



## STANDARD TERMS AND CONDITIONS OF SALE

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY. All sales and services offered by Minco are subject to the following Terms and Conditions, which are deemed incorporated into all orders, purchase orders, quotations and contracts of sale between you (“Customer”) and Minco. Any provisions or conditions of a Customer’s purchase order or form, or other understandings or agreements which are in any way in conflict or in addition to these Terms and Conditions shall not be binding upon Minco and shall not be applicable unless expressly agreed to in writing by Minco. **BY AUTHORIZING MINCO TO PROCEED WITH THE SERVICES DESCRIBED IN ANY ORDER, PURCHASE ORDER, QUOTATION, OR CONTRACT OF SALE, WHETHER BY EMAIL, ORALLY, OR BY ANY OTHER MEANS, CUSTOMER IS AGREEING TO BE BOUND BY THESE TERMS AND CONDITIONS.** Minco reserves the right to change, modify or amend these Terms and Conditions without notice, and such modified terms shall apply to all orders placed on or after the effective date of the modified Terms and Conditions.

**1. Quotations.** Prices, delivery dates, and all other specifications made by Minco in a quotation (“Quotation”) to Customer are solely informative, and do not bind Minco unless accepted by Customer and after Minco accepts and agrees to them expressly, in writing. All quotations expire within twenty (20) calendar days of the date issued, and are subject to termination by notice within that time frame.

**2. Blanket Orders.** On occasion, Minco may enter into “Blanket Orders” with a Customer. When permitted, any and all products subject to the Blanket Order must be requested by Customer and shipped within one (1) year of the Blanket Order’s issuance date. Minco will not ship any products under a Blanket Order after one (1) year from the date of the Blanket Order. Upon full payment of all amounts due under the Blanket Order and any other outstanding balance owed to Minco by the Customer, all products subject to the Blanket Order shall become the property of Customer and Customer may arrange to pick them up. If any products subject to a Blanket Order remain at Minco for more than ninety (90) days after the expiration of the Blanket Order, Customer shall be deemed to have abandoned and relinquished all ownership or other rights in and to the products, and Minco shall then be deemed to own them and shall have full authority to sell, dispose of, or use the products in any manner. Minimum order sizes may apply to any order placed by Customer.

**3. Pricing.** Customer warrants and agrees to honor any and all pricing as stated in the Quotation prepared by Minco. Customer may pay for products by check, credit card, or wire transfer. Customer understands that any and all Minco pricing is predicated upon Customer’s guarantee of purchase and commitment to the contracted volume level, during the time period contracted for. Should Customer fail to order and/or accept delivery of the contracted volume of products during the specified time period, Customer agrees to immediately pay to Minco the difference between the contracted volume level pricing and the standard pricing of the products. Minco reserves the right to impose any and all price increases to Customer, after notice to Customer, and Customer agrees to any and all price increases

and/or volume modifications. If Customer does not cancel any outstanding orders within ten (10) days of said notice, the price change recited in the notice shall be effective. If Minco experiences any unforeseen circumstances, including but not limited to material price increases, labor cost increases, business markets, or acts of God, Minco reserves the right to modify any and all prices, solely at its discretion. Customer shall bear all additional costs associated with any rush or expedited order made at its request, if the rush or expedited order was not already accounted for in the original Quotation from Minco.

**4. Impact of Pricing from Third-Party Providers.** It is understood by Customer that at times the prices quoted by Minco are based on pricing from third-party suppliers or providers. Third-party failure to perform or increased prices as a result of extreme or severe weather conditions, pandemics, any civil or military action, any other causes in the nature of “Acts of God” (including fire and natural disaster), or any other cause or event not reasonably within Minco’s control may void any and all Minco pricing to Customer. In any of these events, Customer agrees to immediately pay Minco, in full, for any and all discrepancies between the original Quotation and an adjusted Quotation reflecting the third-party provider’s failure to perform and/or change in pricing, upon request by Minco.

