

MYERS INDUSTRIES INC

FORM S-8

(Securities Registration: Employee Benefit Plan)

Filed 03/17/09

Address	1293 S MAIN ST AKRON, OH 44301
Telephone	330-253-5592
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Industry	Fabricated Plastic & Rubber
Sector	Basic Materials
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As filed with the Securities and Exchange Commission on March 17, 2009

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM S-8

REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

MYERS INDUSTRIES, INC.

(Exact name of registrant as specified in its charter)

OHIO
(State or other jurisdiction of
incorporation or organization)

34-0778636
(I.R.S. Employer
Identification No.)

**1293 S. Main Street
Akron, Ohio 44301
(330) 253-5592**

(Address of Principal Executive Offices, Including Zip Code)

2008 INCENTIVE STOCK PLAN OF MYERS INDUSTRIES, INC.

(Full Title of the Plan)

Donald A. Merrill
Vice President, Chief Financial Officer
and Corporate Secretary
1293 S. Main Street
Akron, Ohio 44301
(330) 253-5592

Copy to:
Megan L. Mehalko
Benesch, Friedlander,
Coplan & Aronoff LLP
200 Public Square, Suite 2300
Cleveland, Ohio 44114-2378
(216) 363-4500

(Name and Address, Including Zip Code, and Telephone Number,
Including Area Code, of Agent for Service)

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer Accelerated filer Non-accelerated filer Smaller reporting company
(Do not check if a smaller reporting company)

CALCULATION OF REGISTRATION FEE

Title of securities to be registered	Amount to be registered ¹	Proposed maximum offering price per share ²	Proposed maximum aggregate offering price ²	Amount of registration fee
Common Stock, without par value	3,000,000	\$3.43	\$10,290,000	\$574.18

- ¹ This Registration Statement also includes an indeterminate number of shares of Common Stock which may be issued under the anti-dilution provisions of the plan.
 - ² Estimated in accordance with Rule 457(h) under the Securities Act of 1933, solely for the purpose of calculating the registration fee, on the basis of the average of the high (\$3.20) and low (\$3.66) prices of the Common Stock on March 12, 2009 as reported on the New York Stock Exchange.
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PART I

INFORMATION REQUIRED IN THE SECTION 10(a) PROSPECTUS

The document(s) containing the information specified in Part I of Form S-8 (Items 1 and 2) will be sent or given to participants in the 2008 Incentive Stock Plan of Myers Industries, Inc., as specified by Rule 428(b) under the Securities Act of 1933, as amended. Such documents and the documents incorporated herein by reference pursuant to Item 3 of Part II hereof, taken together, constitute a prospectus that meets the requirements of Section 10(a) of the Securities Act of 1933, as amended.

PART II

INFORMATION REQUIRED IN THE REGISTRATION STATEMENT

Item 3. Incorporation of Documents by Reference.

The Securities and Exchange Commission (“SEC”) allows us (File No. 001-08524) to incorporate by reference the information we file with them, which means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be part of this prospectus, and information that we file later with the SEC will automatically update and supersede the information in this prospectus. Accordingly, we incorporate by reference the documents listed below and any future filings we make with the SEC under Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act:

- (1) Myers Industries, Inc. Annual Report on Form 10-K for the fiscal year ended December 31, 2008 filed March 16, 2009.
- (2) The description of Myers Industries Inc. Common Stock, which is contained in our Registration Statement on Form 8A-12b, filed with the SEC on April 30, 2001.

All reports and other documents we subsequently file pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of this prospectus and before the filing of a post-effective amendment which indicates that all securities offered under this prospectus have been sold or which deregisters all securities remaining unsold, shall be deemed to be part of this prospectus from the date of the filing of such reports and documents.

We will provide without charge to each person, including any beneficial owner, to whom this Registration Statement is delivered, upon written or oral request, a copy of any or all documents that are incorporated into this Registration Statement by reference (other than exhibits to such documents unless such exhibits are specifically incorporated by reference into the documents that this Registration Statement incorporates). You should direct such requests to Myers Industries, Inc., 1293 S. Main Street, Akron, Ohio 44301, Attention: Corporate Secretary, or made by telephone at (330) 293-5592.

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Item 4. Description of Securities.

Not Applicable.

Item 5. Interests of Named Experts and Counsel.

Not Applicable.

Item 6. Indemnification of Directors and Officers.

Pursuant to Article Six of the Amended and Restated Code of Regulations of the Company, the Company shall indemnify any director or officer and any former director or officer of the Company and any such director or officer who is or has served at the request of the Company as a director, officer or trustee of another corporation, partnership, joint venture, trust or other enterprise (and his heirs, executors and administrators) against expenses, including attorney's fees, judgments, fines and amounts paid in settlement, actually and reasonably incurred by him by reason of the fact that he is or was such director, officer or trustee in connection with any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative to the full extent permitted by applicable law. Article Six further provides that the indemnification provided for therein shall not be deemed to restrict the right of the Company (i) to indemnify employees, agents and others to the extent not prohibited by such law, (ii) to purchase and maintain insurance or furnish similar protection on behalf of or for any person who is or was a director, officer, employee or agent of the Company, or any person who is or was serving at the request of the Company as a director, officer, trustee, employee or agent of another corporation, joint venture, partnership, trust or other enterprise against any liability asserted against him or incurred by him in any such capacity or arising out of his status as such, and (iii) to enter into agreements with persons of the class identified in clause (ii) above indemnifying them against any and all liabilities (or such lesser indemnification as may be provided in such agreements) asserted against or incurred by them in such capacities.

The rights provided in Article Six are in addition to any rights provided by contract or as a matter of law. Ohio Revised Code Section 1701.13(E) includes indemnification provisions similar to Article Six. Section 1701.13(E) of the Ohio Revised Code provides that a corporation may indemnify or agree to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative, other than an action by or in the right of the corporation, by reason of the fact that he is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee, member, manager, or agent of another corporation, domestic or foreign, nonprofit or for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, against expenses, including attorney's fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit, or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, if he had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit, or proceeding by judgment, order, settlement, or conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and

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in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, that he had reasonable cause to believe that his conduct was unlawful.

Section 1701.13(E)(2) further specifies that a corporation may indemnify or agree to indemnify any person who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action or suit by or in the right of the corporation to procure a judgment in its favor, by reason of the fact that he is or was a director, officer, employee, or agent of the corporation, or is or was serving at the request of the corporation as a director, trustee, officer, employee, member, manager, or agent of another corporation, domestic or foreign, nonprofit or for profit, a limited liability company, or a partnership, joint venture, trust, or other enterprise, against expenses, including attorney's fees, actually and reasonably incurred by him in connection with the defense or settlement of such action or suit, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interests of the corporation, except that no indemnification shall be made in respect of (a) any claim, issue, or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless, and only to the extent, that the court of common pleas or the court in which such action or suit was brought determines, upon application, that, despite the adjudication of liability, but in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for such expenses as the court of common pleas or such other court shall deem proper, and (b) any action or suit in which the only liability asserted against a director is pursuant to Section 1701.95 of the Ohio Revised Code concerning unlawful loans, dividends and distribution of assets.

