

Detroit Sealing Components Inc

Terms and Conditions of Sale

1. **Parties.** "Company" means Detroit Sealing Components Inc, a Michigan corporation, "Customer" means the entity or person submitting the purchase order to Company.

2. **Application.** These Terms and Conditions of Sale define the relationship of Customer and Company and apply to all sales of products, parts and/or supplies (individually and collectively, "Products") by Company to Customer. Customer acknowledges and agrees that these Terms and Conditions of Sale are incorporated in, and are a part of, each quotation, purchase order, invoice, release, requisition, work order, shipping instruction, specification and any other document, whether expressed verbally, in written form or electronic commerce, relating to the sale of Products by Company to Customer (such documents are collectively referred to as the "Agreement"). Any document submitted by Customer to Company confirming its intention to purchase Products described in the Agreement (purchase orders, releases or other documents of purchase) will be deemed to constitute a confirmation and acceptance of the Agreement, even if such document states terms in addition to or different from those in the Agreement. All agreements between Company and Customer will be solely under the terms and conditions of the Agreement and these Terms and Conditions of Sale, and Company objects to any and all such additional or different terms contained in any document submitted to Company by Customer. Any execution by Company of any other document submitted by Customer in connection with the purchase of Products does not constitute acceptance of or agreement to any terms and conditions in addition to or different from those contained in the Agreement and these Terms and Conditions of Sale, but will constitute only acknowledgment of receipt of such document. In addition, notwithstanding any terms contained in any documents submitted by Customer in connection with the purchase of Products described under the Agreement, the acceptance of delivery by Customer of Products described in the Agreement will constitute a course of conduct constituting Customer's agreement to the terms and conditions of the Agreement and these Terms and Conditions of Sale, to the exclusion of any additional or different terms and conditions.

3. **Quotation Expiration.** Written quotations are valid for a period of thirty (30) days unless otherwise noted by Company. Company will have the right to withdraw any quote which has not been accepted by Customer within such thirty (30) day time period.

4. **Pricing.** Unless a quotation is provided by Company to Customer in accordance with Section 3 above, Customer shall purchase the Products from Company at the prices set forth in the Company's published price list in effect as of the date that Company accepts Customer's purchase order. Prices for Products are subject to change without notice. Prices do not include related freight charges, use tax, sales tax, excise tax, value-added tax, or similar taxes or charges of any nature whatsoever imposed by any governmental authority unless otherwise expressly noted by Company. The Company may at any time, including in respect of confirmed orders, amend the price of the Goods in the event the Company's business is affected by high currency fluctuation and/or increases in raw material prices and utilities costs.

5. **Taxes.** Any use tax, sales tax, excise tax, duty, custom, inspection or testing fee, or any other tax, fee or charge of any nature whatsoever imposed by any governmental authority, on or measured by the transaction between Company and Customer shall be paid by Customer in addition to the invoiced price. In the event Company is required to pay any such tax, fee or charge, Customer shall reimburse Company therefor or, in lieu of such payment, Customer shall provide Company at the time the purchase order is submitted, an exemption certificate or other document acceptable to the authority imposing the tax, fee or charge.

6. **Terms of Payment.** Except as otherwise set forth in the Company's quotation or unless otherwise specifically agreed in writing by Company, the total price is due and payable to Company, without setoff or other deductions or charges, net thirty (30) days of Company's invoice. Any amounts due by Customer to Company which are unpaid on or after thirty (30) days of Company's invoice will bear interest at the rate of 1.5% per month, or the maximum rate permitted by law, whichever is less. The accrual or payment of any interest as provided above will not constitute a waiver by Company of any rights and remedies in connection with a default by Customer. Customer will pay all court costs, attorneys' fees and other costs incurred by Company in collecting past due amounts, including interest. If shipment or delivery of Products is delayed by or at the request of Customer, payment will remain due in full, thirty (30) days from the date of Company's invoice. In such event, Company may impose, and Customer shall pay, storage charges and other incidental expenses incurred by Company as a result of the delay, in addition to any interest on late payments as described above.