**5. Product Warranty; Limitation of Warranties; Disclaimers.** Minco warrants its products against defects in materials or faulty workmanship for one year from the date of shipment. Products returned (transportation prepaid) within the warranty period, which Minco determines to be faulty by reason of defective materials or faulty workmanship, will be replaced or repaired at Minco’s discretion, free of charge. **THIS REMEDY IS THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO THE CUSTOMER.** Returned items that: (a) show evidence of mishandling or misapplication; or (b) are returned outside of the warranty period; or (c) that cannot be determined to still be within the warranty period, may be returned by Minco at the Customer’s expense. Minco shall not be liable for damage to or loss of goods furnished by the Customer. **MINCO IS NOT TO BE HELD LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES CAUSED BY ITS PRODUCTS, INCLUDING, BUT NOT LIMITED TO: DAMAGES FOR LOSS OF USE, INCOME, PROFIT OR GOODWILL; LOSSES SUSTAINED AS A RESULT OF INJURY (INCLUDING DEATH) TO ANY PERSONS; AND/OR DAMAGES TO PROPERTY, OTHER THAN THE PRODUCT. IN NO CASE SHALL MINCO’S LIABILITY EXCEED THE PRICE PAID FOR THE PRODUCT.** When products are supplied, at the Customer’s request, on a “best effort” basis for use under conditions that exceed design specifications, the products are shipped “as-is”, with no warranty, stated or implied. Unless otherwise specified, Minco’s products are not designed, authorized, or warranted to be suitable for use in life-support devices or systems or other critical applications that involve potential risks of death, personal injury, or severe property or environmental damage. Inclusion of Minco’s products in such applications is understood to be fully at the Customer’s risk. **THIS WARRANTY IS EXPRESSLY IN LIEU OF ANY OTHER EXPRESS WARRANTY OR IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ANY OTHER OBLIGATIONS OR LIABILITY ON THE PART OF MINCO, ITS EMPLOYEES OR AGENTS.**

**6. Limitation of Liability.** IN NO EVENT SHALL MINCO BE LIABLE TO CUSTOMER, OR ANY PARTY CLAIMING BY, THROUGH, OR UNDER CUSTOMER, FOR ANY INCIDENTAL, EXEMPLARY, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE, OR WHETHER ANY PARTY OR ENTITY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THESE TERMS AND CONDITIONS, MINCO'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THE SERVICES OR DELIVERABLES FOR ALL CLAIMS OF ANY KIND WILL NOT EXCEED THE AMOUNTS PAID OR PAYABLE BY CUSTOMER TO MINCO DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY.

**7. Design Control.** Minco reserves the right to make changes in the design and manufacturing process of any product without previous notice to Customer. The Customer is responsible for validating the product design and determining that the product is suitable for use in the Customer's intended application. Customer is deemed to have accepted and validated the product design upon acceptance of the product shipment from Minco, if Customer does not object to the products within ten (10) days of receiving them. If Customer objects to the product, it must act in accordance with Section 13 of these Terms and Conditions.

**8. Designs and Specifications.** Minco is not responsible for the adequacy of any designs, specifications, requirements and/or instructions provided by Customer. Acceptance by the Customer of any products provided by Minco shall constitute an acknowledgement the Customer has reviewed the designs for such products and is satisfied that the designs meet all specifications, requirements, and standards, unless they object to the products within ten (10) days of receiving them. If Customer objects to the product, it must act in accordance with Section 13 of these Terms and Conditions. Customer understands and agrees that **MINCO IS NOT MAKING AND SPECIFICALLY DISCLAIMS ANY WARRANTY (INCLUDING ANY IMPLIED WARRANTY OF FITNESS FOR PARTICULAR PURPOSE) RELATIVE TO THE DESIGN OF SUCH CUSTOM OR NON-STANDARD PRODUCTS.** Customer agrees to indemnify and hold Minco harmless against any claims or suits alleging defective design of such products.

