

THERMOSEAL INC. dba KLINGER Thermoseal
TERMS AND CONDITIONS OF SALE

1. **ACCEPTANCE.** All orders are subject to approval and acceptance by an authorized officer of Seller. Acceptance of orders, whether oral or written, is conditioned upon Buyer's agreement to all of these terms and conditions of sale, as also set forth at www.klinger-thermoseal.com (the "Terms"). Acceptance of delivery by Buyer shall constitute Buyer's assent to the Terms. The Terms represent the complete agreement of the parties, and no terms and conditions modifying the Terms shall be binding upon the Seller unless agreed to in writing by an authorized officer of Seller. No modification of the Terms will be effected by Seller's shipment of goods following receipt of Buyer's purchase order, shipping request, or similar form containing printed terms and conditions conflicting or inconsistent with the Terms.
2. **PAYMENTS.** Unless otherwise provided, terms of payments are net 30 days. Prices are subject to change without notice, and all goods shall be billed at the prices then in effect at the time of shipment. Seller will notify Buyer of any price increase, and Buyer may cancel any undelivered portion of the order by written notice to Seller, provided such written notice is received by Seller not more than ten (10) days after Buyer's receipt of notice of the price increase. Upon such cancellation, Buyer shall have no liability for the canceled portion of the order, except as to goods then manufactured or in process, components procured by Seller from outside sources, and special tooling and equipment procured for performance of the order.
3. **CAUTION.** Compressed gasket materials contain fibers and particulate fillers. **Avoid creating dust. Breathing this dust may cause lasting lung damage.** See Safety Data Sheet (SDS) for hazards identification. Buyer agrees to warn its employees, agents, representatives, and customers of these dangers and to ensure that SDS's are made available to these persons. Buyer further agrees that the workplace in which the Seller's material is cut, installed, removed, handled, or otherwise used by Buyer and its employees, agents, representatives, and customers shall fully comply with applicable OSHA and all other governmental laws and regulations, and any recommendations of professional bodies such as the American Conference of Governmental and Industrial Hygienists (ACGIH). Buyer shall use its most diligent efforts to assure that its customers advise their employees, agents, representatives, and customers of the above described warnings for which requirement shall continue for each subsequent customer in the chain of distribution.
4. **LIMITED WARRANTY.** All goods sold by Seller are warranted to be free from defects in material and workmanship for a period of thirty (30) days from the date goods are shipped by Seller. Damage due to misuse, field alterations, lack of maintenance, improper storage, neglect, accident, or any other reason of any description whatsoever not under the control of Seller is excluded from this limited warranty. Any claim by Buyer with reference to the goods sold herein shall be deemed waived by Buyer unless submitted to Seller in writing within thirty (30) days from the date Buyer discovered, or should have discovered, any claimed breach. In the event that any goods sold by Seller to Buyer are used in or with any aircraft (including missile or spacecraft), aircraft parts, aircraft equipment, or aircraft accessories, the limited warranty of Seller under this Section shall be expressly limited by and subject to the insurance coverage, if any, maintained by Seller with respect to the use of its goods in or with any aircraft (including missile or spacecraft), aircraft parts, aircraft equipment, or aircraft accessories and if no such coverage is in effect as of the date of a claim of nonconformance hereunder, then the use of such nonconforming goods in or with any aircraft (including missile or spacecraft), aircraft parts, aircraft equipment, or aircraft accessories shall act as a total exclusion of any warranties, including the limited warranty set forth in this Section. **THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE DESCRIPTION HEREINABOVE.**
5. **DAMAGES; LIMITATION.** IN NO EVENT SHALL SELLER BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, DIRECT, OR SPECIAL DAMAGES ARISING, DIRECTLY OR INDIRECTLY FROM THE GOODS OR THE USE OR FAILURE THEREOF, WHETHER BASED ON BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHERWISE. Buyer's sole and exclusive remedy for the breach of the limited warranty set forth in Section 4 above shall be limited to, at Seller's discretion, a replacement of the nonconforming goods, a credit with Seller, or cash refund of the sums paid for the nonconforming goods. No action or suit to enforce Buyer's rights or remedies arising from any sale shall be commenced later than one (1) year from the date the goods are shipped.
