

## DRESSER, INC., DRESSER WAUKESHA EXPRESS LIMITED WARRANTY

### **1) STANDARD EXPRESS LIMITED WARRANTY (“ELW”).**

Dresser, Inc., Dresser Waukesha (“Dresser Waukesha”) warrants to all owners in the original chain of distribution that it will repair or replace, AT ITS ELECTION AND EXPENSE, any component of a Dresser Waukesha manufactured engine, Enginator<sup>®</sup>, Cooperative Fuel Research Product (“Equipment”) or Genuine Waukesha Service Part installed in or on Equipment (“Genuine Waukesha Part(s)”) (Equipment and Parts collectively referred to as “Product(s)”) that is damaged or fails as the direct result of a defect in material or workmanship during the applicable warranty period.

### **2) CONDITIONS OF THE ELW.**

**A. DRESSER WAUKESHA’S RESPONSIBILITIES.** Dresser Waukesha shall be responsible for:

1. The reasonable cost to repair or replace, at Dresser Waukesha’s election and expense, defective Product(s) during the applicable warranty period including all reasonable labor required to complete the repair or replacement. Labor must be provided by Dresser Waukesha or an independent authorized Dresser Waukesha Distributor (“Distributor”) or independent authorized service provider (“Service Provider”).
2. Reasonable and necessary travel expenses incurred by Distributor or Service Provider.
3. The reasonable cost to replace lubricating oil, coolant, filter elements, or other normal Product maintenance items that are contaminated and/or damaged as a direct result of a warranted defect.

**B. OWNER’S RESPONSIBILITIES.** Owner shall be responsible for:

1. The proper operation and maintenance of the Products.
2. Making the Products available during normal business hours to Dresser Waukesha or Distributor or Service Provider for any warranty repair or replacement.
3. All costs for premium or overtime labor incurred due to owner’s request that warranty repairs or replacements be made on a premium or overtime schedule.
4. All labor costs in excess of what is allowed in the current Dresser Waukesha Labor Guide.
5. All transporting, towing or other costs incurred in the removal or reinstallation of Equipment as may be required to affect any warranted repair or replacement.
6. Its administrative costs and expenses associated with a warranty claim.

7. Providing Dresser Waukesha, Distributor and/or Service Provider access to and downloads of the Product's electronically stored engine controls data.

**3) EXCLUSIONS.** All obligations of Dresser Waukesha under this ELW shall be waived and rendered void, and Dresser Waukesha shall not thereafter, be responsible for:

**A.** Any damage or failure to a Product:

1. Resulting from owner, operator or third party abuse or neglect, including but not limited to, any operation, installation, application, maintenance, or assembly practice not in accordance with the applicable laws, regulations or the guidelines and specifications established by Dresser Waukesha; or
2. Resulting from an unauthorized modification or repair of a Product(s); or
3. Resulting from overload, over speed, overheat or accident; or
4. That is not reported to a Distributor or Service Provider within thirty (30) days of becoming aware of a possible warranty claim; or
5. For which Dresser Waukesha did not receive proper documentation concerning the start up of the Equipment or purchase and installation of the Genuine Waukesha Part(s) from the owner or Distributor or Service Provider ; or
6. Caused by or related to a part that is not a Genuine Waukesha Part; or
7. Installed in any application or product other than Equipment; or
8. Where the repair is performed by anyone other than Dresser Waukesha, or a Distributor or Service Provider; or
9. Where the allegedly defective Product(s) is/are not made available to the Distributor or Service Provider; or
10. Where the necessary documents, such as drawings and specifications relating to the specific application of the Product(s), are not provided to the Distributor or Service Provider in a timely manner ; or
11. Resulting from misapplication or improper repair of a Product; or
12. Resulting from the improper or extended storage of a Product.

