

**ELKHART PLASTICS**  
**TERMS AND CONDITIONS OF PURCHASE**

1. **ENTIRE AGREEMENT:** The term "Purchaser" shall mean the entity named on the purchase order. The term "Seller" shall mean the person, firm or corporation to whom the purchase order is addressed, whether the order be for manufactured goods, materials, supplies and work, or some or all of them. This purchase order, and any documents referred to on the face hereof, constitute the entire agreement between the parties and is expressly conditioned upon Seller's acceptance of all of the terms and conditions of purchase contained therein. Any additional or different terms or conditions which may appear in any communication from Seller are hereby expressly objected to and shall not be effective or binding unless specifically agreed to in writing despite Purchaser's acceptance of goods or services. Shipment and/or performance in full or in part under this order without written objection to Purchaser constitutes acceptance of goods or services in this order.
2. **CHANGES:** Purchaser shall have the right at any time to make changes in drawings, quantity, designs, specifications, materials, packaging, time and place of delivery and method of transportation. If any such changes cause an increase or decrease in the cost, or the time required for the performance, an equitable adjustment shall be made, and this Agreement shall be modified in writing accordingly.
3. **WARRANTIES:** Seller warrants that it has good and marketable title to all goods delivered to Purchaser pursuant to this Agreement and the same shall be delivered to Purchaser free and clear of all liens and encumbrances. Seller warrants that all goods and/or services furnished hereunder shall conform to the description and specification thereof, be merchantable, and free from any defects in design, workmanship and/or material. Seller also warrants that the items furnished hereunder are suited for their intended use. Seller shall indemnify and save Purchaser harmless from any breach of this warranty, and no limitations on Purchaser's remedy in Seller's documents shall operate to reduce this indemnification. Seller shall extend all warranties it receives from its suppliers to Purchaser, and Seller's warranty shall extend to Purchaser's customers. This warranty is in addition to all warranties implied in law. Seller's warranty shall extend for a period of 12 months after the goods and/or services are delivered and accepted by buyer.
4. **PRICE:** This purchase order may not be invoiced at a higher price than last quoted to Purchaser without 30 days prior written notice to, and acceptance by Purchaser.
5. **SHIPMENTS AND PACKAGING:** (a) If it becomes necessary for Seller to ship by a more expensive way than specified in this purchase order to comply with Purchaser's required delivery date, any increased transportation costs resulting therefrom shall be paid for by Seller unless the necessity for such rerouting or expedited handling has been caused by Purchaser and approved in advance. (b) Time is of the essence in making deliveries of good and/or services under this Order. Purchaser may, in addition to all other remedies available to it, cancel a purchase order and this Agreement in whole or in part, without liability, if deliveries are not made at the time specified in the Agreement. Seller agrees to pay Purchaser 20% of the value of the late purchase order for all later deliveries as liquidated damages, not a penalty, as the exact amount of damages incurred by Purchaser for such late delivery are difficult to predict upon acceptance of such purchase order. Alternatively, Purchaser may purchase the same or similar goods and/or services from another supplier(s) and Seller will pay Purchaser for all costs and expenses to cover such goods and/or services. (c) Quantity Tolerance: If Seller delivers less than 95% or more than 110% of the quantity of goods ordered, Purchaser may reject all or any excess goods. Any such rejected goods shall be returned to Seller at Seller's risk of loss and expense. If Purchaser does not reject the goods and instead accepts the delivery of goods at the increased or reduced quantity, the price for the goods shall be adjusted on a pro-rata basis. (d) Packaging: Seller shall package the goods in accordance with accepted standard commercial practices for normal shipment considering the type of goods involved and the normal risks encountered during shipment. Each package shipped to Purchaser shall be numbered and labeled with Purchaser's purchase order number, stock number, contents and weight, and shall contain an itemized packing slip. No charges of any kind will be allowed, including charges for boxing, packing, crating or cartage, unless specifically agreed to by Purchaser on the face hereof. Seller shall include an itemized list of goods, and if applicable to the items purchased, a Certificate of Analysis and Safety Data Sheets with each shipment.
