

# WARRANTY

STANDARD



## LED LUMINAIRE 5 YEAR LIMITED WARRANTY

1. CHM Industries, Inc., ("Manufacturer") warrants to the purchaser of the LED Luminaire ("Product") to be delivered pursuant to an order issued in conjunction with this submittal that the Products will be free from defects in material, workmanship and title and that the System will be designed and fit for the purpose of achieving the light output set forth in purchaser's written specifications delivered to manufacturer. With respect to the Products, except for fuses, this warranty shall apply only to defects that appear within five (5) years from the date of Manufacturer's invoice (except for defects in title, which shall have no time limitation). Lighting performance of the Product is guaranteed to within +/- 10% of computer predicted levels. The product shall not be exposed to operating conditions beyond the ambient temperature rating published on the product cut sheet and listed on the product markings, measured at the actual fixture location. Any repaired or replacement part furnished under this warranty shall carry warranties on the same terms as set forth above with the warranties expiring at the end of the Warranty Period; the Warranty Period shall not be extended for any repaired or replacement parts. Unless manufacturer is otherwise notified as described in item 2 below, final acceptance of product suitability and acceptable performance (including initial and maintained light level values and uniformity ratios) shall be deemed to have been achieved ten (10) days after a Certificate of Completion issues or within 60 days of issuance of invoice by manufacturer, whichever comes first. Failure of LED based product shall be defined as complete loss of any light emitting component including from a failed LED driver, or failure of more than 20% of the individual diodes. The painted finish of the Product will be considered defective in material or workmanship if there is a substantial deterioration, in the form of blistering, cracking or peeling within the duration of the warranty period. The painted finish is not warranted against fading or chalking as the Product may naturally fade or chalk over time due to normal aging of the finish.

2. If any Product does not meet the above warranty during the Warranty Period purchaser shall promptly notify Manufacturer in writing and call 1-682-286-0046 and then make the product available to Manufacturer promptly for correction. Manufacturer shall thereupon correct such defect by (at Manufacturer's option) (a) replacing the defective Product or part thereof (f.o.b. Manufacturer's plant or other point of shipment, with freight allowed to destinations within the continental United States, Alaska and Hawaii), (b) repairing the defective Product or part thereof, or (c) refunding the price thereof. Only the cost of the replacement Product shall be covered by this warranty and all labor, whether performed by Manufacturer or otherwise shall be at purchaser's cost. At no time shall this warranty include reimbursement to purchaser for costs associated with modifications, repairs or replacements made by

purchaser or at purchaser's request, unless agreed to in writing by Manufacturer in advance. Purchaser shall provide Manufacturer with full and free access to the Products to perform its warranty obligations hereunder. Return freight of failed product shall be paid for by Manufacturer. End user shall of five (5) working days, or other time frame agreed to in writing by Manufacturer, to make returned material available to Manufacturer after delivery of replacement product. Should failed product not be made available to the Manufacturer, the customer will be invoiced for complete cost of non-returned product due upon receipt of invoice.

3. Manufacturer's liability to purchaser on any claim of any kind, including negligence, for any loss or damages arising out of, connected with, or resulting from the sale of any Product, or from the performance or breach thereof, or from the design, manufacture, sale, delivery, resale, installation, inspection, repair, operation or use of any Product shall in no case (except as otherwise specifically provided below regarding patents and third party injuries), exceed the price allocable to the Product or part thereof which gives rise to the claim and shall terminate five (5) years after the date of Manufacturer's invoice for the Product.

4. In no event, whether as a result of breach of contract, warranty, strict liability, indemnity, tort (including alleged negligence) or otherwise shall Manufacturer be liable to purchaser for liquidated, special or consequential damages including, but not limited to, loss of profits or revenue, loss of use of the Products furnished or any associated equipment, cost of capital, cost of substitute equipment, cost to repair or replace the Products (except as otherwise specifically provided herein), downtime costs, or claims of suppliers or customers of purchaser for such damage or any special or consequential damages.

5. The above warranty specifically excludes repair or replacement specifically necessitated by loss or damage resulting from normal wear and tear or external causes including, but not limited to, acts of God, vandalism, theft, environmental conditions, misuse, neglect, electrical power surge that exceed products specification, negligence, improper/unauthorized repairs or Product modifications, improper power supply, animal or insect infestation, computer or software defects, frequent starting, improper installation, delivery, fatigue failure caused harmonic/induced vibration or resonance associated with the movement of air currents around the product, unapproved signs, flags, etc attached to the poles or luminaires or if the strength of the pole specified and/or ordered is lower than the strength indicated by basic wind speed charts for the zone where the pole will be located. The warranties and remedies set forth herein are further conditioned upon the proper storage, installation, operation and maintenance of the Product and conformance with the

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operating instructions (including revisions thereto) provided by Manufacturer and repair or modification pursuant to Manufacturer's instructions or approval. Purchaser shall keep proper records of operation and maintenance of the Products during the Warranty Period, which records shall be made available to Manufacturer upon request.

6. Except for liability for patent infringement or third party claims of injury which are covered by (7.) or (8.) below, the foregoing shall constitute the sole remedy of purchaser and the sole liability of Manufacturer with regard to warranty. Manufacturer makes no other warranty, statutory or otherwise, and none is to be implied. In the event the terms contained in any purchase order with respect to Products conflict or are inconsistent with the terms hereof, such inconsistent terms shall not be binding upon Manufacturer. IN PARTICULAR, WITHOUT LIMITING THE FOREGOING, NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE IS MADE OR IS TO BE IMPLIED.

7. Manufacturer shall defend any suit or proceeding brought against purchaser so far as it is based on a claim that any Product constitutes an infringement of any patent of the United States, if notified promptly in writing and given authority, information and assistance (at Manufacturer's expense) for the defense of same, and Manufacturer shall pay any damages and costs awarded therein against purchaser. In case said Product is in such suit held to constitute infringement, and the sale of said Product is enjoined, Manufacturer shall, at its own expense, and at its election, either procure for purchaser the right to continue using said Product or replace same with a non-infringing Product, or modify it so it becomes non-infringing, or permit the return of said Product and refund the purchase price. The foregoing states the entire liability of Manufacturer for patent infringement by said Product.

Manufacturer shall not be liable for any costs or damages incurred by purchaser as a result of any suit or proceeding brought against purchaser so far as it is based on any claim (i) that use of any Product, or any part thereof, furnished hereunder in combination with products not supplied by Manufacturer, constitutes either direct or contributory infringement of any patent or (ii) that a manufacturing or other process utilizing any Product, or part thereof, furnished hereunder, constitutes either direct or contributory infringement of any patent.

8. If any independent third-party institutes legal actions or claims against purchaser alleging personal injury, death or property damages resulting from actual defects in Products, purchaser shall notify Manufacturer immediately of any such claims and shall permit Manufacturer to have sole control over the defense and settlement of such claims. Manufacturer shall pay the costs of such defense and any judgment or settlement resulting therefrom, except that Manufacturer shall have no liability for claims not timely turned over to it for defense or settled without its prior written consent. Purchaser shall provide all reasonable assistance to Manufacturer for the defense or settlement of all such claims. If Purchaser chooses to retain its own counsel, the fees and expenses of such counsel shall be at Purchaser's expense.

9. This warranty applies to LED Luminaires only. Supplementary warranty coverage may be offered when the LED Luminaire is purchased as part of a complete CHM lighting package. Contact CHM or reference system warranty for additional details.