In addition, Section 1701.13(E) requires a corporation to pay any expenses, including attorney's fees, of a director in defending an action, suit, or proceeding referred to above as they are incurred, in advance of the final disposition of the action, suit, or proceeding, upon receipt of an undertaking by or on behalf of the director in which he agrees to both (i) repay such amount if it is proved by clear and convincing evidence that his action or failure to act involved an act or omission undertaken with deliberate intent to cause injury to the corporation or undertaken with reckless disregard for the best interests of the corporation and (ii) reasonably cooperate with the corporation concerning the action, suit, or proceeding. Section 1701.13(E) further authorizes a corporation to enter into contracts regarding indemnification and to purchase and maintain insurance on behalf of any director, trustee, officer, employee or agent for any liability asserted against him or arising out of his status as such. The Company presently has contracts with each of its directors and key officers and maintains insurance for the benefit of persons entitled to indemnification.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or persons controlling the registrant pursuant to the foregoing provisions, we have been informed that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act of 1933, as amended, and is, therefore, unenforceable.

Item 7. Exemption from Registration Claimed.

Not Applicable.

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Item 8. Exhibits.

4.1	Amended and Restated Articles of Incorporation of Myers Industries, Inc.	Incorporated by reference to Exhibit 3(a) to the registrant's Annual Report on Form 10-K filed on March 16, 2005.
4.2	Amended and Restated Code of Regulations of Myers Industries, Inc.	Incorporated by reference to Exhibit 3(b) to the registrant's Annual Report on Form 10-K filed on March 26, 2003.
4.3	2008 Incentive Stock Plan of Myers Industries, Inc.	*
5.1	Opinion of Benesch, Friedlander, Coplan & Aronoff LLP.	*
23.1	Consent of Independent Registered Public Accounting Firm (KPMG LLP).	*
23.2	Consent of Benesch, Friedlander, Coplan & Aronoff LLP.	*(Included within Exhibit 5.1.)
24	Powers of Attorney.	*(Included on signature page.)

* Filed herewith.

Item 9. Undertakings.

(a) The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this Registration Statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933, as amended;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the Registration Statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the Registration Statement. Notwithstanding the foregoing, any increase or decrease in the volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the

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maximum aggregate offering price set forth in the “Calculation of Registration Fee” table in the effective Registration Statement; and

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the Registration Statement or any material change to such information in the Registration Statement;

provided, however, that paragraphs (a)(1)(i) and (a)(1)(ii) do not apply if the Registration Statement is on Form S-8 and the information required to be included in a post-effective amendment by those paragraphs is contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended, that are incorporated by reference in the Registration Statement.

(2) That, for the purpose of determining any liability under the Securities Act of 1933, as amended, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act of 1933, as amended, each filing of the registrant’s annual report pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (and, where applicable, each filing of an employee benefit plan’s annual report pursuant to Section 15(d) of the Securities Exchange Act of 1934, as amended) that is incorporated by reference in the Registration Statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial *bona fide* offering thereof.

(c) Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended, may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Commission such indemnification is against public policy as expressed in the Securities Act of 1933, as amended, and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act of 1933, as amended, and will be governed by the final adjudication of such issue.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, as amended, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-8 and has duly caused this Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Akron, State of Ohio, on this 17th day of March, 2009.

MYERS INDUSTRIES, INC.
(Registrant)

/s/ Donald A. Merrill
By: Donald A. Merrill
Vice President, Chief Financial Officer
and Corporate Secretary

Each of the undersigned hereby appoints each of John C. Orr and Donald A. Merrill as attorney-in-fact and agent for the undersigned, with full power of substitution, for and in the name, place and stead of the undersigned, to sign and file with the Securities and Exchange Commission under the Securities Act of 1933, as amended, any and all amendments (including post-effective amendments) to this Registration Statement and any and all applications, instruments and other documents to be filed with the Securities and Exchange Commission pertaining to the registration of securities covered hereby, with full power and authority to do and perform any and all acts and things as may be necessary or desirable in furtherance of such registration.

Pursuant to the requirements of the Securities Act of 1933, as amended, this Registration Statement has been signed by the following persons in such capacity and on this 17th day of March, 2009.

<u>Date</u>	<u>Signature</u>	<u>Title</u>
March 17, 2009	<u>/s/ John C. Orr</u> John C. Orr	President, Chief Executive Officer and Director (Principal Executive Officer)
March 17, 2009	<u>/s/ Donald A. Merrill</u> Donald A. Merrill	Vice President, Chief Financial Officer and Corporate Secretary (Principal Accounting Officer)
March 17, 2009	<u>/s/ Keith A. Brown</u> Keith A. Brown	Director
March 17, 2009	<u>/s/ Vincent C. Byrd</u> Vincent C. Byrd	Director

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Date	Signature	Title
March 17, 2009	<u>/s/ Robert A. Stefanko</u> Robert A. Stefanko	Director
March 17, 2009	<u>/s/ Richard P. Johnston</u> Richard P. Johnston	Director
March 17, 2009	<u>/s/ Edward W. Kissel</u> Edward W. Kissel	Director
March 17, 2009	<u>/s/ Stephen E. Myers</u> Stephen E. Myers	Director
March 17, 2009	<u>/s/ Richard L. Osborne</u> Richard L. Osborne	Director
March 17, 2009	<u>/s/ Jon H. Outcalt</u> Jon H. Outcalt	Director

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24	Powers of Attorney. Included on the signature page hereto.	

* Incorporated herein by reference.

**2008 INCENTIVE STOCK PLAN
OF
MYERS INDUSTRIES, INC.**

1. Purpose of the Plan. This 2008 Incentive Stock Plan of Myers Industries, Inc. is intended to encourage officers, directors and other key employees of, and consultants to, the Company and its Subsidiaries to acquire or increase their ownership of common stock of the Company on reasonable terms. Grants made hereunder are part of the total compensation package for such persons and the opportunity so provided is intended to foster in participants a strong incentive to put forth maximum effort for the long-term success and growth of the Company and its Subsidiaries, to encourage long-term strategic decision making on the part of participants, to aid in retaining individuals who put forth such efforts and strategic decision making, and to assist in attracting the best available individuals to the Company and its Subsidiaries in the future, in each case, for the benefit of the Company's shareholders.