7. **Security Interest.** As security for payment of all amounts due to Company, Customer grants to Company a security interest in all Products sold by Company to Customer, and Company will have all rights of a secured party under the Uniform Commercial Code with respect to such Products. Customer appoints Company as its attorney-in-fact with authority, at Company's option, to take such actions as Company deems reasonable in the circumstance to perfect the above security interest in any one or more jurisdictions, and Customer shall pay all applicable filing fees.

8. **Delivery.** Company will use commercially reasonable efforts to insure on time delivery, provided that any delay in shipment shall not relieve Customer of its obligations under the Agreement. Company may, in its sole discretion, without liability or penalty, make partial shipments of Products to Customer. Delivery which does not vary more than ten percent (10%) greater or less than the yardage or quantity contracted for shall constitute compliance under the Agreement. In no event shall Company be liable for any loss, damage or expense incurred by Customer or any of its customers arising from late or non-delivery of Products. Customer shall pay all shipping, freight and insurance costs associated with delivery of the Products, and Customer shall be responsible for filing and pursuing claims with carriers for any loss of or damage to the Products while in transit. If for any reason Customer fails to accept delivery of any of the Products, or if Company is unable to deliver the Products because Customer has not provided appropriate instructions, documents, licenses or authorizations: (i) risk of loss to the Products shall pass to Customer; (ii) the Products shall be deemed to have been delivered; and (iii) Company, at its option, may store the Products until Customer picks them up, whereupon Customer shall be liable for all related costs and expenses (including, but not limited to, storage and insurance).

9. **Title and Risk of Loss.** Title to and risk of loss or damage to the Products will pass to Customer upon delivery by Company F.O.B. Company's facility.

10. **Inspection and Acceptance.** Customer shall have a period of ten (10) business days from the date of delivery of the Products to inspect the Products and notify Company of any defect or deficiency. In the event of any defect or deficiency, Customer must give written notice thereof to Company within the above inspection period and permit Company the opportunity to inspect such Products. Failure by Customer to give such notice constitutes unqualified acceptance of the Products. Customer's sole remedy for any defects or deficiencies in the Products which are discovered by Customer within the inspection period and validated by Company shall be replacement of such Products (in the case of a defect) or shipment of further Products (in the case of a deficiency). In no event shall Customer be permitted to reject any shipment to the extent of a deficiency in the Products delivered.

11. **Customer Specifications.** With respect to Products manufactured and/or designed to Customer's own specifications, Customer shall defend and save Company harmless from and against any claim, suit, expense or otherwise which shall be asserted or brought against Company by reason of Company's manufacture or sale of such Products.

12. **Limited Warranty.** The warranty obligations of Company for Products manufactured by Company, Company will repair or replace such Products which prove defective upon return of the same at Customer's expense when such defects are due to defective material supplied by Company or defective workmanship, provided that the Products shall have been properly assembled and utilized in accordance with Company's design thereof and instructions relating thereto. Company shall not be liable for a breach of any of the foregoing warranties unless: (i) Customer provides written notice of the defective Products to Company within ten (10) business days of the time when Customer discovers or ought to have discovered the defect, or, in the case of a latent defect, ninety (90) days from the date of shipment; (ii) Company is given a reasonable opportunity after receiving the notice of any breach of warranty to examine such Products and Customer (if requested to do so by Company) returns such Products to Company's place of business at Company's cost for the examination to take place there; and (iii) Company reasonably verifies Customer's claim that the Products are defective. The above warranties do not extend to any Products after they have been cut or processed or changed from original state of delivery, or to any loss or damage due to misuse, accident, abuse, neglect, normal wear and tear, negligence (other than Company's), unauthorized modification or alteration, use beyond rated capacity, environmental conditions, improper installation, repair, handling, maintenance or application or any other cause not the fault of Company, EXCEPT AS EXPRESSLY SET FORTH ABOVE. COMPANY MAKES NO OTHER WARRANTY OF ANY KIND WHATSOEVER, AND COMPANY EXPRESSLY DISCLAIMS ANY WARRANTIES IMPLIED BY LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ASSUMES FULL RESPONSIBILITY THAT THE PRODUCTS PURCHASED UNDER THE AGREEMENT MEET THE SPECIFICATIONS AND/OR INTENDED USE OF CUSTOMER AND COMPANY MAKES NO REPRESENTATION OR WARRANTY WITH RESPECT THERETO.

