

Standard Utility Guarantee for evoQ₄ Electromagnetic Water Meters (Wastewater Applications)

Scope of Guarantee

This guarantee applies to Elster AMCO Water, Inc. evoQ₄ Electromagnetic Water Meters, shipped after April 1, 2008, when used in primary, secondary or tertiary wastewater under 120°F (50°C), in ambient temperatures not to exceed an average of 86°F (30°C), and in accordance with Elster AMCO's published Technical Specifications. Tertiary wastewater must contain <20% chlorine to meet the guarantee requirements. This guarantee applies exclusively to the original utility purchaser when product is purchased from either Elster AMCO or an Elster AMCO-authorized distributor ("Business Partner").

Materials and Workmanship

If used and installed as described above, Elster AMCO guarantees product covered by this guarantee to be free from defects in materials and workmanship for a period of 18 months after shipment by Elster AMCO or its authorized Business Partner.

Claims

Any meter or register covered by this guarantee that fails to meet the terms of the stated guarantee will be repaired or replaced, at the option of Elster AMCO, without additional charge to the customer. The customer is responsible for removing the meter or register from service, returning it to the factory service center designated by Elster AMCO, providing a written or electronic (facsimile or e-mail) claim notice, and for freight costs to and from the service center. Customer is also responsible for reinstalling repaired or replaced product.

Limits of Liability

This guarantee does not apply to meters or registers damaged by aggressive water conditions, foreign matter in water, vandalism, negligence, installation not in accordance with Elster AMCO's installation instructions, mis-application or other use not as described above, acts of God or other conditions beyond the control of Elster AMCO. If a meter is claimed to breach the accuracy guarantees as stated herein, the customer shall submit a certified copy of the test results at the time the meter is returned to Elster AMCO. The guarantees as to accuracy shall be void if an examination of the customer's water supply shows an unusually adverse effect on metering equipment.

Any description of product, whether in writing or made orally by Elster AMCO or its agents, specifications, samples, literature, models, bulletins, drawings, diagrams, engineering sheets or similar materials used in connection with any customer's order are for the sole purpose of identifying product and shall not be construed as an express or implied guarantee. Any suggestions by Elster AMCO or its agents regarding use, application or suitability of product shall not be construed as an express or implied guarantee unless confirmed to be such in writing by Elster AMCO.

The laws of the State of Florida, excluding its conflicts of law rules shall exclusively govern this guarantee. If any provision hereof, partly or completely, shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision or portion hereof and these terms shall be construed as if such invalid or unenforceable provision or portion thereof had never existed.

THE FOREGOING EXPRESS GUARANTEE IS IN LIEU OF ALL OTHER GUARANTEES OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY (EXCEPT FOR WARRANTY OF TITLE), INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

CUSTOMER'S EXCLUSIVE REMEDY AND ELSTER AMCO'S AND ITS BUSINESS PARTNERS' SOLE LIABILITY ON ANY CLAIM, WHETHER IN TORT (INCLUDING STRICT LIABILITY), NEGLIGENCE, CONTRACT, WARRANTY OR OTHERWISE, FOR ANY METER OR REGISTER WHICH FAILS TO MEET THE TERMS OF THE GUARANTEE STATED ABOVE, SHALL BE LIMITED TO REPAIR OR REPLACEMENT AS DESCRIBED ABOVE. IN NO EVENT SHALL ELSTER AMCO AND/OR ITS BUSINESS PARTNERS BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS OR REVENUE, LOSS OF USE, COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME COSTS, DELAYS AND CLAIMS OF CUSTOMERS OF THE CUSTOMER OR OTHER THIRD PARTIES.

Elster AMCO Water, Inc.
PO Box 1852
Ocala, Florida 34478-1852

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