



WARRANTY & STANDARD TERMS AND CONDITIONS OF SALE

We at EarthBuster are proud to offer this excellent warranty and these standard terms and conditions of sale. If you should require special terms and conditions, we would be happy to discuss that with you.

WARRANTY

THE MANUFACTURER, K&P ENTERPRISES, LLC, D/B/A "EARTHUSTER" WARRANTEES THAT ITS PRODUCTS WILL BE FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP, AND WILL CONFORM TO THE SPECIFICATIONS THAT HAVE BEEN AGREED TO IN WRITING BY THE MANUFACTURER AND THE CUSTOMER. OTHER THAN THE FOREGOING, THE MANUFACTURER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ITS PRODUCT, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. THE CUSTOMER ASSUMES ALL RISKS OF LIABILITY WHATSOEVER RESULTING FROM THE USE OF MANUFACTURER'S PRODUCTS WHETHER USED SINGULARLY OR IN COMBINATION WITH OTHER ITEMS. MANUFACTURER'S LIABILITY FOR NONCONFORMING PRODUCTS IS EXCLUSIVELY LIMITED TO THE REPLACEMENT OF THE DEFECTIVE PRODUCTS FOR A PERIOD OF 1 YEAR AFTER THE DATE OF SALE, EXCEPT THE SULLAIR AIR HAMMER, WHICH IS COVERED FOR 2 YEARS IN ACCORDENCE TO SULLAIR'S LIMITED WARRANTY, PROVIDED THE CUSTOMER COMPLIES WITH MANUFACTURER'S CURRENT PUBLISHED RETURN POLICY. UNDER NO CIRCUMSTANCES SHALL MANUFACTURER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. THE EARTHUSTER PROBE, PROBE TIP, AND PROBE HEAD ARE CONSIDERED TO BE CONSUMABLES, AND SHALL NOT BE CONSIDERED TO BE DEFECTIVE WHEN BENT, CRACKED, OR BROKEN OVER TIME FROM CUSTOMER USE. NOTWITHSTANDING ANY OF THE ABOVE TO THE CONTRARY, MANUFACTURER'S MAXIMUM LIABILITY SHALL NOT EXCEED THE COST OF THE PRODUCT.

STANDARD TERMS AND CONDITIONS OF SALE

1. Regarding loss or damage from shipping, it is the Customer's responsibility to make a careful inspection of the Product for evidence of the loss, or damage, both apparent and concealed. For loss or damage by motor freight, freight forwarders, railway express, rail shipments, or air shipments, Customer is to: 1) secure a notation of any loss or damage on Customer's copy of the delivery receipt, 2) retain products and shipping containers, and 3) call carrier immediately for an inspection, and 4) file a claim with the carrier.

2. To the extent that the ordered product is covered by a prior written contract between the parties, it is accepted on the terms and conditions in that contract and the terms and conditions expressed herein are not intended to modify, change, or supersede such prior contract. To the extent that this order is not covered by such a contract, this instrument contains all of the term and conditions with respect to the sale and purchase of the Products named herein. Manufacturer can change its applicable terms and conditions at any time unless otherwise explicitly stated on the face hereof or in an effective prior written contract. No modifications if these terms and conditions shall be of any force unless such modification shall be in writing and signed by the party claimed to be bound thereby. If any of the provisions of the Customer's purchase order or other writings are in conflict with the terms and conditions of this document shall govern. This sales agreement is not assignable or transferable by Customer, in whole or in part, except with the written consent of Manufacturer.

3. Manufacturer's liability as to delivery ceases upon making delivery of the Products purchased hereunder to carrier at shipping point in good condition. Title and risk of loss for the Products supplied hereunder will pass at the F.O.B. point specified in Manufacturer's applicable published price schedule for all Products shipped by Manufacturer. Title and risk of loss for all Products picked up by Customer at Manufacturer's designated shipping locations will pass to Customer at the point Products are deposited by Manufacturer onto Customer's owned or leased equipment.