2. Definitions. When used herein, the following terms shall have the meaning set forth below:

2.1 "Award" means an Option, a Restricted Stock Award, an SAR, a Stock Unit Award, or a Director Award.

2.2 "Award Agreement" means a written agreement in such form as may be, from time to time, hereafter approved by the Committee, which shall be duly executed by the Company and the Participant and which shall set forth the terms and conditions of an Award under the Plan.

2.3 "Board" means the Board of Directors of Myers Industries, Inc.

2.4 "Change of Control" means a change in control of the Company of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A promulgated under the Exchange Act, whether or not the Company is then subject to such reporting requirement; provided that, without limitation, a Change in Control shall be deemed to have occurred if:

(a) Any "person" (as defined in Sections 13(d) and 14(d) of the Exchange Act), other than Stephen E. Myers or Mary Myers, becomes the "beneficial owner" (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing twenty percent (20%) or more of the combined voting power of the Company's then outstanding securities; provided that a Change in Control shall not be deemed to occur under this Section 2.4(a) by reason of the acquisition of securities by the Company or an employee benefit plan (or any trust funding such a plan) maintained by the Company;

(b) During any period of one year there shall cease to be a majority of the Board comprised of Continuing Directors; or

(c) There occurs (i) a merger or consolidation of the Company with any other corporation, other than a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity) more than eighty percent (80%) of the combined voting power of the voting securities of the Company or such surviving entity outstanding immediately after such merger or consolidation, or (ii) the approval by the stockholders of the Company of a plan of complete liquidation of the Company, or (iii) the sale or disposition by the Company of more than fifty percent (50%) of the Company's assets. For purposes of this Section 2.4(c), a sale of more than fifty percent (50%) of the Company's assets includes a sale of more than fifty percent (50%) of the aggregate value of the assets of the Company and its Subsidiaries or the sale of stock of one or more of the Company's Subsidiaries with an aggregate value in excess of fifty percent (50%) of the aggregate value of the Company and its Subsidiaries or any combination of methods by which more than fifty percent (50%) of the aggregate value of the Company and its Subsidiaries is sold.

(d) For purposes of this Plan, a “Change of Control” will be deemed to occur:

(i) on the day on which a twenty percent (20%) or greater ownership interest described in Section 2.4(a) is acquired, provided that a subsequent increase in such ownership interest after it first equals or exceeds twenty percent (20%) shall not be deemed a separate Change of Control;

(ii) on the day on which Continuing Directors cease to be a majority of the Board as described in Section 2.4(b);

(iii) on the day of a merger, consolidation or sale of assets as described in Section 2.4(c)(i) or Section 2.4(c)(iii); or

(iv) on the day of the approval of a plan of complete liquidation as described in Section 2.4(c)(ii).

2.5 “Code” means the Internal Revenue Code of 1986, as in effect at the time of reference, or any successor revenue code which may hereafter be adopted in lieu thereof, and reference to any specific provisions of the Code shall refer to the corresponding provisions of the Code as it may hereafter be amended or replaced.

2.6 “Continuing Directors” mean individuals who at the beginning of any period (not including any period prior to the date of this Agreement) of one year constitute the Board and any new Director(s) whose election by the Board or nomination for election by the Company’s stockholders was approved by a vote of at least a majority of the Directors then still in office who either were Directors at the beginning of the period or whose election or nomination for election was previously so approved.

2.7 “Committee” means the Compensation Committee of the Board or any other committee appointed by the Board which is invested by the Board with responsibility for the administration of the Plan.

2.8 “Company” means Myers Industries, Inc.

2.9 “Director” means a member of the Board who is not also an Employee of the Company or any of its Subsidiaries.

2.10 “Director Award” means the grant of an Award to a Director pursuant to Section 11.

2.11 “Director Award Agreement” means a written agreement in such form as may be, from time to time, hereafter approved by the Committee, which shall be duly executed by the Company and the Director and which shall set forth the terms and conditions of a Director Award under the Plan.

2.12 “Employees” means officers (including officers who are members of the Board), and other key employees of the Company or any of its Subsidiaries.

2.13 “Exchange Act” means the Securities Exchange Act of 1934, as in effect at the time of reference, or any successor law which may hereafter be adopted in lieu thereof, and any reference to any specific provisions of the Exchange Act shall refer to the corresponding provisions of the Exchange Act as it may hereafter be amended or replaced.

2.14 “Fair Market Value” means, with respect to the Shares, (i) the closing price of the Shares on the principal stock exchange on which Shares are then traded or admitted to trading on the date on which the value is to be determined, or (ii) if no sale takes place on such day on any such exchange, the average of the last reported closing bid and asked prices on such day as officially quoted on any such exchange. If there shall be a public market for the Shares, and the foregoing references are unavailable or inapplicable, then the Fair Market Value shall be determined on the basis of the appropriate substitute public market price indicator as determined by the Committee, in its sole discretion.

2.15 “Incentive Stock Option” means an Option intending to meet the requirements and containing the limitations and restrictions set forth in Section 422 of the Code and designated in the Option Agreement as an Incentive Stock Option.

2.16 “Non-Qualified Stock Option” means an Option other than an Incentive Stock Option.

2.17 “Option” means the right to purchase the number of Shares specified by the Committee at a price and for a term fixed by the Committee in accordance with the Plan, and subject to such other limitations and restrictions as the Plan or the Committee may impose.

2.18 “Option Agreement” means a written agreement in such form as may be, from time to time, hereafter approved by the Committee, which shall be duly executed by the Company and the Participant and which shall set forth the terms and conditions of an Option under the Plan.

2.19 “Parent” means any corporation, other than the employer corporation, in an unbroken chain of corporations ending with the employer corporation if, at the time of the granting of the Option, each of the corporations other than the employer corporation owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

2.20 “Participants” means Employees and key consultants to the Company or any of its Subsidiaries.

2.21 “Performance Goal” means one or more written objective goals approved by the Committee and established and administered in accordance with Section 162(m) of the Code and the regulations thereunder, which performance goal or goals are determined based on one or more of the following business criteria: (i) increase in the Fair Market Value of the Shares, (ii) total stockholder return, (iii) growth in revenue, sales, settlements, market share, customer conversion, net income, stock price and/or earnings per share, (iv) return on assets, net assets, and/or capital, (v) economic value added, (vi) improvements in costs and/or expenses, or (vii) any similar performance measure established by the Committee.

2.22 “Plan” means the Company’s 2008 Incentive Stock Plan, as amended from time to time.

