

**THERMOSEAL INC. dba KLINGER Thermoseal**  
**TERMS AND CONDITIONS OF PURCHASE**

1. **ACCEPTANCE.** All orders must be accepted by Seller's written acknowledgement to Buyer. As a material inducement to Seller to accept any orders from Buyer, such orders are subject only to the terms and conditions set forth or referenced herein, as also set forth at <http://klinger-thermoseal.com> (the "Terms"). No change or addition to these Terms shall be valid unless agreed to in writing by Buyer. These Terms form the entire understanding and agreement of the parties in respect of the subject matter hereof, and all prior understandings between the parties, together with all representations and obligations of such parties with respect to such subject matters, shall be superseded by and merged into these Terms. If any provision of these Terms shall be held to be unenforceable or inapplicable, such holding shall not affect the enforceability of any other provision.
2. **APPLICABLE LAW; COMPLIANCE.** These Terms shall be governed by and construed in accordance with the laws of the State of Ohio. Seller, in the performance of these Terms, shall comply with all applicable federal, state, and local laws and regulations.
3. **ASSIGNMENT.** Provisions of these Terms shall bind and inure to the benefit of the parties and their respective successors and assigns. Notwithstanding the forgoing, Seller may not assign these Terms or any right hereunder without the prior written consent of Buyer.
4. **INVOICES.** Seller shall provide a separate duplicate invoice for each shipment, and invoices, packing slips, and bills of lading shall bear Buyer's purchase order number, describe the contents, and show the balance remaining on order or release. Invoices and bills of lading shall be rendered immediately after shipment is made.
5. **SHIPMENT.** All goods shall be suitably packed, marked, and shipped in accordance with the requirements of common carriers in a manner to secure the lowest transportation cost unless otherwise specified by Buyer, and no additional charge shall be made to Buyer therefor. At a minimum, all toxic materials shall be appropriately sealed and protected from release into the environment. Any excess freight costs incurred by reason of Seller's failure to follow the shipping instruction set forth herein will be charged to Seller. Seller shall promptly mark each package with Buyer's purchase order number and where multiple packages comprise a single shipment, each package shall be consecutively numbered. Notwithstanding the method of shipment used, all risk of loss shall remain with Seller until actual delivery and acceptance in accordance with Section 7 below.
6. **DELIVERY.** Time is of the essence on the performance by Seller of its obligations hereunder, including delivery of goods or services. Seller shall pay any damages arising from Seller's failure to timely perform, which will be no less than 2.5% of the price of the delivered goods/services, which liquidated damages are hereby acknowledged by Seller as reasonable and appropriate. Buyer will have no liability for payment for material or items delivered to Buyer which are in excess of the quantity specified in the delivery schedule. Buyer may from time to time change a delivery schedule (postponement only) or direct temporary suspension of scheduled shipments.
7. **INSPECTION AND RETURN OF GOODS.** All goods or services furnished shall be subject to Buyer's inspection and approval. If Buyer deems any products delivered by Seller to be defective or not in accordance with Buyer's specifications, such products will be held for Seller's instruction, at Seller's risk, and if Seller so directs, will be returned at Seller's expense. No goods returned as defective shall be replaced without a new authorization. Neither payment for products or services furnished by nor acceptance of such products or services relieve Seller of its responsibilities hereunder, including, without limitation, under Sections 11 and 12 hereof.
8. **PRICE.** If omitted from the order, the purchase price for goods or services furnished by Seller shall be Seller's lowest price for like goods and like quantities, offered or sold to anyone from receipt of these Terms by Seller until receipt and acceptance of the goods by Buyer. Such lowest price will also apply if lower than any price stated on the face of these Terms. In no event shall the applicable price be higher than the last charged or quoted price unless Buyer approves in writing.
9. **DISCOUNT AND PAYMENT.** All invoices are subject to discount and will be paid pursuant to Seller's terms of payment unless otherwise agreed upon. Any cash discount period shall date from receipt of Seller's invoice or the goods, whichever is later.
10. **SPECIFICATION CHANGES.** Buyer reserves the right at any time to make changes in drawings and specifications as to any material and work covered by these Terms. Any differences in price or time for performance resulting from such changes shall be equitably adjusted and the order shall be modified in writing accordingly.
11. **SELLER'S WARRANTY.** In addition to any implied warranties of merchantability and fitness for a particular purpose, Seller warrants that the goods will (a) fully conform with Buyer's specifications, drawings, data, and samples, (b) be free from defects in labor, materials, fabrication, and design, and (c) be fit for the use intended. These warranties, which are not exclusive, run to Buyer, its successors, assigns, and customers and survive acceptance of such goods. In the event of a breach of this warranty, Buyer may, in its discretion and in addition to any other remedies available at law or in equity, return the non-compliant goods or services at Seller's expense, replace or repair the non-compliance goods or services at Seller's expense, and/or obtain from Seller a refund of, or a credit for any sums paid by Buyer for the non-compliant goods or services.
12. **INDEMNITY.** Seller shall indemnify and hold harmless Buyer, its employees, agents, contractors, and customers from all liability and expenses (including attorney's fees and costs) resulting from (a) any breach of any warranty, whether express or implied, including death or injuries to persons or property damage caused by defective materials or workmanship, (b) infringement of U.S. or foreign letters, patents, copyrights, or trademarks resulting from the use or ownership of the goods sold hereunder by Buyer, or (c) death or injuries to persons and/or property damage resulting directly or indirectly from the acts or omissions of Seller, its employees, agents, or contractors, whether or not negligent or amounting to a breach hereof. Buyer may, in its discretion and at Seller's expense, defend itself with respect to any claim for which it is entitled to indemnity hereunder, or direct Seller to defend Buyer, in which event Buyer be fully advised of, and participate in any such suit or action, and no such suit or action shall be settled, nor shall judgment be permitted without Buyer's prior written consent.
13. **Confidentiality.** Seller agrees to be responsible for safeguarding and keeping confidential any information received by or disclosed to Seller relating to Buyer, its business, products, customers, or operations, or with respect to any orders, products, terms or conditions covered by these Terms.
14. **TAXES.** Seller agrees to pay any taxes imposed upon him by virtue of these Terms and to accept and use any tax exemption certificate supplied by Buyer if acceptable to the tax authorities.
15. **FORCE MAJEURE.** Buyer will be relieved from accepting delivery hereunder in the event of fire, labor trouble and embargo, explosion, flood, war, accidents, transportation delays or failure, partial or complete suspension of manufacturing operations, or other circumstances beyond Buyer's reasonable control. In such event, Buyer may extend the delivery period or cancel deliveries not yet made without further liability.
16. **INSOLVENCY.** Either party shall have the right to cancel these Terms in the event that the other party becomes bankrupt or insolvent or makes an assignment for the benefit of creditors.
17. **REMEDIES.** The remedies reserved herein shall be cumulative and in addition to any other or further remedies provided in law or equity. No waiver of a breach of any provision of these Terms shall constitute a waiver of any other breach or of such provision.
18. **TERMINATION.** Buyer may cancel these Terms at its convenience by written notice to Seller, in which event Buyer may discharge all its obligations hereunder by payment of all costs reasonably incurred by Seller for work completed under these Terms at the time of termination.