

7. MODU-FIRE FORCED DRAFT® & THERMIFIC VELOX™ SPECIFIC LIMITED WARRANTY

Subject to the terms and conditions herein and the Terms and Conditions of Sale (as defined herein), Harsco Industrial Patterson-Kelley ("Seller") warrants to the purchaser of the product ("Buyer") that the heat exchanger and burner are free of defects in material and workmanship, when operated in accordance with the conditions stated herein, for a period of five (5) years and a ten (10) year warranty against failure due to thermal shock commencing on the date of shipment or, if a start-up report is furnished to Seller, on the start-up date shown on the report furnished to Seller (the "Warranty Period"), provided that startup is completed within six (6) months of shipment and the start-up report is furnished to Seller within thirty (30) days of startup (this "Specific Limited Warranty"). The Exclusions and limitations of liability set forth in the Terms and Conditions of Sale (as defined herein) apply to this Specific Limited Warranty. Capitalized terms used but not defined herein have the meanings ascribed to them under Seller's terms and conditions of sale for the product, which can be found at <http://harscopk.com/warranty.php> (the "Terms and Conditions of Sale"). This Specific Limited Warranty is transferrable to the owner that utilizes the product(s) purchased hereunder for its intended use at the original installation site (the "Original Owner"). This Specific Limited Warranty is non-transferable to anyone who subsequently receives or purchases products from the Original Owner. If the Original Owner did not purchase the product directly from Seller, the Original Owner should contact the reseller from whom it purchased the product for a copy of the Terms and Conditions of Sale attached to the Order Acknowledgement received by the original purchaser of the product from Seller.

I. REMEDY

Seller's obligations under this Specific Limited Warranty is limited to repairing or, if in Seller's judgment it seems more appropriate, to furnishing without charge (installation not included), FCA Seller's factory (Incoterms 2010), a similar part to replace any part which after examination shall, to Seller's own satisfaction be determined to have been defective at the time it was shipped. In the event that a replacement is provided by Seller, the defective item will become the property of Seller. Transportation to Seller's facility or other designated facility for repairs of any products or party alleged defective shall, in all events, be at Buyer's sole risk and cost. This warranty applies only if the original installer and Seller (Attention: Harsco Industrial, Patterson-Kelley, 155 Burson Street, East Stroudsburg, PA 18301) receive, within the Warranty Period, an immediate written notice, providing a detailed description of all claimed defects, upon discovery of such defects together with proof of purchase (invoice or Order Acknowledgment) and a copy of the start-up report for the affected product. Seller may seek reimbursement of any costs incurred by Seller where the product is found to be in good working order, or when it has been determined that this Specific Limited Warranty does not apply as per the exclusions set forth below. The remedies available to Buyer set forth herein are exclusive remedies, and all other remedies, statutory or otherwise, including but not limited to the right of redhibition, are waived by Buyer. Buyer acknowledges that the exclusion of remedies is neither unreasonable nor unconscionable. Buyer shall indemnify and hold Seller harmless against, any claim due to any injury or death to any person or damage to any property resulting in whole or in part from any modification or alteration Buyer makes to any product sold hereunder.

II. EXCLUSIONS

To the full extent permitted by law, Seller shall have no liability for and the Warranties do not cover:

- (A) any product which has been altered or repaired by other than Seller's personnel;
- (B) deterioration or failure of any product due to
 - (i) abrasion, corrosion, erosion or fouling,
 - (ii) misuse,
 - (iii) modification not authorized by Seller in writing or
 - (iv) improper installation, lack of or improper maintenance or operation;
- (C) equipment not furnished by Seller by the owner, either mounted or unmounted, or when contracted for by a party or parties other than Seller to be installed or handled;
- (D) the suitability of any product for any particular application;
- (E) the design or operation of owner's plant or equipment or of any facility or system of which any product may be made a part;
- (F) any damage to the product due to abrasion, erosion, corrosion, deterioration, abnormal temperatures or the influence of foreign matter or energy;
- (G) the performance of any product under conditions varying materially from those under which such product is usually tested under industry standards at the time of shipment;
- (H) leakage or other malfunction caused by:
 - (i) defective installations in general and specifically, any installation which is made
 - (a) in violation of applicable state or local plumbing, housing or building codes or
 - (b) contrary to the written instructions furnished with the product,

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(ii) adverse local conditions in general and, specifically, sediment or lime precipitation in the tubes, headers and/or shells or corrosive elements in the water, heating medium or atmosphere, or
(iii) misuse in general and, specifically, operation and maintenance contrary to the written instructions furnished with the unit, disconnection, alteration or addition of components or apparatus, not approved by Seller, operation with heating media, fuels or settings other than those set forth on the rating plate or accidental or exterior damage;

(I) production of noise, odors, discoloration or rusty water;

(J) damage to surrounding area or property caused by leakage or malfunction;

(K) costs associated with the replacement and/or repair of the unit including: any freight, shipping or delivery charges, any removal, installation or reinstallation charges, any material and/or permits required for installation, reinstallation or repair, charges to return the boiler and/or components;

(L) INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, SUCH AS LOSS OF THE USE OF PRODUCTS, FACILITIES OR PRODUCTION, INCONVENIENCE, LOSS OF TIME OR LABOR EXPENSE INVOLVED IN REPAIRING OR REPLACING THE ALLEGED DEFECTIVE PRODUCT;

(M) any claim due to any injury or death to any person or damage to any property resulting in whole or in part from any modification or alteration Buyer makes to any product sold hereunder; and

(N) Design defects where Seller has complied with Buyer's design specifications.

III. PROOF OF PURCHASE

Proof of purchase (invoice or Order Acknowledgement) and a copy of the start-up report for the affected product must be provided to Seller when requesting service under this Specific Limited Warranty.

IV. ORDER OF PRECEDENCE

The Standard Limited Warranty set forth in the Terms and Conditions of Sale, (b) this Specific Limited Warranty and (c) any applicable Extended Limited Warranty exclusively govern and control Seller's and Buyer's respective rights and obligations regarding the warranty of the product. In case of any inconsistency, conflict, or ambiguity between the Standard Limited Warranty, this Specific Limited Warranty and any applicable Extended Limited Warranty (collectively, the "Warranty Documents"), the documents shall govern in the following order: (w) any applicable Extended Limited Warranty; (x) this Specific Limited Warranty; (y) the Standard Limited Warranty and (z) other provisions in the Terms and Conditions of Sale. Information identified in one Warranty Document and not identified in another shall not be considered a conflict or inconsistency. No sales representative, agent, or employee of Seller or any reseller in the chain of sale of the product is authorized to make any modification, extension, or addition to this Specific Limited Warranty, unless agreed to in writing by Seller.