

Kesseboehmer Ergonomie of America Limited Warranty

The Limited Warranty is provided by Kesseboehmer Ergonomie of America Inc. with its principal offices located at 130 N. Front Street, Suite 300, Wilmington, NC 28401 (“KEA”). This Limited Warranty Agreement shall exclusively govern the warranty terms relating to any products that Customer purchases directly from KEA (hereafter, the “Products”).

Section 1. Limited Warranty. KEA warrants that all Products delivered to Customer will be materially free from defects in materials and workmanship for a period of 24 months from the date of delivery (the “Warranty Period”). THIS LIMITED WARRANTY COVERS NORMAL USE. KEA DOES NOT WARRANT AND IS NOT RESPONSIBLE FOR DAMAGES CAUSED BY MISUSE, ABUSE, ACCIDENTS, OR MODIFICATIONS OR CHANGES TO THE PRODUCTS. THE FOREGOING WARRANTY SHALL NOT APPLY TO PRODUCTS THAT CUSTOMER MAY PURCHASE FROM ANY PERSON OR ENTITY (INCLUDING THROUGH A RESALE) OTHER THAN KEA.

Section 2. Exclusive Remedy. In the event of any breach of the limited warranty set forth in Section 1, KEA will, as KEA’s entire liability and Customer’s sole and exclusive remedy, extend a credit equivalent to the amount paid by Customer to KEA for the defective Products.

Section 3. Disclaimer. Except for the limited warranty set forth in Section 1, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, KEA HEREBY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO ORAL OR WRITTEN INFORMATION PROVIDED BY KEA, ITS EMPLOYEES OR AGENTS, SHALL IN ANY WAY INCREASE THE SCOPE OF THE LIMITED WARRANTY SET FORTH IN SECTION 1.

Section 4. Limitation of Liability. KEA’S LIABILITY IS LIMITED TO THE AMOUNT PAID BY CUSTOMER FOR ANY DEFECTIVE PRODUCTS. KEA WILL HAVE NO LIABILITY FOR PROPERTY DAMAGE, PERSONAL INJURY, BUSINESS INTERRUPTION, LOSS OF PROFITS OR GOODWILL, OR ANY INDIRECT, CONSEQUENTIAL, PUNITIVE OR OTHER SPECIAL DAMAGES, HOWEVER CAUSED, WHETHER FOR BREACH OF WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, OTHER THAN THOSE DAMAGES THAT ARE INCAPABLE OF LIMITATION, EXCLUSION OR RESTRICTION UNDER APPLICABLE LAW.

Section 5. Procedures For Making A Warranty Breach Claim.

(a) Any claim for a breach of the limited warranty set forth in Section 1 must be made by Customer to KEA in writing and within the Warranty Period, and shall include a reasonably detailed description of the defect. Along with such notice, Customer shall provide KEA with the underlying invoice, order number, and the date when the Product was ordered.

(b) If requested by KEA, Customer shall return the defective Products to KEA. Along with such request, KEA shall make available to Customer a Returned Goods Authorization (“RGA”) number. Customer shall include the RGA number in its return package. Upon receipt of the returned Products, KEA will evaluate the defective Products to determine if the Products are in breach of the limited warranty and if a credit is permissible. If KEA determines that the Products are not in breach of the limited warranty set forth in Section 1, KEA will reject Customer’s claim and inform Customer of such rejection and also that no credit shall be payable. Along with such notice, KEA will provide Customer with an option to have the Products returned to Customer or scrapped.

Section 6. Notice. Any notice or other communication to this Limited Warranty Agreement shall be in writing and shall be deemed to have been duly given if delivered personally by a reputable courier service which requires a signature upon delivery, or by mailing the same by registered or certified first class mail, postage prepaid, return receipt requested. Such notice shall be deemed to have been given as of the date so delivered if delivered personally by courier, or seven days after mailing if so mailed.

If to KEA:
Kesseböhmer Ergonomie of America Inc.
130 N. Front Street
Suite 300
Wilmington, NC 28401

KEA may change its address for notice by written notice given in accordance with this Section 6.

Section 7. Choice of Law and Venue. This Limited Warranty Agreement shall be governed by and construed in accordance with the law of the state of New York, without reference to its conflict of law provisions. Customer agrees that all disputes arising out of, or in connection with, this Limited Warranty Agreement shall be subject to the exclusive jurisdiction of and venue in the courts of New York and Customer consents to the personal and exclusive jurisdiction and venue of these courts.

Section 8. Severability. If any provision of this Limited Warranty Agreement shall be held to be invalid, illegal or unenforceable, such provision shall be enforced to the maximum extent permitted by law and the remaining provisions shall not be affected.

Section 9. Miscellaneous. Customer may not assign the Agreement without KEA’s prior written consent. This Agreement may not be modified, altered or amended except by an instrument in writing executed by the party to be bound thereby. KEA shall not be bound by any inconsistent provision of any purchase order, receipt, acceptance, confirmation or other correspondence provided by Customer unless KEA specifically agrees to such provision in writing.