6. **BLANKET PURCHASE ORDERS:** If a purchase order states that it is a blanket purchase order, any quantities thereon will be estimates only, and Purchaser reserves the right to increase or decrease the quantity ordered at any time in its sole discretion. A blanket purchase order will not create any commitment on the part of Purchaser to purchase any goods and/or services from Seller. With respect to a blanket purchase order, Purchaser will only be obligated to purchase, and Seller will only be obligated to sell, the goods and/or services in quantities and at the times specified in the written instructions of Purchaser or Purchaser's authorized agent.
7. **PAYMENT:** Payment terms are net sixty (60) days from receipt of a correct invoice. Delay in receiving invoices, as well as errors and omissions on invoices, will be considered just cause for Purchaser to withhold payment without losing discount privileges, if any. All of Seller's claims for money due or to become due from Buckhorn under this purchase order shall be subject to deduction or set-off by Purchaser by reason of any counterclaim arising out of this or any other transaction with Seller or any of Seller's affiliated companies. Invoices shall be rendered separately for each delivery, cover not more than one purchase order, and specify Purchaser's purchase order number. Purchaser is only liable for the taxes levied solely upon them by a governmental jurisdiction on the purchase of goods.
8. **RISK OF LOSS:** Regardless of delivery point, Seller agrees to bear all risk of loss, injury, or destruction of goods and materials ordered herein which occur prior to acceptance by Purchaser. No such loss, injury, or destruction shall release Seller from any obligations hereunder.
9. **QUALITY STANDARDS:** (a) Name Brand: If a special brand is specified in this purchase order, the goods and/or services being purchased must meet the standard for quality, performance, and use of such brand. If Purchaser elects to accept goods and/or services purported to be equal to the special brand, the goods and/or services may be rejected if any specification is determined to be nonconforming. 9b) Custom-Made: Any parts or materials that are custom-made to Purchaser's specifications are required to pass inspection criteria established by Purchaser's Quality Assurance Department.
10. **INSPECTION AND ACCEPTANCE:** All goods and/or services furnished under this purchase order by Seller to Purchaser shall be subject to inspection by Purchaser, or its designated representatives. Inspection maybe made at any time or place including at Seller's manufacturing site or place of business. All goods and/or services purchased hereunder are subject to Purchaser's acceptance. Goods and/or services rejected by Purchaser for whatever reason shall be held, transported and/or stored at Seller's sole risk of loss and expense. Seller shall promptly reimburse Purchaser for any such expenses. Purchaser reserves the right to charge Seller an administrative fee for any rejection or non-acceptance. No goods returned by Purchaser pursuant to any warranty claim(s) shall be replaced without the prior written consent of Purchaser.
11. **TERMINATION:** (a) Termination for Convenience: Purchaser reserves the right to terminate this contract for its convenience. In such event Seller shall immediately stop all work and observe any instructions from Purchaser as to work in process. Seller shall be paid an equitable adjustment for work already performed. (b) Termination for Cause: By written notice of default to Seller, or if Seller becomes insolvent or makes an assignment for the benefit of creditors, or if there shall be instituted by or against Seller any proceeding under any bankruptcy, reorganization, arrangement, readjustment of debt or insolvency law of any jurisdiction or for the appointment of a receiver or trustee in respect to any of Seller's property and such proceeding is not dismissed or cured within 60 days, Purchaser may cancel the whole or any part of this order or exercise any other remedy provided purchasers of goods by law or in equity.
12. **FORCE MAJEURE:** Purchaser may delay delivery and/or acceptance for causes beyond its control.

- 13. REMEDIES:** Not by way of limitation, the remedies of the parties include: (a) If Purchaser cancels this purchase order in whole or in part as provided in Section 5(b) , Purchaser may procure upon such terms and in such manner as Purchaser may deem appropriate goods and/or services similar to those cancelled and Seller shall be liable to Purchaser for any excess costs for such similar supplies or services, including Purchaser's costs incurred in making such procurements, provided that Seller shall continue the performance of this order to the extent not cancelled under the provisions of this order. (c) The rights and remedies of Purchaser provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this order. (d) The failure of Purchaser to insist upon strict performance of any of the terms of this order or to exercise any rights hereunder shall not be construed as a waiver of Purchaser's rights.
