract Buyer agrees to indemnify in the same manner as in paragraph 15 hereof and save Uniseal harmless from any claims arising from such accident or failure when Buyer has failed to make timely notification as set out herein.
17. **Attorney Fees:** Buyer hereby agrees to pay Uniseal's reasonable attorney fees, costs and expenses for any legal action undertaken by Uniseal to enforce these Terms and Conditions of Sale.
18. **Sales and Other Taxes:** Prices are F.O.B. Evansville, Indiana. Any excise tax, property tax, sales tax, use tax, import duty or other tax or duty levied upon the goods sold or the sales transaction whether by any federal, state, local, or foreign government or agency, shall be paid by the Buyer.
19. **Severability:** If any provision or any part of any provision in these Terms and Conditions of Sale are held to be invalid or unenforceable, all other of the Terms and Conditions of Sale shall nevertheless continue in full force and effect.
20. **Errors:** Any and all typographical errors or other clerical errors made by Uniseal herein are subject to correction by Uniseal.