2.23 “Regulation T” means Part 220, chapter II, title 12 of the Code of Federal Regulations, issued by the Board of Governors of the Federal Reserve System pursuant to the Exchange Act, as amended from time to time, or any successor regulation which may hereafter be adopted in lieu thereof.

2.24 “Restricted Stock Award” means the right to receive Shares, but subject to forfeiture and/or other restrictions as set forth in the related Restricted Stock Award Agreement.

2.25 “Restricted Stock Award Agreement” means a written agreement in such form as may be, from time to time, hereafter approved by the Committee, which shall be duly executed by the Company and the Participant and which shall set forth the terms and conditions of a Restricted Stock Award under the Plan.

2.26 “Rule 16b-3” means Rule 16b-3 of the General Rules and Regulations of the Exchange Act, as in effect at the time of reference, or any successor rules or regulations which may hereafter be adopted in lieu thereof, and any reference to any specific provisions of Rule 16b-3 shall refer to the corresponding provisions of Rule 16b-3 as it may hereafter be amended or replaced.

2.27 “SAR” means a stock appreciation right, which is a right to receive an amount in cash, or Shares, or a combination thereof, as determined or approved by the Committee, no greater than the excess, if any, of (i) the Fair Market Value of a Share on the date the SAR is exercised, over (ii) the SAR Base Price.

2.28 “SAR Base Price” means the Fair Market Value of a Share on the date an SAR was granted, or if the SAR was granted in tandem with an Option (whether or not the Option was granted on a

different date than the SAR), in the discretion of the Committee, the option price of a Share subject to the Option.

2.29 “Shares” means shares of the Company’s common stock, no par value, or, if by reason of the adjustment provisions contained herein, any rights under an Award under the Plan pertain to any other security, such other security.

2.30 “Stock Unit” means a bookkeeping entry representing an equivalent of one Share, as awarded under the Plan.

2.31 “Stock Unit Award Agreement” means a written agreement in such form as may be, from time to time, hereafter approved by the Committee, which shall be duly executed by the Company and the Participant and which shall set forth the terms and conditions of a grant of Stock Units.

2.32 “Subsidiary” or “Subsidiaries” means any corporation or corporations other than the employer corporation in an unbroken chain of corporations beginning with the employer corporation if each of the corporations other than the last corporation in the unbroken chain owns stock possessing fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

2.33 “Successor” means the (i) legal representative of the estate of a deceased Participant, (ii) the person or persons who shall acquire the right to exercise or receive an Award by bequest or inheritance or by reason of the death of the Participant, or (iii) the beneficiary or beneficiaries designated by the Participant for any Option granted to the Participant that is outstanding at the time of his death.

2.34 “Term” means the period during which a particular Award may be exercised.

3. Shares Subject to the Plan . There will be reserved for use, upon the issuance, vesting or exercise of Awards to be granted from time to time under the Plan to Participants, an aggregate of Three Million (3,000,000) Shares, subject to adjustment as set forth in Section 15 of the Plan, which Shares may be, in whole or in part, as the Board shall from time to time determine, authorized but unissued Shares, or issued Shares which shall have been reacquired by the Company. Any Shares subject to issuance upon exercise of Options or SAR by Participants but which are not issued because of a surrender, lapse, expiration or termination of any such Option or SAR prior to issuance of the Shares shall once again be available for issuance in satisfaction of Awards. Similarly, any Shares issued to a Participant pursuant to a Restricted Stock Award, or with respect to which a Stock Unit relates, which are subsequently forfeited pursuant to the terms of the related Award Agreement shall once again be available for issuance in satisfaction of Awards.

4. Administration of the Plan. The Committee shall be invested with the responsibility for the administration of the Plan. The Committee shall consist of not less than two (2) outside directors as defined in Treasury Regulation 1.162-27 who shall also qualify as disinterested directors within the meaning of Rule 16b-3; provided, however, that the failure to satisfy the foregoing requirement shall not affect the validity of any Awards granted under the Plan. Subject to the provisions of the Plan, the Committee shall have full authority, in its discretion, to determine the Participants to whom Awards shall be granted, the number of Shares to be covered by each of the Awards, and the terms of any such Award; to amend or cancel Awards (subject to Section 20 of the Plan); to accelerate the vesting of Awards; to require the cancellation or surrender of any previously granted Options or other Awards under this Plan or any other plans of the Company as a condition to the granting of an Award; to interpret the Plan; to prescribe, amend and rescind rules and regulations relating to the Plan; and generally to interpret and determine any and all matters whatsoever relating to the administration of the Plan and the granting of Awards hereunder. All decisions or interpretations made by the Committee with regard to any question arising under the Plan or any Awards granted pursuant to the Plan shall be binding and conclusive on the Company and the recipients of Awards. Except as otherwise provided in the Company’s Compensation Committee Charter, (i) Committee members shall be recommended by the Company’s Corporate Governance and Nominating Committee, and appointed by the Board at its annual organizational meeting; (ii) members shall serve until their successors shall be duly appointed; and (iii) the Committee’s chair shall be designated by the full

Board or, if it does not do so, the Committee members shall elect a chair by vote of a majority of the full Committee. The Committee shall hold its meetings at such times and places as it shall deem advisable. A majority of its members shall constitute a quorum. Any action of the Committee may be taken by a written instrument signed by all of the members, and any action so taken shall be fully as effective as if it had been taken by a vote of a majority of the members at a meeting duly called and held. The Committee shall make such rules and regulations for the conduct of its business as it shall deem advisable and which are consistent with the scope of the Company's Compensation Committee Charter as in effect from time to time. No member of the Committee shall be liable, in the absence of bad faith, for any act or omission with respect to his service on the Committee.

5. Participants to Whom Awards May Be Granted. Awards may be granted in each calendar year or portion thereof while the Plan is in effect to such of the Participants as the Committee, in its discretion, shall determine; provided, however, that no Incentive Stock Options may be granted to a Participant who is not an Employee. In determining the Participants to whom Awards shall be granted and the number of Shares to be subject to issuance or subject to purchase under such Awards, the Committee shall take into account the duties of the respective Participants, their present and potential contributions to the success of the Company and its Subsidiaries, and such other factors as the Committee shall deem relevant in connection with accomplishing the purposes of the Plan. Notwithstanding anything to the contrary herein, no Participant shall receive Awards to acquire more than One Million (1,000,000) Shares in any one calendar year.

6. Options.

6.1 *Types of Options.* Options granted under the Plan may be (i) Incentive Stock Options, (ii) Non-Qualified Stock Options, or (iii) a combination of the foregoing. The Option Agreement shall designate whether an Option is an Incentive Stock Option or a Non-Qualified Stock Option and separate Option Agreements shall be issued for each type of Option when a combination of an Incentive Stock Option and a Non-Qualified Stock Option are granted on the same date to the same Participant. Any Option which is designated as a Non-Qualified Stock Option shall not be treated by the Company or the Participant to whom the Option is granted as an Incentive Stock Option for federal income tax purposes.