- 14. SPECIAL TOOLING, DRAWINGS, ARTWORK OR SPECIFICATIONS:** (a) Seller is responsible for the protection, calibration, maintenance, and care (other than normal wear) of all tooling, artwork, specifications, and equipment owned by Purchaser. Said tooling, artwork, specifications, or equipment shall be subject to inspection upon notice and shall be returned in an acceptable condition upon demand or notice. (b) Any drawings, artwork, or specification prepared by Seller are to become the property of Purchaser, shall be marked accordingly and shall be stored separately when not in use. Such drawings, artwork or specifications will be delivered to Purchaser immediately upon request.
- 15. SERVICES:** In the event this purchase order requires the performance of services by Seller upon any property or project of Purchaser, the following conditions shall also be applicable: (a) Seller shall take precautions to protect all property and persons from damage or injury arising out of its work and shall comply with all fire, safety and other applicable regulations prescribed by any governmental agency and by Purchaser and/or owner of the project upon which work is being performed, and shall be responsible for the observance thereof by all sub-contractors, employees, agents and representatives of Seller and its subcontractors. (b) Seller shall keep the premises and work free and clear of all mechanics' and materialmen's liens or claims; Seller shall promptly pay for all labor and material and if Seller fails to do so Purchaser, without waiving any rights or remedies against Seller for or by reason of such failure may, but without any obligation to do so, pay the same and deduct the amount of such payments from sums due Seller hereunder; and Purchaser may withhold any payment to Seller until receiving such affidavits, waivers, and releases with respect to claims for labor and materials as Purchaser may require. (c) The work shall remain at Seller's risk prior to written acceptance by Purchaser and/or the owner of the project and Seller shall replace at its own expense all work damaged or destroyed by any cause whatsoever. (d) Seller shall observe and comply with, to the extent required by Purchaser, the wages, hours and working conditions established by Purchaser on the project or required of Purchaser by an applicable labor agreement. (e) Seller shall act as an independent contractor and not as the agent or representative of Purchaser. (f) Seller shall perform its work in accordance with the schedules and work programs established by Purchaser and shall fully cooperate with Purchaser and others engaged in work on the project so that the work on the entire project may be performed with the utmost speed, consistent with good practices. In case of conflict, Purchaser may direct the necessary coordination. (g) Seller shall carry on its work so that the premises shall at all times be clean, orderly and free from debris and upon completion shall remove all equipment and unused materials from the project; cleanup all refuse and debris and leave the site of the work clean, orderly and in good condition. (h) Seller shall require Seller's employees, agents, contractors or sub-contractors to abide by Purchaser's Work and Safety rules when work or services are performed at Purchaser's premises. Purchaser has the right to exclude personnel from Purchaser's premises who do not abide by such rules, and at Purchaser's election, to declare a default under the order. (i) Seller is solely liable for its employees, agents, contractors or subcontractors and their action while on Purchaser's premises and the Seller indemnifies and will protect Purchaser from all losses, claims, expenses, damages arising from or out of the presence or activity of Seller's employees while at Seller's premises.
- 16. TRADEMARKS, LOGOS AND ADVERTISING.** Purchaser's name, trademark and/or logo may not be used by Seller without Purchaser's prior written approval in each instance. Seller will not, without Purchaser's prior approval (which approval Purchaser may withhold in its discretion), refer to Purchaser in any advertising, press release, client list or other promotional or marketing materials.
- 17. CONFIDENTIAL INFORMATION:** All data and information disclosed by Purchaser that is not already in the public domain, developed or disclosed during the life of this purchase order, is confidential information owned by Purchaser and will be held in secrecy and confidence by the Seller until it comes into the public domain or Purchaser consents in writing to its disclosure. Seller shall protect all confidential information received from Purchaser with the same degree of care with which it protects its own trade secrets and proprietary, commercial, technical, and confidential information.
