

MAC RAK ELITE LINE PRODUCT ONLY Damotech Lifetime Product Warranty– ELITE

A. Damotech Lifetime Product Warranty–ELITE

Damotech Inc. or Damotech Corp. as the case may be (“Damotech”), warrants to the original Client that the Mac Rak “Elite Line” product (not including accessories attached to these products) purchased through an authorized Damotech or then Mac Rak dealer or through Damotech or Mac Rak directly have been designed and built to withstand all conditions under normal use in a warehouse environment and will be free from defects in material and workmanship for the customary or actual lifetime (whichever is shorter) of the Client’s racking system (the “Damotech Lifetime Product Warranty–ELITE”).

The Damotech Lifetime Product Warranty–ELITE period starts from the date of successful completion of the installation of the Damotech “Elite Line” product by a Damotech or Mac Rak installer current on their certification or Damotech, as evidenced by Damotech’s installation standard report form signed by the Client immediately after completion of the installation, and continues for the customary or actual lifetime (whichever is shorter) of the Client’s racking system (such period, the “Warranty Period”).

If the Client discovers and promptly notifies Damotech in accordance with the “Notifications Reporting Procedure” (see Section D below) within the warranty period of a defect in the design, material or workmanship of the Damotech “Elite Line” product covered by this Damotech Lifetime Product Warranty–ELITE, Damotech will, free of charge to the Client and within a reasonable time after such notification, at its sole discretion, either: (i) provide a replacement or retrofit product to the defective Damotech Product which will perform as warranted above; or (ii) refund to the Client the price paid by the Client for the Damotech product in question. **The remedy provided above will be the Client’s sole and exclusive remedy and Damotech’s sole and exclusive obligation under the Damotech Lifetime Product Warranty–ELITE.**

B. Damotech Lifetime Product Warranty–ELITE Limitations

This Damotech Lifetime Product Warranty–ELITE does not extend to any damage that may result from a Force Majeure Event (as this term is defined in the terms and conditions of sale to which this Lifetime Warranty is attached). This Damotech Lifetime Product Warranty–ELITE does not cover any defects to a Damotech Product or other failures of performance of a Damotech Product that has not been installed by a Damotech installer whose certification is current or by Damotech. Furthermore, this Damotech Lifetime Product Warranty–ELITE does not cover any defects to a Damotech Product or other failures of performance of a Damotech Product if such Damotech Product has been damaged or been rendered defective as a result of:

- Any modification, customization, alteration, or addition, or attempted modification, customization, alteration, or addition to the Damotech product made by anyone other than Damotech;
- Exposure to corrosive environments or corrosive products, including but not limited to salt spray, ocean environments, acids, or other extreme conditions that may affect the quality of the Damotech Product;
- Any abuse, improper use, negligence, or accident inconsistent with ordinary warehouse conditions.

Damotech and your Damotech Dealer reserve the right to inspect any Damotech product installation at reasonable times, to ensure that proper conditions exist to maintain this Damotech Lifetime Product Warranty–ELITE.

C. Limitation of Liability and Damages

IN NO EVENT WILL DAMOTECH OR A DAMOTECH DEALER BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING DOWNTIME, REINSTALLATION, LOSS OF PROFIT OR REVENUE, DIMINUTION IN VALUE, WHETHER ARISING OUT OF BREACH OF CONTRACT, EXTRA-CONTRACTUAL LIABILITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, EQUITABLE THEORY, OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE. IF DAMOTECH OR A DAMOTECH DEALER FAILS TO PROVIDE THE REMEDIES SET FORTH HEREUNDER, OR IF DAMOTECH OR A DAMOTECH DEALER OTHERWISE FAILS TO PERFORM ITS DUTIES AND OBLIGATIONS UNDER THIS AGREEMENT OR ANY OTHER AGREEMENT ENTERED INTO BETWEEN DAMOTECH OR A DAMOTECH DEALER AND THE CLIENT AS REGARDS TO A DAMOTECH PRODUCT AND THAT AS A RESULT THEREOF THE CLIENT HAS INCURRED ACTUAL DAMAGES, LIABILITIES, LOSSES, COSTS, OR EXPENSES, THEN, DAMOTECH’S OR A DAMOTECH DEALER’S LIABILITY TO THE CLIENT, REGARDLESS OF THE FORM OF ACTION, WHETHER ARISING OUT OF BREACH OF CONTRACT, EXTRA-CONTRACTUAL LIABILITY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, EQUITABLE THEORY, OR OTHERWISE, WILL NOT EXCEED, IN THE AGGREGATE, THE PRICE PAID OR PAYABLE BY THE CLIENT UNDER THE AGREEMENT IN QUESTION.

EXCEPT FOR THE FOREGOING WARRANTIES, THE 5-YEAR WARRANTY, AND THE 10-YEAR WARRANTY GENERALLY APPLICABLE TO DAMOTECH PRODUCTS, DAMOTECH HEREBY DISCLAIMS AND EXCLUDES ALL OTHER WARRANTIES WITH RESPECT TO THE DAMOTECH “ELITE LINE” PRODUCTS, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO ANY AND/OR ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/OR ANY WARRANTY WITH REGARD TO ANY CLAIM OF INFRINGEMENT.

D. Notification Reporting Procedure

All notices or communications to Damotech shall be deemed to have been received on the first business day following their transmittal by e-mail or seven (7) days following their transmittal by mail to the following address:

Damotech Corp. Customer Service

16610 W 159th St #103
Lockport, IL 60441 United States

Damotech Inc. Customer Service

3620, Av. des Grandes Tourelles
Boisbriand (Québec) J7H 0A1 Canada

Phone number: 1 (877) 990-3266
E-mail: info@damotech.com

Damotech may change its mailing address by notifying the Client by e-mail or regular mail to the most recent address on file for such Client in Damotech's records.

E. Miscellaneous

The Lifetime Product Warranty–ELITE with Damotech Inc. will be governed by and construed in accordance with the laws of the Province of Quebec, and the federal laws of Canada applicable therein (without regard to any conflict or law rules) and Quebec's courts in the judicial district of Montreal will have exclusive jurisdiction. Lifetime Product Warranty–ELITE with Damotech Corp. will be governed by and construed in accordance with the laws of the state of Delaware. Damotech may assign its rights together with its obligations herein without the Client's prior consent. If any part of this Lifetime Product Warranty–ELITE shall be determined to be invalid or unenforceable by a court of competent jurisdiction or by any other legally constituted body having the jurisdiction to make such determination, the remainder of this Lifetime Product Warranty–ELITE shall remain in full force and effect.