6.2 *Option Price.* The option price per share of any Option granted under the Plan shall not be less than the Fair Market Value of the Shares covered by the Option on the date the Option is granted. Notwithstanding anything herein to the contrary, in the event an Incentive Stock Option is granted to an Employee who, at the time such Incentive Stock Option is granted, owns, as defined in Section 424 of the Code, stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of:

- (i) the Company; or
- (ii) if applicable, a Subsidiary; or
- (iii) if applicable, a Parent,

then the option price per share of any Incentive Stock Option granted to such Employee shall not be less than one hundred ten percent (110%) of the Fair Market Value of the Shares covered by the Option on the date the Option is granted.

6.3 *Terms of Options.* Options granted hereunder shall be exercisable for a Term of not more than ten (10) years from the date of grant thereof, but shall be subject to earlier termination as hereinafter provided. Each Option Agreement issued hereunder shall specify the term of the Option, which term shall be determined by the Committee in accordance with its discretionary authority hereunder. Notwithstanding anything herein to the contrary, in the event an Incentive Stock Option is granted to an Employee who, at the time such Incentive Stock Option is granted, owns, as defined in Section 424 of the Code, stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of:

- (i) the Company; or
- (ii) if applicable, a Subsidiary; or (iii) if applicable, a Parent,

then such Incentive Stock Option shall not be exercisable more than five (5) years from the date of grant thereof, but shall be subject to earlier termination as hereinafter provided.

6.4 *Other Terms and Conditions of Options*. Each Option or each Option Agreement setting forth an Option shall contain such other terms and conditions (e.g., vesting conditions) not inconsistent herewith as shall be approved by the Committee.

7. **Limit on Fair Market Value of Incentive Stock Options**. No Employee may be granted an Incentive Stock Option hereunder to the extent that the aggregate fair market value (such fair market value being determined as of the date of grant of the option in question) of the stock with respect to which incentive stock options are first exercisable by such Employee during any calendar year (under all such plans of the Employee's employer corporation, its Parent, if any, and its Subsidiaries, if any) exceeds One Hundred Thousand Dollars (\$100,000). For purposes of the preceding sentence, Options shall be taken into account in the order in which they were granted. Any Option granted under the Plan which is intended to be an Incentive Stock Option, but which exceeds the limitation set forth in this Section 7, shall be a Non-Qualified Stock Option.

8. **Restricted Stock Awards**. Restricted Stock Awards granted under the Plan shall be subject to such terms and conditions as Committee may, in its discretion, determine and set forth in the related Restricted Stock Award Agreements. Restricted Stock Awards shall be granted to Participants in accordance with, and subject to, the provisions set forth below.

8.1 *Issuance of Shares*. Each Restricted Stock Award shall be evidenced by a Restricted Stock Award Agreement that shall set forth the number of Shares issuable under the Restricted Stock Award. Subject to the restrictions in Section 8.3 of the Plan, and subject further to such other restrictions or conditions established by the Committee, in its discretion, and set forth in the related Restricted Stock Award Agreement, the number of Shares granted under a Restricted Stock Award shall be issued in the recipient Participant's name on the date of grant of such Restricted Stock Award or as soon as reasonably practicable thereafter.

8.2 *Rights of Recipient Participants*. Shares received pursuant to Restricted Stock Awards shall be duly issued or transferred to the Participant, and a certificate or certificates for such Shares shall be issued in the Participant's name. Subject to the restrictions in Section 8.3 of the Plan, and subject further to such other restrictions or conditions established by the Committee, in its discretion, and set forth in the related Restricted Stock Award Agreement, the Participant shall thereupon be a stockholder with respect to all the Shares represented by such certificate or certificates and shall have all the rights of a stockholder with respect to such Shares, including the right to vote such Shares and to receive dividends and other distributions paid with respect to such Shares; provided, however, that dividends on any Shares subject to a Restricted Stock Award that have not previously vested may be paid directly to the Participant, withheld by the Company subject to the vesting of such Shares, or reinvested in additional Shares subject to a Restricted Stock Award with similar vesting provisions as determined by the Committee in its discretion. In furtherance of the restrictions in Section 8.3 of the Plan and in the related Restricted Stock Award Agreement, the certificate or certificates for Shares awarded hereunder, together with a suitably executed stock power signed by such recipient Participant, shall be held by the Company in its control for the account of such Participant (i) until the restrictions in Section 8.3 of the Plan and in the related Restricted Stock Award Agreement lapse pursuant to the Plan or the Restricted Stock Award Agreement, at which time a certificate for the appropriate number of Shares (free of all restrictions imposed by the Plan or the Restricted Stock Award Agreement) shall be delivered to the Participant, or (ii) until such Shares are forfeited to the Company and cancelled as provided by the Plan or the Restricted Stock Award Agreement.

8.3 *Restrictions*. Except as otherwise determined by the Committee, in its sole discretion, and set forth in a Restricted Stock Award Agreement, each Share issued pursuant to a Restricted Stock Award Agreement shall be subject, in addition to any other restrictions set forth in the related Restricted Stock

Award Agreement, to the following restrictions until such restrictions have lapsed pursuant to Section 8.4 of the Plan:

(a) *Disposition*. The Shares awarded to a Participant and held by the Company pursuant to Section 8.2 of the Plan, and the right to vote such Shares or receive dividends on such Shares, may not be sold, exchanged, transferred, pledged, hypothecated or otherwise disposed of; provided, however, that such Shares may be transferred upon the death of the Participant to the Participant's Successor. Any transfer or purported transfer of such Shares in violation of the restrictions outlined in this Section 8.3 shall be null and void and shall result in the forfeiture of the Shares transferred or purportedly transferred to the Company without notice and without consideration.

(b) *Forfeiture*. The Shares awarded to a Participant and held by the Company pursuant to Section 8.2 of the Plan shall be forfeited to the Company without notice and without consideration therefor immediately upon the complete termination of the Participant's employment with the Company and its Subsidiaries for any reason whatsoever and at such other times as may be set forth in a Restricted Stock Award Agreement.