- 18. INTELLECTUAL PROPERTY.** Purchaser retains ownership of any patent, know-how, trade secret, trademark, service mark, copyright, or other intellectual property right that is developed by or provided to Seller in connection with the supply of the goods and/or services. If Purchaser is purchasing design services or ordering custom-made goods, the Work Product shall be addressed as follows. "Work Product" shall include, without limitation, all designs, discoveries, creations, works, devices, masks, models, work in progress, service deliverables, inventions, Products, special tooling, computer programs, procedures, improvements, developments, drawings, notes, documents, business processes, information and materials made, conceived or developed by Seller alone or with others that result from or relate to the Products. All Work Product shall be and remain the sole and exclusive property of Seller. Seller hereby agrees to irrevocably assign and transfer to Seller and does hereby assign and transfer to Seller all of its worldwide right, title and interest in and to the Work Product including all associated intellectual property rights. Seller hereby waives any and all moral and other rights in any Work Product or any other intellectual property created, developed or acquired in respect of the Products. Seller will have the sole right to determine the treatment of any Work Product, including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name or to declare any other intellectual property rights which may apply.
- 19. INFRINGEMENTS:** Seller warrants that Purchaser's purchase, installation, sale and/or use of the goods and/or services that are the subject of this purchase order, including, but not limited to any related documentation, will not result in any claim of infringement, or actual infringement of any patent, trademark, copyright, franchise, trade secret or other intellectual property right. Seller shall indemnify, defend and hold Purchaser harmless from and against all claims, losses, expenses, damages, causes of action and liabilities of every kind and nature, including without limitation reasonable attorneys' fees, arising from or out of any breach of the foregoing warranty.
- 20. LIMITATION OF LIABILITY:** IN NO EVENT SHALL BUYER BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF BUSINESS OR PROFITS, DIMINUTION IN VALUE OR PUNITIVE DAMAGES. IN NO EVENT SHALL BUYER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT OR TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE TOTAL OF THE AMOUNTS PAID TO SUPPLIER FOR THE GOODS GIVING RISE TO THE CLAIM. SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO PURCHASER. THIS WARRANTY GIVES THE OWNER SPECIFIC LEGAL RIGHTS, AND THE OWNER MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE.
- 21. INSURANCE.** During the term of this P.O. and for a period of one (1) year thereafter, Seller shall maintain insurance coverage as follows: (a) Workers' Compensation with statutory limits including Employers' Liability with limits of not less than \$ 1,000,000 each accident/\$1,000,000 each employee for disease/\$1,000,000 policy limit for disease; (b) Commercial General Liability with limits not less than a combined single limit of \$1,000,000 each occurrence/\$2,000,000 general aggregate/\$2,000,000 products & completed operations aggregate. Such insurance shall be written on an occurrence basis on a current Insurance Services Office (ISO) or equivalent form; (c) Business Automobile Liability with limits not less

than \$1,000,000 combined single limit each accident. Such insurance shall be written on an occurrence basis on a current Insurance Services Office (ISO) or equivalent form; (d) All Risk Equipment Insurance covering all risk of physical damage to equipment owned by or provided by Seller and brought to a Purchaser facility for use by Seller. Seller shall provide Purchaser with certificates of insurance evidencing all required insurance and (e) Professional Liability with limits of \$1,000,000 each claim/\$1,000,000 annual aggregate. Insurance carriers providing said insurance shall be admitted to do business in the state where the goods and/or services are to be supplied and shall carry an A.M. Best's rating not less than A-, VIII. All insurance policies hereunder shall (a) name Purchaser and its affiliates as an additional insured, (b) be primary to any other insurance carried by Purchaser which shall be specifically excess to and not contributing therewith; and (c) include a provision waiving the insurer's right of subrogation against Purchaser. If requested by Purchaser, Seller shall obtain an endorsement requiring thirty (30) days written notice to Purchaser before cancellation or material change in coverage of Seller's insurance coverage.