**B.** Any cost for freight, customs, brokers fees, and/or import duties if appropriate documentation is not provided; or

**C.** Normal wear, maintenance or consumable parts that may need to be routinely replaced, rebuilt or otherwise maintained during the applicable warranty period such as belts, spark plugs, lubricating oil filters, air filters, etc.; and/or

**D.** Loss of revenue and/or loss of/ or damage to real and/ or personal property.

#### **4) WARRANTY PERIODS**

**A. EQUIPMENT IN CONTINUOUS DUTY APPLICATIONS** operate at the highest load and speed which can be applied, subject to Dresser Waukesha's approved ratings in effect at time of sale ("Continuous Duty Engines").

Warranty coverage shall commence on the initial new Continuous Duty Engine's start-up date and shall expire upon the earlier of the following:

- (a) 12 months after the initial new Continuous Duty Engine's start-up date; or
- (b) 24 months after the original shipment date of the Continuous Duty Engine from Dresser Waukesha's facility.
- (c) 12 months from the date of an approved deferred start-up or 48 months from the original shipment date of the Equipment from Dresser Waukesha's facility, whichever comes first, but only if all of the following requirements are met:
  1. Distributor must inspect and re-preserve the Equipment in accordance with the long term storage and preservation requirements set forth in the most current version of Service Bulletin 16-1855 prior to 12 months from the date of shipment and then at least annually thereafter. Dresser Waukesha is not responsible for any costs associated with storing, inspecting and/or preserving the Equipment.
  2. Supporting documentation of this work must be sent to Dresser Waukesha.
  3. Dresser Waukesha shall review the documentation and, in its sole discretion, approve or reject the deferred start-up request. A deferred start-up must be approved by Dresser Waukesha in writing in order for the warranty under this subsection to apply.

**B. EQUIPMENT OPERATED IN EXCESS OF CONTINUOUS DUTY RATINGS**, is Equipment operated in accordance with Dresser Waukesha's published intermittent, standby or peak shaving power ratings ("Excess Engine(s)").

Warranty coverage for Excess Engines shall commence on the initial new Excess Engine start-up date and shall expire upon the earlier of the following:

- (a) 60 months after the initial new Excess Engine start-up date; or
- (b) 3500 hours of operation of the Excess Engine; or
- (c) 72 months after the original shipment date of the Excess Engine from Dresser Waukesha's facility.
- (d) 12 months from the date of an approved deferred start-up or 48 months from the original shipment date of the Equipment from Dresser Waukesha's facility, whichever comes first, but only if all of the following requirements are met:
  1. Distributor must inspect and re-preserve the Equipment in accordance with the long term storage and preservation requirements set forth in the most current version of Service Bulletin 16-1855 prior to 12 months from the date of shipment and then at least annually thereafter. Dresser Waukesha is not responsible for any costs associated with storing, inspecting and/or preserving the Equipment.

2. Supporting documentation of this work must be sent to Dresser Waukesha.
3. Dresser Waukesha shall review the documentation and, in its sole discretion, approve or reject the deferred start-up request. A deferred start-up must be approved by Dresser Waukesha in writing in order for the warranty under this subsection to apply.

### **C. SPECIFIC FORGED AND CAST COMPONENTS**

Notwithstanding the foregoing, Dresser Waukesha further warrants that the cylinder block casting, cylinder head casting, connecting rod forging, and crankshaft forging in Equipment or when sold separately as a Genuine Waukesha Part(s) will be free from defects in material or workmanship.

Warranty coverage for these specific items only shall expire upon the earlier of the following:

- (a) 60 months after the initial Equipment start-up date or date the Genuine Waukesha Part(s) is installed in the Equipment; or
  - (b) 25,000 hours of operation of the covered Equipment or Genuine Waukesha Part(s); or
  - (c) 72 months after the original shipment date of the covered Equipment from Dresser Waukesha's facility or purchase date of Genuine Waukesha Part(s) from an authorized Dresser Waukesha Distributor.
1. No damage from other sources, such as damage from the loss of a crankshaft bearing, shall be considered a forging defect.
  2. Owner shall be responsible for all labor, travel, mileage and other related costs and expenses associated with a forged or cast warrantable failure occurring more than 12 months from the commencement of the warranty period.