13. **Limitation on Liability.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IN NO EVENT WILL THE TOTAL, AGGREGATE LIABILITY OF COMPANY UNDER THE AGREEMENT EXCEED THE COST OF THE PRODUCTS GIVING RISE TO THE CLAIM OR LIABILITY. FURTHER, IN NO EVENT WILL COMPANY BE LIABLE OR RESPONSIBLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES OF ANY NATURE, INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS, DAMAGE TO PROPERTY OR LOSS OF USE. EACH PROVISION HEREOF WHICH PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTY OR CONDITION OR EXCLUSION OF DAMAGES IS SEVERABLE AND INDEPENDENT OF ANY OTHER PROVISION AND IS TO BE ENFORCED AS SUCH.

14. **Acts or Omissions of Customer.** If Company's performance of its obligations under the Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Company shall not be deemed in breach of its obligations under the Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

15. **Termination.** In addition to any remedies that may be available to Company under these Terms and Conditions of Sale, any Company may terminate the Agreement, in whole or in part, with immediate effect upon written notice to Customer, if Customer: (i) fails to pay any amount when due under the Agreement and such failure continues for five (5) days after Customer's receipt of written notice of nonpayment; (ii) has not otherwise performed or complied with any of these Terms and Conditions of Sale, in whole or in part; or (iii) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

16. **Cancellation or Termination.** In the event of cancellation of the Agreement by Customer following Company's commencement of performance hereunder, or in the event the Agreement is terminated by Company pursuant to Section 15 above, Customer will pay to Company, on demand, all direct and indirect costs (including without limitation all applicable restocking or cancellation charges including reimbursement for direct costs assessed by the manufacturer) incurred directly or indirectly by Company in connection with the Agreement, all as reasonably determined by Company, plus a reasonable profit margin.

17. **Changes in Detail of Design.** Company and/or its suppliers shall be entitled to make any and all changes in the details of the design, fabrication or arrangement of the Products as Company and/or its suppliers, in their sole discretion, determine will constitute an improvement upon the Products or any specifications or designs previously furnished to Customer.

18. **Technical Support.** Unless otherwise specifically provided on a quotation or invoice, the Agreement does not include any services of Company in connection with installation, testing or evaluation of the Products. Company will, however, consistent with its capabilities and subject to scheduling acceptable to Company, make available to Customer, at Customer's expense, technical support services relating to the Products at the rates then imposed by Company, together with any out-of-pocket expenses incurred by Company, in connection with such technical support. The sole remedy of Customer in connection with any acts or omissions of Company in the provision of such technical support will be the provision of further technical support to Customer reasonably required to correct the act or omission.

19. **Entire Agreement; Modifications; Waiver.** Neither party has rights, warranties or conditions expressed or implied, statutory or otherwise, other than those contained in the Agreement. The Agreement contains the entire agreement between Company and Customer and can be modified or rescinded only by a writing signed by both parties. No waiver of any provision of the Agreement will be binding unless in writing signed by an authorized representative of the party against whom the waiver is asserted, and unless expressly made generally applicable, will apply only to the specific case for which the waiver is given. Failure of either party to insist upon strict performance of the Agreement will not be construed as a waiver of any term or condition of the Agreement.

20. **Solvency.** Customer represents to Company that it is solvent and that on each delivery of Products, this representation shall be deemed renewed unless notice to the contrary is given in writing by Customer to Company at or before delivery of the Products.

21. **Compliance with Laws.** Customer will be responsible for compliance with any and all federal, state or local laws or regulations respecting safety or respecting use of the Products, and shall indemnify and hold Company harmless from and against any and all claims of violation of such laws or regulations or other claims of personal injury or property damage directly or indirectly related to the installation, maintenance or operation of the Products.