**9. Technical Assistance; Samples; Demonstrations.** Any technical advice, recommendations, samples, lab tests, and/or demonstrations provided by Minco or any of its representatives concerning the use, application or compatibility of any products or materials are provided by Minco solely for the purpose of assisting the Customer to evaluate, at its own risk, the suitability of Minco products for the Customer's intended use. No such advice, recommendations, samples, lab tests and/or demonstrations provided by Minco shall be construed as an express or implied warranty.

**10. Changes; Rescheduling; Cancellations.** Customer may request to modify the designs or specifications of the products, quantity of products produced, the dates for delivery or performance, or it may request to cancel all or part of the order, but any and all such modifications or cancellations must be expressly accepted in writing by Minco. Order

cancellations, if permitted under the relevant Quotation, are subject to cancellation charges as deemed applicable by Minco to cover all costs and expenses incurred prior to the cancellation of said order. Cancellation charges may include, but are not limited to, all costs and expenses incurred in the design, development and production of the products, both completed and in process, and the cost of all items and special material purchased to complete said order. Customer understands that any and all design changes may push back the date of delivery to give Minco time to accommodate the changes. Customer agrees to pay for all costs incurred by any and all changes to the product, including but not limited to design changes, fees incurred from suppliers, and additional services performed by Minco employees.

**11. Payment Terms.** Any and all payments are due to Minco within thirty (30) days of the issuance of the invoice or within one (1) year from the date of the Quotation, whichever is sooner. Prices listed on invoice do not include any taxes, freight, handling, duty and/or other similar charges, all of which are solely the responsibility of, and will be paid by, the Customer. All prices are conditioned upon timely payment by Customer, and any unpaid costs will incur an eighteen percent (18%) annual (1.5% per month) interest fee for delinquent payment to Minco. Transportation and freight charges are constructed using standard carrier means and tariffs; any actual transportation costs incurred not represented in the standard carrier means and tariffs will be paid by Customer. All payments shall be in the legal currency designated on Minco's invoice. Minco reserves the right to modify terms prior to shipment, require payment in advance, delay or cancel any shipment or any order, for any reason.

**12. Delivery, Risk of Loss, Delays.** Unless otherwise stated on the face of the Quotation, delivery of products will be Products Free Carrier (FCA Incoterms 2010) and Minco's place of business shall be the named place of delivery. Minco reserves the right to send products to Customer in installments, and to send separate invoices for each installment. Risk of loss will pass to Customer at the FCA point and Minco shall not be liable for any damage to, or loss of, product following delivery to said FCA point, including any damage or loss in transit. Any loss, damage, or mis-delivery shall be filed with the carrier and notification should be sent to Minco within five (5) days of the date of delivery. Products shall be deemed fully inspected and accepted by Customer within ten (10) days after delivery, unless customer notifies Minco of a rejection within such period. Acceptance shall constitute acknowledgement of full performance by Minco of all obligations under the purchase order, except as otherwise stated in these Terms and Conditions. Minco may quote scheduled shipment or service dates for certain items of Customer's order, but **ALL SHIPPING AND DELIVERY DATES ARE ONLY ESTIMATES AND MINCO SHALL NOT BE LIABLE FOR DIRECT, INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES DUE TO FAILURE FOR ANY REASON TO MEET SCHEDULED SHIPMENT DATES.** Delays in securing Customer's approval of necessary specifications or samples of products and materials shall, if Minco so chooses, extend the date of delivery. Customer may incur additional fees and charges for any and all Customer delays.

