

## WARRANTY AND LIMITATION OF LIABILITY

Hallmark Industries, Inc. (the "Company") warrants to the first end user Buyer that the Products and Parts thereof, when shipped, will be free from defects in materials comprising the same and in the Company's workmanship. If any such defects exist or later appear, the Company shall undertake, at its sole expense, prompt remedial action as stated herein to correct the same; provided however, that the Company shall have no obligation or liability under this Warranty unless it shall have received written notice specifying such defect within the warranty period from the date of shipment. Remedial action under this Warranty shall require only that the Company, at its option, repair or modify the Products or Parts thereof, replace the same F.O.B. Streamwood, Illinois, or accept the return of the Products or Parts thereof by Buyer and refund the purchase price.

Warranty for products: twelve (12) months from the date of purchase, unless otherwise specified.

Products, or Parts thereof, manufactured by others are warranted hereunder only to the extent of such manufacturer's warranty to the Company. Since after shipment, the Products and Parts thereof are under the sole control of the Buyer, this Warranty is subject to, and shall be applicable only if, the following conditions are met:

- a. The Company's instructions as to installation, operation and maintenance have been followed;
- b. The Products and Parts thereof have been used under normal operating conditions or under such conditions as hereinbefore specified by the Company, or specified by the Buyer and agreed to in writing by the Company;
- c. The Products and Parts thereof have been properly erected, installed, operated and maintained and have not been affected by misuse, neglect or accident;
- d. The Buyer has not attempted or performed corrective work or change on the Products and/or Parts thereof without the Company's prior written consent as to the nature and expense thereof;
- e. The Company shall have received notice of any defect no later than thirty (30) days after the Buyer first had knowledge of the same; and
- f. Within the Warranty period and after prior authorization from the Company, the Products and/or Parts are shipped freight prepaid to the Company at 411 E. North Ave, Streamwood, IL 60107, in accordance with the Company's RMA process.
- g. This warranty applies only to the original consumer purchaser and only to products used in normal use and service. If within the warranty period this product is found upon examination by the manufacturer to be defective in materials or workmanship, the manufacturer's only obligation, and your exclusive remedy, is the repair or replacement of the product at the manufacturer's discretion, provided that the product has not been damaged through misuse, abuse, accident, modifications, alterations, neglect or mishandling. Your original receipt of purchase is required to determine warranty eligibility.
- h. The purchaser must pay all labor and shipping charges necessary to replace the product covered by this warranty.
- i. Requests for service under this warranty shall be made by returning the defective product to the manufacturer as soon as possible after the discovery of any alleged defect. The manufacturer will subsequently take corrective action as promptly as reasonably possible.
- j. The manufacturer does not warrant and especially disclaims any warranty, whether express or implied, of fitness for a particular purpose, other than the warranty contained herein. This is the exclusive remedy and any liability for any and all indirect or consequential damages or expenses whatsoever is excluded.

THE FOREGOING WARRANTY IS IN SUBSTITUTION FOR, AND IN LIEU OF, ANY AND ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

## **LIMITATION OF LIABILITY**

THE COMPANY SHALL HAVE NO LIABILITY WHATSOEVER IN ANY EVENT FOR PAYMENT OF ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR INJURY TO ANY PERSON OR PROPERTY. BY ACCEPTING THE PRODUCTS AND/OR PARTS THEREOF, THE FIRST END USER BUYER OR SUBSEQUENT USER AGREES THAT THE COMPANY SHALL NOT BE LIABLE FOR INDEMNIFICATION OR CONTRIBUTION (IN WHOLE OR IN PART) EITHER EXPRESSLY OR BY IMPLICATION.

IF FOR ANY REASON ANY OF THE FOREGOING PROVISIONS SHALL BE INEFFECTIVE, THE COMPANY'S LIABILITY FOR DAMAGES ARISING OUT OF ITS MANUFACTURE OR SALE OF ITS PRODUCTS OR PARTS, OR USE THEREOF, WHETHER SUCH LIABILITY IS BASED ON WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, SHALL NOT IN ANY EVENT EXCEED THE FULL PURCHASE PRICE OF SUCH PRODUCTS AND PARTS THEREOF.

## **ENTIRE AGREEMENT**

BY PLACEMENT OF AN ORDER, OR BY ACCEPTANCE OF GOODS ORDERED, BUYER SIGNIFIES AGREEMENT THAT NO TERMS, CONDITIONS OR WARRANTIES OTHER THAN THOSE STATED HERE, AND NO AGREEMENT OR UNDERSTANDING, ORAL OR WRITTEN IN ANY WAY PURPORTING TO MODIFY THESE TERMS, CONDITIONS AND/OR WARRANTIES, WHETHER CONTAINED IN BUYER'S PURCHASE ORDER OR ELSEWHERE, SHALL BE BINDING ON HALLMARK INDUSTRIES INC, UNLESS MADE IN WRITING AND SIGNED BY AN OFFICER OF THE COMPANY.

## **CHOICE OF LAW**

THE TERMS OF SALE FOR PURCHASES FROM HALLMARK INDUSTRIES, INC. SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS AS APPLIED TO CONTRACTS MADE AND TO BE PERFORMED IN ILLINOIS. ANY ACTION(S) ARISING OUT OF SUCH PURCHASES MUST BE BROUGHT IN COURTS IN ILLINOIS. PURCHASERS CONSENT TO THE JURISDICTION OF THE COURTS IN ILLINOIS AND TO SERVICE OF PROCESS BY REGISTERED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY OTHER MANNER PROVED BY LAW.

Any action against the Company based upon any liability or obligation arising here-under or under any law applicable to the sale or its Products or Parts thereof, or the use thereof, must be commenced within one (1) year after the cause of such action arises.