22. **Confidential Information.** All non-public, confidential or proprietary information of Company, including but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, disclosed by Company to Customer, whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" in connection with the Agreement is confidential, solely for the use of performing the Agreement and may not be disclosed or copied unless authorized in advance by Company in writing. Upon Company's request, Customer shall promptly return all documents and other materials received from Company. Company shall be entitled to injunctive relief for any violation of this Section 22. This Section 22 does not apply to information that Customer can demonstrate is: (a) in the public domain; (b) known to Customer at the time of disclosure; or (c) rightfully obtained by Customer on a non-confidential basis from a third party. Notwithstanding the foregoing, if the parties have entered into a mutual nondisclosure agreement ("NDA"), the terms of the NDA, which is deemed to be incorporated herein by reference, shall take precedence over the terms of this Section 22.

23. **Force Majeure.** Company shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Company including, but not limited to, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion, or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lockouts, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage.

24. **Export Controls.** Products supplied hereunder may be subject to various export laws and regulations. It is the responsibility of the exporter to comply with all such laws and regulations. Notwithstanding any other provision in the Agreement to the contrary, in the event that U.S. or local law requires export authorization for the export or re-export of any Products or associated technology, no delivery can be made until such export authorization is obtained, regardless of any otherwise promised delivery date. In the event that any required export authorization is denied, Company and Company's supplier will be relieved of any further obligation relative to the sale and delivery of the Products subject to such denial without liability of any kind relative to Customer or any other party.

25. **Remedies.** Customer acknowledges and agrees that the remedies set forth in these Terms and Conditions of Sale are Customer's exclusive remedies relative to any purchase of Products from Company.

26. **Assignment.** Customer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Company. Any purported assignment or delegation in violation of this Section 26 is null and void. No assignment or delegation relieves Customer of any of its obligations under this Agreement.

27. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in the Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

28. **Governing Law; Venue.** The Agreement will be governed by and construed in accordance with the laws of the State of Michigan. Any legal suit, action or proceeding arising out of or relating to the Agreement shall be instituted in the applicable state or federal courts of Michigan, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

29. **Time Limitation.** ANY CLAIM OR DISPUTE WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, AGAINST COMPANY MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE EVENT GIVING RISE TO THE CLAIM OR DISPUTE OR BE FOREVER BARRED, EXCEPT FOR APPLICABLE STATUTES REQUIRING A SHORTER PERIOD, IN WHICH CASE THE SHORTER LIMITATION PERIOD SHALL APPLY.

30. **Waiver of Jury Trial.** THE PARTIES KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT THAT THEY MAY HAVE TO A TRIAL BY JURY, THIS WAIVER BEING A MATERIAL INDUCEMENT FOR THE PARTIES TO ENTER INTO THIS AGREEMENT.

31. **Severability.** If any term or provision of these Terms and Conditions of Sale is invalid, illegal or unenforceable in any jurisdiction, such term or provision will be ineffective only to the extent of such invalidity, illegality, or unenforceability, and such term or provision shall not affect any other term or provision of these Terms and Conditions of Sale or invalidate or render unenforceable such term or provision in any other jurisdiction. To the fullest extent permitted and possible, the invalid, illegal or unenforceable term or provision shall be deemed replaced by a term or provision that is valid and enforceable and that comes closest to expressing the intention of such invalid, illegal or unenforceable term or provision.

32. **Survival.** The provisions of these Terms and Conditions of Sale which by their nature are intended to survive the termination, cancellation, completion or expiration of the Agreement between the parties, including any warranties, indemnities and expressed limitations of or releases from liability, shall continue as valid and enforceable obligations of the parties notwithstanding any such termination, cancellation, completion or expiration.

33. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder (each a "Notice") shall be in writing and addressed to the parties at the addresses set forth on the face of Customer's purchase order or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided herein, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements set forth in this Section 33.