**13. Inspection, Acceptance, Returns.** Upon receipt, Customer shall thoroughly inspect their products. All products will be deemed to have been accepted ten (10) days after receipt, unless Customer notifies Minco and makes a written claim of non-conformance

within such time. In the event that Customer intends to return product, Customer agrees to allow Minco to resolve the nonconformance by offering substitute goods. All standard, non-custom products that a Customer located in the United States makes a claim of non-conformance for, may be issued a Return Material Authorization (RMA) number by Minco, and any products returned without a proper RMA number will not be accepted and will be returned to Customer at Customer's expense. All returned materials will have a fifty percent (50%) restocking fee that must be paid before Customer returns the product. When a standard product, part, or solution is changed in any degree, it then becomes a custom product and cannot be returned. **WITHOUT EXCEPTION, NO MINCO NON-STANDARD, CUSTOM, PRODUCT OR PART SOLD TO CUSTOMER IS ELIGIBLE FOR RETURN.** A RMA will never be granted to, nor permitted from any Minco distributors, affiliates, representative groups or customers located outside of the United States. On occasion, Minco quotes prices to Customer based on volume size, and may offer discounted prices for that specified volume. Should Customer return a quantity of products such that it only pays for less than the contracted volume of products during the specified time period, Minco will send an invoice to Customer for the difference between its volume price quotation and the actual number of products paid for by the Customer during the contracted time period, and Customer agrees to pay said invoice. If Customer returns the product to Minco before Minco receives full payment for all existing and outstanding Orders in addition to the restocking fee, the shipment will be rejected at Minco's dock. The freight company or shipment company will remain responsible for the Customer's property and the Customer will incur any/all costs for return shipment to them.

**14. Standard Tooling.** "Tooling" includes all materials used in manufacturing to create Customer products, including but not limited to molds, jigs, gauges, stamps, and casting. "Standard Tooling" is Tooling that can be procured by Minco without requiring any changes to the tooling. All costs related to procuring Standard Tooling are invoiced to Customer the day it is ordered by Minco, and for Standard Tooling that costs \$5,000 or more, the Customer is expected to pay any and all fees up front. All costs related to repairing, replacing or maintaining Standard Tooling will be invoiced to Customer. Standard Tooling is the property of Minco until payment of all amounts due to Minco by Customer and Customer's satisfaction of all obligations under these Terms and Conditions and the parties' agreements. Upon full payment, Standard Tooling shall become the property of Customer, and it may request that it be delivered to Customer at its expense. If a Customer has not requested delivery of the Standard Tooling or otherwise attempted to reclaim the Standard Tooling within one (1) year from the date of the last invoice, the Standard Tooling will be considered abandoned by the Customer and shall become the property of Minco, unless otherwise stipulated by an agreement, but not a purchase order. Minco reserves the right to dispose of any Standard Tooling that has not been used due to a lack of orders from the Customer for a period of more than one (1) year.

**15. Custom Tooling.** On occasion, Customer may ask Minco to design "Custom Tooling" for products that cannot be manufactured using Standard Tooling. All costs related to creating this Custom Tooling will be invoiced to Customer the day on which Minco begins developing the Custom Tooling. For Custom Tooling that costs \$5,000 or more, the Customer is expected to pay any and all fees up front. Custom Tooling, as well as all products manufactured

with the Custom Tooling, are the property of Minco until payment of all amounts due to Minco by Customer and Customer's satisfaction of all obligations under these Terms and Conditions and the parties' agreements. All costs related to repairing, replacing or maintaining Custom Tooling will be invoiced to Customer. Upon full payment, Custom Tooling shall become the property of Customer, and it may request that it be delivered to Customer at its expense and products created by Custom Tooling will be delivered in accordance with any applicable purchase order. If a Customer has not requested delivery of the Custom Tooling or otherwise attempted to reclaim the Custom Tooling within one (1) year from the date of the last invoice, the Custom Tooling will be considered abandoned by the Customer and shall become the property of Minco, unless otherwise stipulated by an agreement, but not a purchase order. Minco reserves the right to dispose of any Custom Tooling that has not been used due to a lack of orders from the Customer for a period of more than one (1) year.