### **D. GENUINE WAUKESHA PARTS USED IN A CERTIFIED ENGINE OR CERTIFIED CYLINDER HEAD OVERHAUL**

are warranted to be free from defects in material or workmanship. Warranty coverage shall commence upon the initial start-up date of the overhauled Product and shall expire upon the earlier of the following:

- (a) 18 months after the certified overhauled Product start-up date; or
- (b) 24 months after the purchase date of Genuine Waukesha Part(s) used in the certified overhaul.

### **E. GENUINE DRESSER WAUKESHA PARTS AND DRESSER WAUKESHA FACTORY REMANUFACTURED SERVICE PARTS,**

**including assemblies and short blocks used for repair, maintenance or overhaul of Products ("Service Part(s)")** are warranted to be free from defects in material or workmanship. Warranty coverage shall commence upon the date the Service Part is installed in the Product and shall expire upon the earlier of the following:

- (a) 12 months after the date the Service Part is installed in the Product; or
- (b) 24 months after the purchase date of the Service Part from an authorized Dresser Waukesha Distributor.

## **5) EXPIRATION**

The warranties and obligations of Dresser Waukesha shall expire and be of no further effect upon the respective dates of expiration of the applicable warranty periods.

## **6) MODIFICATIONS OF THE ELW**

This ELW is and shall remain the complete and exclusive agreement between the parties with respect to warranties, superseding all prior agreements, written or oral, and all other communications between the parties relating to warranties, except as modified in writing and signed by the parties. No person or entity other than Dresser Waukesha is authorized to give any other warranty or to assume any other obligation on behalf of Dresser Waukesha, either orally or in writing.

## **7) WARRANTY ADMINISTRATION**

- A.** Distributors administer the warranty policies and procedures established by Dresser Waukesha and submit warranty claims on the customer's behalf to Dresser Waukesha for warranty consideration. Dresser Waukesha determines, AT ITS SOLE DISCRETION, if and to what extent the ELW applies to the claim.
- B.** Proper documentation, including but not limited to, certified overhaul invoices and/or invoices for the Genuine Waukesha Part(s) and/or start-up report, must accompany any warranty claim. Contact the nearest Distributor for assistance with warranty matters or questions. To locate the nearest Distributor, visit our website at [www.dresser.com/waukesha](http://www.dresser.com/waukesha) or contact Dresser Waukesha at (262) 547-3311.

**8) THE FOREGOING SETS FORTH DRESSER WAUKESHA'S ONLY OBLIGATIONS AND OWNERS' EXCLUSIVE REMEDY FOR BREACH OF WARRANTY, WHETHER SUCH CLAIMS ARE BASED ON BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHER THEORIES, AND THE FOREGOING IS EXPRESSLY IN LIEU OF OTHER WARRANTIES WHATSOEVER EXPRESSED, IMPLIED, AND STATUTORY, INCLUDING WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

**9) Notwithstanding the preceding, in no event shall Dresser Waukesha be liable for any direct, special, incidental, or consequential damages (whether denominated in contract, tort strict liability, negligence, or other theories) arising out of this Agreement or the use of any Products provided under this Agreement.**

## **10) LIMITATION OF ACTION**

Any action arising hereunder or relating hereto, whether based on breach of contract, tort (including negligence and strict liability), or other theories must be

commenced within two (2) years after the cause of action accrues or it shall be barred.

#### **11) BINDING ARBITRATION**

- A. The parties to any dispute arising out of or relating to this agreement, or the products and/or services provided hereunder, shall first attempt good faith negotiations to resolve the dispute. If the matter has not been resolved within sixty (60) days of a party's request for negotiation, either party may initiate arbitration as herein after provided.
- B. Any dispute arising out of or related to this agreement or the products and/or services provided hereunder which has not been resolved by the negotiation procedure described above, shall be settled by binding arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.
- C. Unless the parties otherwise agree in writing, the arbitration panel shall consist of three (3) arbitrators. The arbitrator(s) shall have no authority to award punitive or other damages not measured by the prevailing party's actual damages and may not, in any event, make any ruling, finding or award that does not conform to the terms and condition of this agreement. The law of Texas shall govern.
- D. The arbitration proceeding shall be conducted in English, in Dallas, Texas.