

ELKHART PLASTICS, LLC

Limited Warranty for Vertical Storage Tanks

This Limited Warranty is subject to and in addition to Seller's General Terms and Conditions of Sale ("**Terms**"), located here: <https://myersengineeredolutions.com/wp-content/uploads/Sale-Terms-Conditions.pdf>. To the extent that the Limited Warranty provisions below conflict with the Terms, this Limited Warranty will govern. This Limited Warranty applies to of the original Purchaser of Vertical Storage Tanks manufactured and sold to Purchaser by Seller ("**Products**") or to any tank fitting, attachment, accessory, or any gaskets or fittings of the Vertical Storage Tanks installed by Seller ("**Accessories**"), as described below. As used herein, the term Purchaser includes buying groups and their members. By accepting the Product, Purchaser accepts the Terms and Limited Warranty, except as otherwise specifically agreed to by Seller in writing. Purchaser may not assign these Terms or Limited Warranty without the prior written consent of Seller. Seller shall be entitled to assign to or carry out this contract in whole or in part through one or more of the business enterprises of the Seller's group of companies, who shall be authorized to act on Seller's behalf, even though Seller continues to be Purchaser's contracting party.

LIMITED WARRANTY. Seller warrants that the Products sold by Seller to Purchaser conform to Seller's specifications and are free from defects in material and workmanship. Unless otherwise specified by Seller in writing, this warranty extends for five years from the date of original purchase. This warranty will be extended to ten years from the date of original purchase if the original Purchaser or original end user registers Products with Seller, as described below, within thirty days of the original purchase date. Separate from the above Product warranty, Seller also warrants to the Purchaser that any Accessory is free from defects in material or workmanship for one year from the date of original purchase, and Seller is notified within fifteen days after such defect is discovered. All warranties apply only to the original Purchaser or original end user if different than the original Purchaser unless otherwise agreed by Seller in writing. Seller's sole obligation and Purchaser's exclusive remedy for any justified claim under this warranty shall be limited to one of the following, at Seller's sole discretion: (a) repair or replacement of the Product or Accessory or (b) a credit for the price paid by the original Purchaser or original end user of the Product, or Accessory, which will be pro-rated based on how many years of the warranty period have already passed. This limited warranty does not apply to, and no warranty remedy will be given for, issues resulting from: (a) accident, acts of nature, improper installation, improper assembly, unreasonable or improper use, lack of proper maintenance, unauthorized repairs or modifications, abuse, normal wear or tear of replaceable parts such as spouts and hoses, or other causes not directly arising from defects in materials or workmanship; (b) insufficient plumbing as described in Products' installation instructions; any hindrance to the natural expansion or contraction of the Products; any damage to the Products caused by storm, freeze, wash away, landslide, mudslide, lightning, vermin or pests, other natural phenomenon, or any undermining of the base of the Products for any cause whatsoever; the repositioning of Products from their original installation; weathering or degradation from extreme climate or weather conditions; failures of extra fittings not recommended or meant for Products; the repositioning of the Products from their original installation; any staining or discoloration from sunlight, fires, or other causes; Products being placed on a base that has protruding objects (e.g., stone or roots); Products being used for any purpose other than the storage of suitable liquids at the ambient temperatures, meaning liquids not exceeding the specific gravity listed on the on-product warning label and otherwise appropriate for use in the container; (c) any Product damaged by the failure of the owner to use, maintain, or store the Product as specified in any applicable instructions and/or warnings provided by Seller or the manufacturer. EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, SELLER MAKES NO WARRANTY WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR AGAINST INFRINGEMENT. IN THE EVENT WARRANTIES EXIST AT LAW THAT MAY NOT BE DISCLAIMED, PURCHASER AGREES THAT SUCH WARRANTIES SHALL BE LIMITED IN DURATION TO THE ONE YEAR WARRANTY PERIOD AND TO THE REPLACEMENT VALUE OF THE PRODUCT.

CLAIMS AND REGISTRATION. Notice of claims against Seller hereunder for any reason, including breach of warranty, must be made to Seller in writing within fourteen (14) days of discovery, but in no event more than the applicable warranty period. Seller must have an opportunity to investigate facts and mitigate any damages for all claims in case Seller determines it is its responsibility. Failure to give such notice to Seller shall constitute a waiver by Purchaser of any right later to assert such a claim, and such failure shall constitute an irrevocable acceptance of the Products and an admission that they fully comply with all of the terms and conditions of the order. To submit a warranty claim or register Products, contact Seller at myersengineeredolutions.com/storage-tank-warranty.

LIMITATION OF LIABILITY. IN NO EVENT SHALL SELLER 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 SELLER'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 SELLER FOR THE PRODUCT 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.