

**NORTEK AIR SOLUTIONS LIMITED WARRANTY  
NORTH AMERICA**

Unless otherwise agreed in writing signed by Seller:

(a) Seller warrants: (i) All Products (excluding software and spare parts) manufactured by Seller will conform to the specifications and submittals provided by Seller and will be free of defects in material and workmanship (“**Defects**”) for 12 months following start-up or 18 months following ship date, whichever occurs first, under normal use and regular service and maintenance, if installed and maintained pursuant to Seller’s instructions. Extended warranties, if offered, may be purchased for an additional fee at the time of Product sale. For warranty purposes, start-up occurs when the equipment (or any portion thereof) is started for operation regardless of when the building may be ready for operation. (Per submittal, certain DX Products require Seller or its authorized Agent to perform start up or Product warranties are void. Any Seller required completed start-up form shall be delivered to Seller within six (6) months from shipment, or start-up will be deemed to have occurred on the ship date.) With the exception of OEM parts that may provide a longer pass-through warranty term from the third party manufacturer, new spare parts will be free of Defects for 3 months following ship date. Refer to New Spare Parts Warranty Policy.

Buyer must notify Seller in writing of any Defect promptly upon discovery and if such notification occurs within the applicable warranty period, Seller shall remedy such Defect by, at Seller’s option, adjustment, repair or replacement of Products or any affected portion of Products, or providing a refund of the portion of the purchase price attributable to the defective portion of the Product. Buyer must grant Seller access to the premises at which Products are located at all reasonable times so that Seller may evaluate the Defect and make repairs or replacements on site. Repaired or replaced portions of Products are warranted until the later of the end of the original warranty period applicable to the defective portion of Products repaired or replaced or 30 days following the completion of the repair or ship date of the replacement parts; and (ii) Services will be of workmanlike quality. If Buyer notifies Seller in writing of any nonconforming Services within 30 days after Services are completed, Seller shall re-perform, if able to be cured, those Services directly affected by such failure, at its sole expense. Buyer’s sole remedy for such nonconforming Services is limited to Seller’s cost of re-performing the Services.

b) Buyer is responsible for disassembly, removal and re-assembly or otherwise of non-Seller supplied products. Seller does not warrant and shall have no obligation with respect to any Products or parts that: (i) have been repaired or altered by someone other than Seller or Seller’s authorized representative; (ii) have been subject to misuse, abuse, neglect, intentional misconduct, accident, Buyer or third party negligence, unauthorized modification or alteration, use beyond rated capacity, improper grounding, voltage irregularities, a Force Majeure Event, or improper, or a lack of, maintenance; (iii) are comprised of materials provided by, or designed pursuant to instructions from Buyer; (iv) have failed due to ordinary wear and tear; or (v) have been exposed to adverse operating or environmental conditions, including but not limited to contaminants, corrosive agents, chemicals or minerals, (vi) were manufactured or furnished by others and which are not an integral part of a product manufactured by Seller, or (vii) have not been fully paid for by Buyer. Refrigerants, fluids, oils and expendable items such as filters are not covered by this Limited Warranty. If Seller has relied upon any specifications, information, representations or descriptions of operating conditions or other data supplied by Buyer or its agents to Seller in the selection or design of Products, and actual operating conditions or other conditions differ, any warranties or other provisions contained herein that are affected by such conditions will be null and void.

(c) Buyer is solely responsible for determining the fitness and suitability of Products for the use contemplated by Buyer. Buyer shall ensure that (i) the Products are used only for the purposes and in the manner for which they were designed and supplied, (ii) all persons likely to use or come into contact with the Products receive appropriate training and copies of applicable instructions and documentation supplied by Seller, (iii) all third parties who use or may be affected by or rely upon the Products are given

full and clear warning of any hazards associated with them or limitations of their effectiveness and that safe working practices are adopted and complied with, (iv) any warning notices displayed on the Products are not removed or obscured, (v) any third party to whom the Products are supplied agrees not to remove or obscure such warning notices.

(d) If Software is Licensed: To the extent available and authorized by the Third Party Software supplier, Seller hereby assigns to Buyer any warranties provided by Third Party Software providers. Seller provides Third Party Software “as is,” without any warranties, express or implied. Seller has no obligation for Third Party Software failures.

(e) THE WARRANTIES SET FORTH HEREIN ARE SELLER’S SOLE AND EXCLUSIVE WARRANTIES WITH RESPECT TO PRODUCTS, SOFTWARE AND SERVICES, AND ARE IN LIEU OF AND EXCLUDE ALL OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY AGAINST INFRINGEMENT; AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, USAGE OF TRADE, AND FITNESS FOR A PARTICULAR PURPOSE. **Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to Buyer. SELLER DOES NOT WARRANT THAT THE OPERATION OF SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ANY DEFECT OR MALFUNCTION IN THE SOFTWARE IS CORRECTABLE OR WILL BE CORRECTED.** THE REMEDIES PROVIDED HEREIN ARE BUYER’S EXCLUSIVE REMEDIES FOR ANY AND ALL CLAIMS ARISING FROM OR RELATED TO PRODUCTS AND SERVICES. All warranty claims must be received by Seller in writing on or before the end of the applicable warranty period.

**Limitation of Remedy and Liability.** Unless otherwise provided by law, Seller’s total liability under the Agreement, whether in law, equity, contract, infringement, negligence, strict liability or other otherwise, shall not exceed the price paid by Buyer under the Agreement for the Product or Services giving rise to the claim. Under no circumstances shall Seller be liable for special, incidental, indirect, delay or liquidated, punitive or consequential damages for any reason. **“Consequential damages”** includes, without limitation, loss of anticipated profits; business interruption; loss of use, revenue, reputation or data; costs incurred, including without limitation, costs for capital, fuel or power; loss or damage to property or equipment; and environmental clean-up. Any action arising under or relating to the Agreement, (whether based in law, equity, contract, infringement, negligence, strict liability, other tort or otherwise), must be commenced with one year from the date the claim arose. Seller assumes no obligation or liability for technical advice given or not given, or results obtained. Seller has set its prices and entered into the Agreement in reliance upon the limitations of liability and other terms and conditions specified herein, which allocate the risk between Buyer and Seller and form a basis of this bargain between the parties.