8.4 *Lapse of Restrictions*. The restrictions set forth in Section 8.3 of the Plan on Shares issued under a Restricted Stock Award shall lapse upon either the passage of time or the achievement of one or more Performance Goals and on such terms as the Committee, in its sole discretion, shall determine and set forth in the related Restricted Stock Award Agreement, and certificates for the Shares held for the account of the Participant in accordance with Section 8.2 of the Plan hereof shall be appropriately distributed to the Participant as soon as reasonably practical thereafter. In granting any Restricted Stock Award which is intended to qualify under Section 162(m) of the Code and the regulations thereunder, the Committee shall follow any procedures determined by the Committee from time to time to be necessary or appropriate to ensure the qualification of such Restricted Stock Award under Section 162(m) of the Code and the regulations thereunder.

9. Stock Appreciation Rights

9.1 *Grant of SAR*. The Committee, in its discretion, may grant a Participant (i) an SAR on a stand alone basis (i.e., independent of an Option), or (ii) an SAR in tandem with an Option. The Committee, in its discretion, may grant an SAR in tandem with an Option either at the time the Option is granted or at any time after the Option is granted, so long as the grant of the SAR is made during the period in which grants of SARs may be made under the Plan. The Committee, in its discretion, may grant an SAR in tandem with an Option which is exercisable either in lieu of, or in addition to, the exercise of the related Option.

9.2 *Limitations on Exercise*. Each SAR granted in tandem with an Option shall be exercisable to the extent, and only to the extent, that the related Option is exercisable and shall be for such Term as the Committee may determine (which Term, which is not to exceed ten (10) years, may expire prior to the Term of the related Option). Each SAR granted on a stand alone basis shall be exercisable to the extent, and for such Term, as the Committee may determine. The SARs shall be subject to such other terms and conditions as the Committee, in its discretion, shall determine, which are not otherwise inconsistent with the Plan. The terms and conditions may include Committee approval of the exercise of the SAR, limitations on the time within which and the extent to which such SAR shall be exercisable, limitations, if any, on the amount of appreciation in value which may be recognized with regard to such SAR, and specification of what portion, if any, of the amount payable to the Employee upon exercise of such SAR shall be payable in cash and what portion, if any, shall be payable in Shares. If, and to the extent, that Shares are issued in satisfaction of amounts payable on exercise of an SAR, the Shares shall be valued at their Fair Market Value on the date of exercise.

9.3 *SARs in Tandem with Incentive Stock Options*. With respect to SARs granted in tandem with Incentive Stock Options, the following shall apply:

(a) No SAR shall be exercisable unless the Fair Market Value of the Shares on the date of exercise exceeds the option price of the related Incentive Stock Option.

(b) In no event shall any amounts paid pursuant to the SAR exceed the difference between the Fair Market Value of the Shares on the date of exercise and the option price of the related Incentive Stock Option.

9.4 *Surrender of Option or SAR Granted in Tandem*. If the Award Agreement related to the grant of an SAR in tandem with an Option provides that the SAR can only be exercised in lieu of the related Option, then, upon exercise of such SAR, the related Option or portion thereof with respect to which such SAR is exercised shall be deemed surrendered and shall not thereafter be exercisable and, similarly, upon exercise of the

Option, the related SAR or portion thereof with respect to which such Option is exercised shall be deemed surrendered and shall not thereafter be exercisable. If the Award Agreement related to the grant of an SAR in tandem with an Option provides that the SAR can be exercised in addition to the related Option, then, upon exercise of such SAR, the related Option or portion thereof with respect to which such SAR is exercised shall not be deemed surrendered and shall continue to be exercisable and, similarly, upon exercise of the Option, the related SAR or portion thereof with respect to which such Option is exercised shall not be deemed surrendered and shall continue to be exercisable.

10. Stock Units. Awards of Stock Units granted under the Plan shall be subject to such terms and conditions as the Committee may, in its discretion, determine and set forth in the related Stock Unit Award Agreements.

10.1 *Number of Shares*. Each Stock Unit Award Agreement shall set forth the number of Shares subject to such Award.

10.2 *Rights of Participant*. A Participant awarded Stock Units pursuant to the terms of this Plan shall not be deemed to be the beneficial owner of Shares underlying the Stock Units. Each Stock Unit shall represent the right of the Participant to receive an amount equal to the Fair Market Value of a Share on the date of the payment of such Stock Unit. A holder of Stock Units shall have no rights other than those of a general creditor of the Company. Stock Units represent an unfunded and unsecured obligation of the Company, subject to the terms and conditions of the applicable Stock Unit Award Agreement.

10.3 *Terms of the Stock Units*. Each Stock Unit Award Agreement granting one or more Stock Units shall contain such other terms and conditions not inconsistent herewith as shall be approved by the Committee, and may vary based on the passage of time or the achievement of one or more Performance Goals.

10.4 *Payment of Stock Units*. Payments made with respect to Stock Units may be made in the form of cash, Shares or any combination of both and at such time as determined by the Committee at the time of the grant of the Stock Units.

11. Director Awards. Each Director, who is a Director as of the date of the annual meeting of the Board with respect to any given year (such date, the "Meeting Date") and has been a Director for the entire period since the annual meeting of shareholders of Myers held in the immediately preceding calendar year, shall be granted a Director Award of 1,000 Shares (or such higher number of Shares, not to exceed 3,000 Shares, as recommended by the Committee based on an annual review of the total Board compensation package and approved by the full Board) as of such Meeting Date without further action by the Committee. Each Director Award shall be evidenced by a Director Award Agreement. The number of Shares granted under a Director Award shall be issued in the recipient Director's name on the date of grant of such Director Award or as soon as reasonably practicable thereafter. Shares received pursuant to Director Awards shall be duly issued or transferred to the Director, and a certificate or certificates for such Shares shall be issued in the Director's name. A recipient Director shall thereupon be a stockholder with respect to all the Shares represented by such certificate or certificates and shall have all the rights of a stockholder with respect to such Shares, including the right to vote such Shares and to receive dividends and other distributions paid with respect to such Shares.

12. Date of Grant . The date of grant of an Award granted hereunder shall be the date on which the Committee acts in granting the Award or, if later, such other date as the Committee shall specify.

13. Exercise of Rights Under Awards .

13.1 *Notice of Exercise .* A Participant entitled to exercise an Award may do so by delivery of a written notice to that effect specifying the number of Shares or SARs with respect to which the Award is being exercised and any other information the Committee may prescribe. The notice shall be accompanied by payment in full of the purchase price of any Shares to be purchased, which payment may be made in cash or, with the Committee's approval in Shares that have been held free and clear of all liens and encumbrances for at least six (6) months valued at Fair Market Value at the time of exercise or a combination thereof. No Shares shall be issued upon exercise of an Option until full payment has been made therefor. All notices or requests provided for herein shall be delivered to the Chief Financial Officer of the Company, or such other person as the Committee shall designate.