6. **INDEMNIFICATION.** Buyer shall indemnify, hold harmless, and defend Seller from and against all liability and expenses based upon personal injury, property damage, or economic loss arising, directly or indirectly, from Seller's goods or the use or failure thereof as are caused by the negligent act or omission of Buyer.
7. **SAMPLES.** In the event that Seller has furnished samples to Buyer, Seller has no liability in connection with these samples and there is no warranty as to these samples. Sections 3 and 6 hereof apply to these samples.
8. **METHOD OF TRANSPORTATION.** Seller will use all reasonable efforts to comply with Buyer's request as to method of shipment, but Seller reserves the right to use an alternate method of transportation or route of shipment in its discretion. In such cases, Seller will notify Buyer of such change as soon as reasonably possible.
9. **DELIVERY OF GOODS.** FOB Shipping Point. Delivery of goods to the carrier shall be deemed delivery to Buyer and thereupon title to such goods and risk of loss or damage shall be Buyer's. Any claim by Buyer against Seller for shortage or damage occurring prior to such delivery must be made in writing within seven (7) days after receipt of shipment and accompanied by the original transportation bill signed by the carrier noting that carrier received goods from Seller in the condition claimed.
10. **DELAYS.** Seller shall not be liable for delays in performance or nonperformance of these Terms or for delays in shipment or default in delivery for any cause beyond Seller's reasonable control including, but not limited to, government action; shortage of labor, raw material, production or transportation facilities; labor difficulties; fire; flood; or other casualty. In the event of any delay in Seller's performance due in whole or part to any cause beyond Seller's reasonable control, Seller shall have such additional time for performance as may be reasonably necessary under the circumstances. Seller may fill other parts of the order, as it is capable of filling on schedule and in the event Buyer places any other part of the order elsewhere, Seller shall be entitled to fill the unplaced portion. Acceptance by Buyer of any goods shall constitute a waiver by Buyer of any claim for damages on account of any delay in delivery of such goods.
11. **HOLD ON DELIVERY.** Each shipment shall be treated as a separate and independent sale, but if Buyer fails at any time to pay any amount due hereunder or otherwise fails to fulfill the terms and conditions of this or other agreements between the parties, Seller may, without prejudice to other remedies, defer further shipments until all defaults of Buyer have been fully cured; recall, countermand, or divert any shipment to buyer and revert title in Seller; or cancel any unshipped balance and terminate these Terms.
12. **TAXES.** Buyer shall pay all federal, state, territorial, or municipal sales, use, or similar taxes and other levies applicable to the goods or the sale or use thereof. All such taxes and charges are payable with the purchase price.
13. **COLLECTION AND SECURITY INTEREST.** Buyer shall make payments without expense to Seller and shall pay all reasonable attorneys' fees and other costs of collection incurred by Seller. Unless and until the goods are fully paid for, Seller reserves a security interest in the goods to secure the unpaid balance of the selling price and all other obligations of the Buyer to the Seller. Buyer hereby grants Seller a power of attorney to execute and file on behalf of Buyer all necessary financing statements and other similar documents required to perfect the security interest herein granted.
14. **TERMINATION.** These Terms cannot be terminated and goods cannot be returned without Seller's prior written consent.
15. **SUCCESSORS AND ASSIGNS.** These Terms shall bind and insure to the benefit of the successors and assigns of the parties hereto. These Terms are not assignable or transferable by Buyer, in whole or part, except upon written consent of Seller.
16. **WAIVER.** Waiver by Seller of any breach of the Terms shall not be construed as a waiver of any other breach and Seller's failure to exercise any right arising from any default hereunder shall not be deemed a waiver of such right which may be exercised at any subsequent time. If any provision of these Terms shall be held invalid, illegal, or unenforceable, the balance of the agreement shall remain in full force and effect as if such provision had not been included. The enumeration herein of certain rights does not exclude Seller from asserting other available legal or equitable rights.
17. **JURISDICTION & VENUE.** These Terms shall be governed and construed in accordance with the laws of the state of Ohio. Any litigation/dispute under these Terms shall be commenced and resolved in the trials courts sitting in Shelby County, Ohio, and Buyer waives any rights it may otherwise have to litigate in any other jurisdiction, including any appropriate federal court.