



P.O. Box 359/ 2150 Progress Way Woodburn, OR 97071 Telephone 503-982-9902  
Fx: 503-981-6316 Email: gem@gemequipment.com Website: gemequipment.com

### **WARRANTY (Repair or Rebuild)**

Seller warrants that any repairs or rebuilding of Purchaser's equipment ("refurbished equipment") described in the specifications incorporated in this contract to be free from defects in material and workmanship under normal use and service for which it was intended if, but only if, it has been properly operated. Should any refurbished equipment, or new part(s) thereof furnished by Seller, be found defective, Seller will replace or repair, free of charge, any defective part(s) of the refurbished equipment repaired or rebuilt by Seller, provided Seller is notified not later than 180 days after the date the refurbished equipment is first operated or 210 days after the date of completion of the repair or rebuild, whichever comes first. At Seller's sole discretion, it will conduct the repair work at Purchaser's place of business or return the defective refurbished equipment to the factory for repair. Purchaser must notify Seller by registered or certified mail, return receipt requested, of any breach of warranty within 30 days after discovery thereof, but in no instance later than the guarantee period set forth above. Failure to so notify Seller within the prescribed period of time shall be deemed a waiver by the Purchaser. Seller does not warrant this refurbished equipment to meet the requirements of any safety code of any federal, state, municipality, or other governmental agency, and Purchaser assumes all risk and liability whatsoever resulting from the use or nonconformance thereto, whether the refurbished equipment is used singly, or in combination with other equipment or apparatus.

**Exclusions:** This warranty shall not apply to any refurbished equipment, or parts thereof, which has been repaired or altered by anyone, without Seller's written consent, outside Seller's factory or altered in any way so as, in the sole judgment of Seller, to adversely affect the stability or reliability of the refurbished equipment, or has been subject to misuse, negligence or accident, or has been operated under conditions more severe than, or otherwise exceeding, those set forth in the specifications for such equipment. Further, this warranty shall not cover, nor be deemed to cover maintenance parts, including, but not limited to, hydraulic oil, filters, teeth and cutters for which Seller shall have no responsibility or liability whatsoever. Component parts of the refurbished equipment that are not furnished by Seller, such as engines, pumps, valves, electric motors, bearings, chains, etc., are not covered by this warranty.

**Disclaimer of Other Warranties:** THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE NOT SET FORTH IN A WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF SELLER.

**Limitations of Liability:** SELLER'S OBLIGATION UNDER THIS WARRANTY IS LIMITED TO THE REPAIR OR REPLACEMENT OF DEFECTIVE PART(S) MANUFACTURED BY SELLER IN ACCORDANCE WITH THE ABOVE STATED WARRANTY. SELLER SHALL NOT BE LIABLE FOR ANY LOSS OR DAMAGE RESULTING, DIRECTLY OR INDIRECTLY, FROM THE USE OR LOSS OF USE OF THE REFURBISHED EQUIPMENT, INCLUDING, BUT NOT LIMITED TO THE PURCHASER'S EXPENSES FOR DOWNTIME OR FOR MAKING UP DOWNTIME AND DAMAGES FOR WHICH THE PURCHASER MAY BE LIABLE TO OTHER PERSONS. SELLER NEITHER ASSUMES, NOR AUTHORIZES ANY PERSON TO ASSUME FOR IT, ANY OTHER LIABILITY IN CONNECTION WITH THE REPAIR OR REBUILD OR USE OF THE REFURBISHED EQUIPMENT, AND THERE ARE NO ORAL AGREEMENTS OR WARRANTIES COLLATERAL TO OR AFFECTING THIS AGREEMENT.

Notwithstanding the generality of the foregoing provisions, Seller's officers, its chief engineer or any field engineer, may agree to repair or replace any part, the cost of which does not exceed \$2500. Such agreement to repair or replace is not enforceable against Seller unless it is made in writing by an authorized employee of Seller as set forth above. An agreement to repair or replace as described in this paragraph shall not constitute an admission of liability by Seller.