13.2 *Cashless Exercise Procedures .* The Company, in its sole discretion, may establish procedures whereby a Participant, subject to the requirements of Rule 16b-3, Regulation T, federal income tax laws, and other federal, state and local tax and securities laws, can exercise an Option or a portion thereof without making a direct payment of the option price to the Company; provided, however, that these cashless exercise procedures shall not apply to Incentive Stock Options which are outstanding on the date the Company establishes such procedures unless the application of such procedures to such Options is permitted pursuant to the Code and the regulations thereunder without affecting the Options' qualification under Code Section 422 as Incentive Stock Options. If the Company so elects to establish a cashless exercise program, the Company shall determine, in its sole discretion, and from time to time, such administrative procedures and policies as it deems appropriate and such procedures and policies shall be binding on any Participant wishing to utilize the cashless exercise program.

13.3 *Rights of Award Holder .* Except as set forth in Section 8 and Section 11 of the Plan, the holder of an Award shall not have any of the rights of a stockholder with respect to the Shares subject to purchase or receipt under his Award, except to the extent that one or more certificates for such Shares shall be delivered to him upon the due exercise or grant of the Award.

14. Nontransferability of Awards . An Award shall not be transferable, other than: (a) by will or the laws of descent and distribution, and an Award may be exercised, during the lifetime of the holder of the Award, only by the holder or in the event of death, the holder's Successor, or in the event of disability, the holder's personal representative, or (b) pursuant to a qualified domestic relation order, as defined in the Code or the Employee Retirement Income Security Act (ERISA) or the rules thereunder; provided, however, that an Incentive Stock Option may not be transferred pursuant to a qualified domestic relations order unless such transfer is otherwise permitted pursuant to the Code and the regulations thereunder without affecting the Option's qualification under Code Section 422 as an Incentive Stock Option.

15. Adjustments Upon Changes in Capitalization . In the event of changes in all of the outstanding Shares by reason of stock dividends, stock splits, recapitalizations, mergers, consolidations, combinations, or exchanges of shares, separations, reorganizations or liquidations, or similar events, or in the event of extraordinary cash or non-cash dividends being declared with respect to the Shares, or similar transactions or events, the number and class of Shares available under the Plan in the aggregate, the number and class of Shares subject to Awards theretofore granted, applicable purchase prices and all other applicable provisions, shall, subject to the provisions of the Plan, be equitably adjusted by the Committee (which adjustment may, but need not, include payment to the holder of an Option or SAR, in cash or in shares, in an amount equal to the difference between the price at which such Award may be exercised and the then current Fair Market Value of the Shares subject to such Option as equitably determined by the Committee) in order to prevent the diminution or enlargement of benefits thereunder. The foregoing adjustment and the manner of application of the foregoing provisions shall be determined by the Committee, in its sole discretion; provided, however, that to the extent applicable, any adjustment to an Incentive Stock Option shall be made in a manner consistent with Section 424 of the Code. Any such

adjustment may provide for the elimination of any fractional share which might otherwise become subject to an Award.

16. Change in Control. Notwithstanding anything to the contrary in the Plan or any Award Agreement, in the case of a Change of Control, the Committee may, in its sole discretion, determine, on a case by case basis, that each Award granted under the Plan shall terminate upon the later of (i) the thirtieth (30th) day after the Award holder receives written notice from the Company of its intention to terminate the Award, or (ii) the consummation of such Change of Control, but, in the event of any such termination, an Option or SAR holder shall have the right, conditioned upon the consummation of such Change of Control and subject to any limitation on the exercise of such Option or SAR in effect on the date of exercise, to exercise such Option or SAR, prior to its termination, as to the portion of the Option or SAR with respect to which the holder's right to exercise the Option or SAR had previously vested as of the termination date.

17. Forms of Awards. Nothing contained in the Plan nor any resolution adopted or to be adopted by the Board, the Committee or by the stockholders of the Company shall constitute the granting of any Award. An Award shall be granted hereunder only by action taken by the Committee in granting an Award. Whenever the Committee shall designate a Participant or Director for the receipt of an Award, the President of the Company, or such other person as the Committee shall designate, shall forthwith send notice thereof to the Participant or Director, in such form as the Committee shall approve, stating the number of Shares subject to the Award, its Term, and the other terms and conditions thereof. The notice shall be accompanied by an Award Agreement in such form as may from time to time hereafter be approved by the Committee, which shall have been duly executed by or on behalf of the Company. If the surrender of previously issued Awards is made a condition of the grant, the notice shall set forth the pertinent details of such condition. Execution by the Participant or Director to whom such Award is granted of an Award Agreement in accordance with the provisions set forth in this Plan shall be a condition precedent to the exercise or grant of any Award.

18. Taxes.

18.1 Right to Withhold Required Taxes. The Company shall have the right to require a person entitled to receive Shares pursuant to receipt, vesting or exercise of an Award under the Plan to pay the Company the amount of any taxes which the Company is or will be required to withhold with respect to such Shares before the certificate for such Shares is delivered pursuant to the Award. Furthermore, the Company may elect to deduct such taxes from any other amounts then payable in cash or in shares or from any other amounts payable any time thereafter to the Participant. If an Employee disposes of Shares acquired pursuant to an Incentive Stock Option in any transaction considered to be a disqualifying transaction under Sections 421 and 422 of the Code, the Employee shall notify the Company of such transfer and the Company shall have the right to deduct any taxes required by law to be withheld from any amounts otherwise payable then or at any time thereafter to the Employee.

18.2 Election to Withhold Shares. Subject to Committee approval, a Participant or Director may elect to satisfy his tax liability with respect to the exercise of an Option or the receipt or vesting of a Restricted Stock Award or Director Award by having the Company withhold Shares otherwise issuable upon exercise of the Option or deliverable upon the grant or vesting of the Restricted Stock Award or Director Award; provided, however, that if a Participant or Director is subject to Section 16(b) of the Exchange Act, such election must satisfy the requirements of Rule 16b-3.

19. Termination of the Plan. The Plan shall terminate ten (10) years from the date hereof, and an Award shall not be granted under the Plan after that date although the terms of any Awards may be amended at any date prior to the end of its Term in accordance with the Plan. Any Awards outstanding at the time of termination of the Plan shall continue in full force and effect according to the terms and conditions of the Award and this Plan.

20. Amendment of the Plan. The Plan may be amended at any time and from time to time by the Board, but no amendment without the approval of the stockholders of the Company shall be made if stockholder approval under Section 422 of the Code (or any successor provision) or Rule 16b-3 or

Section 162(m) of the Code (if the Company is subject to the Exchange Act at the time of such amendment) would be required. Notwithstanding the discretionary authority granted to the Committee in Section 4 of the Plan, no amendment of the Plan or any Award granted under the Plan shall impair any of the rights of any holder, without such holder's consent, under any Award theretofore granted under the Plan.