4. THE MANUFACTURER, K&P ENTERPRISES, LLC, D/B/A "EARTHBUSTER" WARRANTS THAT ITS PRODUCTS WILL BE FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP, AND WILL CONFORM TO THE SPECIFICATIONS THAT HAVE BEEN AGREED TO IN WRITING BY THE MANUFACTURER AND THE CUSTOMER. OTHER THAN THE FOREGOING, THE MANUFACTURER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO ITS PRODUCT, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER. THE CUSTOMER ASSUMES ALL RISKS OF LIABILITY WHATSOEVER RESULTING FROM THE USE OF MANUFACTURER'S PRODUCTS WHETHER USED SINGULARLY OR IN COMBINATION WITH OTHER ITEMS. MANUFACTURER'S LIABILITY FOR NONCONFORMING PRODUCTS IS EXCLUSIVELY LIMITED TO THE REPLACEMENT OF THE DEFECTIVE PRODUCTS FOR A PERIOD OF 1 YEAR AFTER THE DATE OF SALE, EXCEPT THE SULLAIR AIR HAMMER,

WHICH IS COVERED FOR 2 YEARS IN ACCORDENCE TO SULLAIR'S LIMITED WARRANTY, PROVIDED THE CUSTOMER COMPLIES WITH MANUFACTURER'S CURRENT PUBLISHED RETURN POLICY. UNDER NO CIRCUMSTANCES SHALL MANUFACTURER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. THE EARTHBUSTER PROBE, PROBE TIP, AND PROBE MANIFOLD ARE CONSIDERED TO BE CONSUMABLES, AND SHALL NOT BE CONSIDERED TO BE DEFECTIVE WHEN BENT, CRACKED, OR BROKEN OVER TIME FROM CUSTOMER USE. NOTWITHSTANDING ANY OF THE ABOVE TO THE CONTRARY, MANUFACTURER'S MAXIMUM LIABILITY SHALL NOT EXCEED THE COST OF THE PRODUCT.

This warranty shall not apply to Products that have been repaired or altered by anyone other than the Manufacturer. This Warranty shall not apply to any Products subject to misuse do to common negligence or accident.

Any oral statement concerning the Products, where such statement is inconsistent with this warranty shall be of no force nor effect. The only warranties concerning the Products are made in writing by Manufacturer. The Customer may not rely upon any statement or representation concerning the Product made by any other person.

5. Customer shall examine any such Products for any damage, defect, or shortage. All claims for any cause whatsoever (whether such cause be based on contract, breach of warranty, negligence, strict liability, other tort, or otherwise) shall be deemed waived unless made in writing and received by Manufacturer within 30 days after Customer's receipt of such Products or before such Products are used, which ever shall occur first, or if such claim is for non-delivery of such Products, within 30 days after the date upon which such Products were to be delivered; provided that as to such claim not reasonably discoverable within such 30 day period (including such claims discoverable only in processing, further manufacture, other use or resale), such claim shall be made in writing and received by Manufacturer within 180 days after Customer's receipt of Products. Failure of Customer to deliver to Manufacturer written notice of any such claim within the applicable time period shall be deemed an absolute and unconditional waiver by Customer of such claim irrespective of whether the facts given rise to such claim shall have been discovered or whether processing, further manufacture, other use, or other resale of the Products shall have taken place. Products sold under this Agreement shall not be returned without Manufacturer's permission and transportation charges for return shall not be paid by Manufacturer unless authorized in advance.

6. It is expressly understood that any technical advice furnished by Manufacturer with reference to the use of its Products is given gratis and Manufacturer assumes no obligation or liability for the advice given or results obtained. All such advice is given and accepted Customer's risk.

7. The agreements between the Manufacturer and Customer was made and entered into by the parties in the State of Montana. In the event a dispute arises, said dispute shall be settled in the District Court, Yellowstone County, Montana. The agreement between Manufacturer and Customer shall be construed and interpreted according to the laws of the State of Montana.

8. While the design and manufacture of the EarthBuster probe, probe tip, and probe manifold are excellent and sturdy, the very nature of the use of these parts means they must be considered as consumables—just as are any common tools such as air hammer probes, drill bits, saw blades, etc. The warrantee covers these probe components with regard to defects in materials and workmanship, but bending, cracking, and breaking from use over time is to be expected, just as with any air hammer parts, and is not covered in the warranty.

If you should have any questions or concerns with our Warranty or Standard Terms and Conditions of Sale, please contact our Customer Service Department at (406) 215-1588, ext. 3.