

WAUKESHA

EXPRESS LIMITED WARRANTY

COVERING

GENUINE
WAUKESHA
SERVICE PARTS AND
FACTORY REMANUFACTURED
SERVICE PARTS



Waukesha

June 25, 2003

**WAUKESHA ENGINE , DRESSER, INC.
EXPRESS LIMITED WARRANTY
FOR GENUINE WAUKESHA SERVICE PARTS
AND WAUKESHA FACTORY REMANUFACTURED SERVICE PARTS**

INTRODUCTION

This warranty only applies to Genuine Waukesha Service Parts and Waukesha Factory Remanufactured Service Parts (to include assemblies and short blocks) (hereinafter referred to as "Service Parts") sold by Waukesha Engine and used for repair, maintenance, or overhaul of Waukesha Products.

I. TERMS OF EXPRESS LIMITED WARRANTY

- A. Waukesha Engine warrants that it will repair or replace, AT ITS ELECTION AND EXPENSE, any Genuine Waukesha Service Part installed on an engine, or Enginator®, or product (hereinafter referred to as "Products") manufactured by Waukesha, which proves to have had a defect in material or workmanship.
- B. Waukesha Engine Division further warrants that it will repair or replace, AT ITS ELECTION AND EXPENSE, any component of the Waukesha Product damaged as the direct result of a warrantable defect in a Genuine Waukesha Service Part during the term of coverage.

II. TERM LIMITATIONS OF EXPRESS LIMITED WARRANTY

This coverage shall commence upon the date the Service Part is installed and shall expire upon the earlier of the following:

- A. 12 months after the date the part is installed; or
- B. 24 months after the purchase date from an authorized Waukesha Distributor.

III. WAUKESHA'S RESPONSIBILITIES UNDER THE EXPRESS LIMITED WARRANTY

Waukesha shall be responsible for:

- A. The repair or replacement, at Waukesha's election, of covered defective Service Parts and progressive damage as explained in Paragraph 1B of this warranty.
- B. Labor time to repair or replace the defective part as established by the Waukesha Labor Guide Manual. All reimbursable labor costs shall be provided by Waukesha's authorized Distributor.
- C. The reimbursement of documented Distributor expenses covering Freight, Customs, Brokers Fees, and Import Duties to obtain the replacement Service Part from Waukesha.

IV. OWNER'S RESPONSIBILITIES UNDER THE EXPRESS LIMITED WARRANTY

Owner shall be responsible for:

- A. The operation and maintenance of the Products/Service Parts within the guidelines established by Waukesha.

- B. Making the Products/Service Parts available to Waukesha or Waukesha's authorized Distributors for any warranty repair, during normal business hours.
- C. All additional costs incurred for premium or overtime labor, should owner request that repairs be made on a premium or overtime schedule.
- D. All costs incurred as the result of removal or reinstallation of the Products as may be required to effect any warranted repairs.
- E. All administrative costs and expenses resulting from a warranted failure.
- F. Any costs of transportation, towing, repair facilities, or associated costs.
- G. All travel, mileage, and other related Distributor costs and expenses associated with repair under the terms of this Service Parts Warranty.
- H. All additional labor time in excess of Waukesha's Labor Guide for the warrantable repair.
- I. Loss of revenue and loss of/or damage to real and/or personal property.

V. LIMITATION OF WAUKESHA'S OBLIGATIONS

The obligations of Waukesha under this express limited warranty shall be waived and voided, and Waukesha shall not, thereafter, be responsible for:

- A. Any failure resulting from owner or operator abuse or neglect, including but not by way of limitation, any operation, installation, application, maintenance, or assembly practice not in accordance with guidelines or specifications established by Waukesha; or
- B. Any failure resulting from unauthorized modifications or repairs of the Products or Service Parts; or
- C. Any failure resulting from overload, overspeed, overheat, accident; or
- D. Failure of owner to promptly provide notice of a claimed defect; or
- E. Failure of Service Parts for which Waukesha did not receive proper documentation concerning the Service Parts purchase date from an authorized Waukesha Engine Distributor; or
- F. Repairs of a covered failure performed with non-genuine Waukesha parts; or
- G. Repairs of a covered failure performed by non-authorized contractors or distributors; or
- H. Failure to make Products and Service Parts available to Waukesha or its authorized representative; or
- I. Failure to supply documents such as drawings and specifications relating to the specific application of the Products; or
- J. Any failure of Service Parts resulting from misapplication or improper repair procedures; or
- K. Any failure or damage resulting from the improper or extended storage of a Service Part; or
- L. Freight, Customs, Broker Fees, and Import Duties if appropriate documentation is not provided; or
- M. Normal wear items or consumable parts such as belts, spark plugs, lubricating oil filters, air filters, etc. are not considered defective if in need of routine replacement, rebuild, or maintenance during the term of the warranty.

VI. APPLICABILITY AND EXPIRATION

The warranty set out above is extended to the original purchaser of the Genuine Waukesha Service Parts. The warranty and obligations of Waukesha shall expire and be of no further effect upon the date of expiration of the applicable warranty period.

VII. WARRANTY ADMINISTRATION

This warranty is administered exclusively by an authorized Waukesha Distributor. The invoice for the failed Service Parts must be provided to the distributor to determine whether the warranty is applicable.

Contact the nearest authorized Waukesha Distributor for assistance with warranty matters or questions. The location of the nearest authorized Distributor is available by contacting Waukesha Engine at (262) 547-3311.

THE FOREGOING SETS FORTH 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.

Notwithstanding the preceding, in no event shall 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.

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.

BINDING ARBITRATION

- (a) Buyer and Seller shall attempt, in good faith, to resolve any dispute arising out of or relating to this agreement, or the products and/or services provided hereunder, promptly by negotiation between executives. If the matter has not been resolved within sixty (60) days of a party's request for negotiation, either party may initiate arbitration as hereinafter 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 Buyer and Seller otherwise agree in writing, the arbitration panel shall consist of three 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 conditions of this agreement. The law of Texas shall govern.**
- (d) The arbitration proceeding shall be conducted in English, in Dallas, Texas.**