21. Delivery of Shares on Exercise . Delivery of certificates for Shares pursuant to the grant or exercise of an Award may be postponed by the Company for such period as may be required for it with reasonable diligence to comply with any applicable requirements of any federal, state or local law or regulation or any administrative or quasi-administrative requirement applicable to the sale, issuance, distribution or delivery of such Shares. The Committee may, in its sole discretion, require a Participant to furnish the Company with appropriate representations and a written investment letter prior to the receipt or exercise of an Award or the delivery of any Shares pursuant to an Award.

22. Fees and Costs . The Company shall pay all original issue taxes on the grant or exercise of any Award granted under the Plan and all other fees and expenses necessarily incurred by the Company in connection therewith.

23. Effectiveness of the Plan . The Plan became effective when approved by the Board on October 3, 2008. The Plan was subsequently amended and restated by the Board on March 6, 2009. The Plan shall be submitted to the Company's shareholders for approval and unless the Plan is approved either (i) by the affirmative votes of the holders of shares having a majority of the voting power of all shares represented at a meeting duly held in accordance with Ohio law within twelve (12) months after being approved by the Board, or (ii) by a written consent of shareholders in accordance with Ohio law within twelve (12) months after being approved by the Board, the Plan and all Awards made under the Plan shall be void and of no force and effect.

24. Other Provisions . As used in the Plan, and in Awards and other documents prepared in implementation of the Plan, references to the masculine pronoun shall be deemed to refer to the feminine or neuter, and references in the singular or the plural shall refer to the plural or the singular, as the identity of the person or persons or entity or entities being referred to may require. The captions used in the Plan and in such Awards and other documents prepared in implementation of the Plan are for convenience only and shall not affect the meaning of any provision hereof or thereof.

25. Effect on Employment . Neither the adoption of this Plan, its operation, nor any of the Award Agreements or other documents described or referred to in the Plan shall confer upon any person any right to continue in the employ or service of the Company or any of its Subsidiaries or in any way affect any right or power of the Company or any of its Subsidiaries to terminate the employment or service of any person at any time for any reason whatsoever.

26. International Participants . To the extent that the Committee determines, in its sole discretion, to comply with foreign laws or practices and to further the purpose of the Plan, the Committee may, amend the terms of the Plan or Awards in order to conform with the requirements of such foreign laws or practices.

27. Compliance with Section 409A of the Code . The Plan is intended to comply with Section 409A of the Code and the regulations thereunder, to the extent applicable. Notwithstanding any provision of the Plan to the contrary, the Plan shall be interpreted, operated and administered consistent with this intent. In that regard, and notwithstanding any provision of the Plan to the contrary, the Company reserves the right to amend the Plan or any Award granted under the Plan, by action of the Committee, without the consent of the any affected Participant or Director, to the extent deemed necessary or appropriate for purposes of maintaining compliance with Section 409A of the Code and the regulations thereunder.

28. Ohio Law to Govern . This Plan shall be governed by and construed in accordance with the laws of the State of Ohio.

March 17, 2009

Board of Directors
Myers Industries, Inc.
1293 S. Main Street
Akron, Ohio 44301

Gentlemen:

Myers Industries, Inc., an Ohio corporation (the “Company”), intends to file with the Securities and Exchange Commission under the Securities Act of 1933, as amended, a Registration Statement on Form S-8 (the “Registration Statement”) with respect to 3,000,000 shares (the “Shares”) of the Company’s common stock, without par value (the “Common Stock”), to be issued from time to time pursuant to the 2008 Incentive Stock Plan of the Company (the “Plan”). Capitalized terms not defined in this letter have the meanings given to them in the Plan.

You have requested our opinion in connection with the Company’s filing of the Registration Statement. In this connection, we have examined and relied upon originals or copies, certified or otherwise identified to our satisfaction as being true copies, of all such records of the Company, all such agreements, certificates of officers of the Company and others, and such other documents, certificates and corporate or other records as we have deemed necessary as a basis for the opinions expressed in this letter, including, without limitation, the Company’s Amended and Restated Articles of Incorporation and the Registration Statement.

In our examination, we have assumed the genuineness of all signatures, the legal capacity of all natural persons, the authenticity of all documents submitted to us as originals and the conformity to authentic original documents of all documents submitted to us as certified, photostatic, electronic or other copies, facsimiles or images.

We have investigated such questions of law for the purpose of rendering the opinions in this letter as we have deemed necessary. We express no opinion in this letter concerning any law other than the law of the State of Ohio.

This opinion is being rendered to you as of today. The opinions expressed herein assume that there is no change in the facts, circumstances and law in effect on the date of this opinion, particularly as they relate to corporate authority and the Company’s good standing under Ohio law. We have assumed the Company will remain in good standing as an Ohio corporation at all times when shares of Common Stock are issued pursuant to the Plan.

On the basis of and in reliance on the foregoing, we are of the opinion that the Shares of the Common Stock to be issued pursuant to the Plan, when and if issued in accordance with the terms of the Plan, will be legally issued, fully paid and nonassessable.

The opinion in this letter is rendered only to the Company in connection with the filing of the Registration Statement. We consent to the filing of this letter as an exhibit to the Registration Statement. The opinion may not be relied upon by the Company for any other purpose. This letter may not be paraphrased, quoted or summarized, nor may it be duplicated or reproduced in part.

Very truly yours,

/s/ BENESCH, FRIEDLANDER,
COPLAN & ARONOFF LLP

Consent of Independent Registered Public Accounting Firm

The Board of Directors
Myers Industries, Inc:

We consent to the incorporation by reference in this registration statement on Form S-8 of Myers Industries, Inc. and subsidiaries (Company), of our reports dated March 16, 2009, with respect to the statements of consolidated financial position of the Company as of December 31, 2008 and 2007, and the related statements of consolidated (loss) income, shareholders' equity and comprehensive (loss) income, and cash flows for each of the years in the three-year period ended December 31, 2008, and the effectiveness of internal control over financial reporting as of December 31, 2008, which reports appear in the December 31, 2008 annual report on Form 10-K of the Company.

Our report on the consolidated financial statements refers to the adoption of the provisions of Statement of Financial Accounting Standards Board Interpretation No. 48, *Accounting for Uncertainty in Income Taxes — an interpretation of FASB Standard No. 109*, effective January 1, 2007, and Statement of Financial Accounting Standards No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans — an amendment of FASB Statements No. 87, 88, 106, and 132(R)*, effective December 31, 2006.

/s/ KPMG LLP

Cleveland, Ohio
March 17, 2009