22. **ASSIGNMENT:** Seller shall not assign or subcontract this purchase order without Purchaser's prior written consent.
23. **COMPLIANCE WITH LAWS:** Seller shall comply with all applicable laws, regulations and ordinances. Seller shall maintain in effect all the licenses, permissions, authorizations, consents and permits that it needs to carry out its obligations under these terms. Seller shall comply with all export and import laws of all countries involved in the sale of the goods and/or services under these terms. Seller assumes all responsibility for shipments of goods requiring any government import clearance. Seller may terminate these terms if any governmental authority imposes antidumping or countervailing duties or any other penalties on the goods. Goods may be regulated / certified for sale / resale / use in specific geographic markets and Seller is liable for the illegal sale / resale of such goods. By selling goods to Purchaser, Seller represents and warrants that Seller is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National.
24. **SUPPLIER CODE OF CONDUCT:** Purchaser committed to conducting all transactions, sales, and business practices in a prudent and ethical manner, and in compliance with all applicable laws, rules, and regulations. Seller agrees to conduct itself at all times in a reputable and businesslike manner that will not cause harm to the name, goodwill, or reputation of Myers Industries, Inc., or its subsidiaries and affiliates. Seller agrees to comply with the Code of Conduct as defined below. Seller shall comply with all applicable laws, rules, and regulations, and the parties' relationship is contingent on Seller satisfying local laws, rules, regulations, and other local qualification requirements. Seller shall also ensure that its conduct of business under this purchase order is not in violation of the relevant U.S. export control rules. Purchaser denies responsibility for any transactions conducted by Seller that are not in accordance with prudent and ethical business practices, Seller's failure to comply with any governmental law, rule, or regulation, or otherwise in violation of the Code of Conduct. Seller understands and agrees that violation of the Code of Conduct constitutes a serious non-fulfillment and material breach of this purchase order, and grounds for immediate termination without penalty and/or compensation by Purchaser. "Code of Conduct" means the Myers's Code of Business Conduct and Ethics and the Seller Code of Conduct, which can be found at <https://investor.myersindustries.com/corporate-governance/default.aspx>, Myers' Anti-Corruption Policy, and Purchaser's Conflict Minerals Policy, and/or any amendment or supplement to those codes and policies that is subsequently implemented by Myers or its successors or assigns, all of which are incorporated into these terms as if fully rewritten herein. Copies of the Code of Conduct are available upon request.
25. **LAW AND VENUE:** All matters arising out of or relating to this purchase order are governed by and construed in accordance with the internal laws of the State of Ohio without giving effect to any choice or conflict of law provision or rule (whether of the State of Ohio or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of Ohio. Any legal suit, action or proceeding arising out of or relating to this purchase order will be instituted in the federal or State courts located in Summit County Ohio. Each party irrevocably submits to the exclusive jurisdiction of such courts in any the suit, action or proceeding. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable to this purchase order, or any transactions created thereby or construed therewith.
26. **SEVERABILITY.** If any term or provision of these terms is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of these terms or invalidate or render unenforceable such term or provision in any other jurisdiction.
27. **WAIVERS; AMENDMENTS.** No waiver by Seller of any of the provisions of these terms is effective unless explicitly set forth in writing and signed by Seller. No failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from these terms operates, or may be construed, as a waiver thereof. No single or partial exercise of any right, remedy, power or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power or privilege. Seller may amend or modify these terms upon written notice to Seller.
28. **BANKRUPTCY.** Seller shall notify Purchaser in writing (a) upon the institution by or against Seller of insolvency, receivership or bankruptcy proceedings or any other proceedings for the settlement of Seller's debts, (b) upon Seller making an assignment for the benefit of creditors, or (c) upon Seller's dissolution or ceasing to do business.
29. **INDEPENDENT CONTRACTOR.** The relationship between the parties is that of independent contractors. Nothing contained in these terms 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.