**16. Storage of Customer Products or Tooling.** Customer may be charged a fee for Customer products, materials, or tooling of any sort stored at a Minco location pursuant to a separate Safety Stock or Raw Materials Agreement. Unless stated otherwise in a separate Safety Stock or Raw Materials Agreement, if Customer product, materials or tooling remains at a Minco location for more than one (1) year, Minco will be deemed to be the owner of such items and may sell, dispose of, or utilize the items in any way that Minco sees fit.

**17. Agreement Termination and/or Reconciliation.** Upon termination of the parties' Agreement, Minco will make available to Customer any remaining products, finished or unfinished, provided that Customer provides full and complete payment for any outstanding balances due to Minco and has otherwise satisfied all of its obligations. In such a case, Customer will pay for, and make all arrangements to ship such products from Minco to Customer. If any products or tooling are left at Minco for more than one (1) year after the Agreement termination, Customer is deemed to have abandoned and relinquished all ownership or other rights in and to the products, and Minco shall then be deemed to own them and shall have full authority to sell, dispose of, or use the products in any manner.

**18. Indemnification.** Customer shall indemnify, defend and hold harmless Minco and its shareholders, managers, officers, agents, employees, successors and assigns from and against any and all claims, actions, demands, damages, losses, liabilities, costs and expenses (including reasonable attorneys' fees) relating to or arising out of the Customer's products (including infringement of trademarks, copyrights and/or any other intellectual property rights) and/or the Customer's acts or omissions, use of the products, or breach of any representation, warranty, covenant or other provision of this Agreement.

**19. Governing Law.** Any quote and/or order and these Terms and Conditions shall be governed by and construed in accordance with the laws of the State of Minnesota and the United States. The parties exclude application of the United Nations Convention on Contracts for the International Sale of Goods. Customer and Minco agree that venue and jurisdiction will be exclusively in the District Court of Hennepin County, State of Minnesota, and in the U.S. District Court for the District of Minnesota. Customer consents to service of process under Minnesota law in any action to enforce this Agreement. If any suit or proceeding is filed to

enforce the terms of the quote and/or order or these Terms and Conditions, the prevailing party in such action shall be entitled to its costs, disbursements and reasonable attorneys' fees.

**20. Entire Agreement.** The parties' agreement, consisting exclusively of Minco's Quotation and these Terms and Conditions (the "Agreement"), sets forth the entire understanding and agreement between the parties regarding the subject matter of this Agreement and merges and supersedes all previous communications, negotiations, warranties, representations and Agreements, either oral or written, with respect to the subject matter of this Agreement. Any proposal for additional or different terms or any attempt by Customer to vary the terms hereof is hereby deemed material and is objected to and rejected by Minco. No addition to or modification of this Agreement will be binding on either party unless reduced to writing and executed by each party. Minco's performance of this Agreement is expressly made conditional on the agreement of Customer to these Terms and Conditions unless otherwise specifically agreed to in writing by Minco and signed by an authorized representative of Minco.

**21. Force Majeure.** Minco shall not be liable for any failure to perform its obligations where such failure is as a result of extreme or severe weather conditions, pandemics, any civil or military action, any other causes in the nature of "Acts of God" (including fire and natural disaster), or any other cause or event not reasonably within Minco's control.

**22. Interpretation.** Section headings are solely for convenience and reference only and shall not affect the scope, meaning, intent or interpretation of the provisions of the Agreement nor otherwise be given any legal effect. Any product terminology shall be defined according to standard industry usage, and any dispute as to the meaning or scope of industry terminology shall be determined by Minco in good faith. Any other ambiguities shall be resolved with the most reasonable and legally valid construction, without regard to authorship of such provisions. In the event of a direct conflict between these Terms and Conditions and the applicable Minco Quotation, the Minco Quotation shall control.

**23. Right of Publicity.** Minco retains the right to reproduce, publish and display Customer's products in Minco's portfolios and websites, and in galleries, periodicals and other media or exhibits for the purposes of recognition of excellence or professional advancement, and to be credited with authorship of the products in connection with such uses.

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