



# **NitroCube™ Manufacturer's Limited Extended Warranty Coverage Terms and Conditions (US & Canada)**

## **1. GENERAL INFORMATION**

Subject to the Limitations, Exclusions and Disclaimers hereof, MSS Nitrogen, Inc. ("MSS") warrants that the Nitrogen System (hereinafter collectively or individually referred to as "Product" as appropriate) purchased from MSS, a MSS authorized distributor, or a MSS authorized reseller will conform to MSS's specifications and be free from defects in material or workmanship for the applicable Limited Warranty period provided below.

MSS does not warrant that the Product will meet the specific requirements of the end-user customer. If the Product while subject to this Limited Extended Warranty is defective in material or workmanship during the warranty period, then MSS, at its discretion, will REPAIR or REPLACE the Product or any of the components covered under this Limited Extended Warranty.

All exchanged parts and Products replaced under this Limited Extended Warranty will become property of MSS. MSS's sole obligation is to supply (or pay for) all labor necessary to repair the Product found to be defective within the Limited Extended Warranty period and to repair or replace defective parts with new parts or, at the discretion of MSS, serviceable used parts that are equivalent or superior to new parts performance.

## **2. PARTS COVERED UNDER THE EXTENDED WARRANTY**

The extended warranty is limited to the following components:

- Parker Generator and Dryer
- Bauer High Pressure Booster Compressor (Block Only)
- CP12 System, including cylinders and Manifold
- Single Control HMI (excludes RMS license)

The extended warranty will be valid for the duration of the agreed period, as long as the following conditions are met and can be demonstrated upon request from MSS:

- The NitroCube system and its components are operating within the required ISO air standard
- The system was commissioned and maintained by an MSS Approved Technician.
- Maintenance records are provided upon request in support of compliance with recommended maintenance intervals:



- Generator and Dryer
  - Serviced once a year
- Bauer High Pressure Booster Compressor
  - Minor service every 1,500 hours
  - Medium Service every 3,000 hours
  - Large Service every 6,000 hours
  - High Pressure filters
- Regular service every 6 months
- Customer carries out daily and weekly maintenance checks as specified by MSS.

### **3. DURATION**

The applicable Limited Extended Warranty periods hereof commence on the date the Standard Warranty expires if the Extended Warranty is purchased prior to Standard Warranty expiration date; or on the date of purchase by the end-user customer if the purchase of the Limited Extended Warranty takes place within 30 days after the Standard Warranty has expired. The Extended Warranty must be purchased no later than 30 days from the expiry date of the Standard Warranty.

These Limited Extended Warranty provisions shall apply only to the end-user purchaser (first person or entity that purchased a new Product for business use and not for the purpose of distribution or resale).

The Limited Extended Warranty can be purchased to extend cover period from 1 and up to 4 years. The total Warranty Period, including Standard Warranty and Extended Warranty, cannot exceed 5 years.

### **4. EXTENDED WARRANTY LIMITATION AND EXCLUSION**

THIS EXTENDED WARRANTY SETS FORTH MSS' MAXIMUM LIABILITY FOR ITS PRODUCT. THIS EXTENDED WARRANTY EXTENDS ONLY TO PRODUCT PURCHASED FROM MSS OR AN MSS AUTHORIZED RESELLER OR DISTRIBUTOR.

MSS shall have no further obligation under the foregoing Limited Extended Warranty if the Product has been damaged due to abuse, misuse, neglect, smoke exposure (cigarette or otherwise), accident, unusual physical or electrical stress, unauthorized modifications (including use of an unauthorized equipment or tools), tampering, alterations or service other than by MSS or its authorized agents, causes other than from ordinary use or from failure to properly use or maintain the Product in the application for which said Product was intended. Customer is responsible to carry out daily and weekly maintenance checks as specified by MSS, failing to do so will cause the extended warranty to be voided.



This Limited Extended Warranty excludes Product cleaning, repair, or replacement of parts due to cosmetic damage and damage as a result of normal wear. Product repair outside of the terms of the Limited Extended Warranty will be on a time and materials basis. MSS is not responsible for maintaining or restoring any data or 3rd party applications and makes no warranty for the loss of business information.

## **5. DISCLAIMER OF UNSTATED WARRANTIES**

THE WARRANTY PRINTED ABOVE IS THE ONLY WARRANTY APPLICABLE TO THE PRODUCT DESCRIBED ON THE EXTENDED WARRANTY PURCHASE AGREEMENT OR INVOICE. ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSE ARE DISCLAIMED.

THERE ARE NO WARRANTIES THAT EXTEND BEYOND THE DESCRIPTION ON THE FACE HEREOF AND THE FOREGOING WARRANTY SHALL NOT BE EXTENDED, ALTERED OR VARIED EXCEPT BY WRITTEN INSTRUMENT SIGNED BY MSS.

## **6. GENERAL ELIGIBILITY FOR LIMITED WARRANTY COVERAGE**

Any person exercising a claim under this Limited Warranty must establish to the satisfaction of MSS the date of purchase, that the Product was purchased new, and the date of the extended warranty option purchase. The sales receipt or invoice, showing the date of purchase of the Product is the proof of the date of purchase.

## **7. TO OBTAIN EXTENDED WARRANTY SERVICE**

In order to exercise this Limited Extended Warranty during the Limited Extended Warranty period, , the purchaser must contact MSS via email [service-usa@mssnitrogen.com](mailto:service-usa@mssnitrogen.com) stating the following information:

- End User Customer Name
- Component at fault
- Model and Serial Number
- Thorough description of the issue including when the problem occurred for the first time
- Contact Details

For Extended Warranty service, MSS may elect to advise the purchaser to return or deliver any defective part or component fully insured, with all fees prepaid, to MSS or to a service facility authorized by MSS. When returning Product to MSS, a Return Merchandise Authorization Number (RMA #) is required and must be clearly displayed on the outside of the shipping carton or a similar package affording an equal degree of protection. Returned parts that have been tampered with or



damaged through operator misuse will not be covered under this warranty. Failure to return parts will mean the customer will be invoiced for these parts.

MSS accepts no responsibility for damages that occur in the shipping process. MSS or the service facility authorized by MSS will return the repaired/replaced Product freight prepaid to the purchaser.

Products returned for Extended Warranty service must be preceded by the RMA request, a written statement that: (i) explains the problem; (ii) provides proof of date of purchase; and (iii) provides the model and serial number of the Product.

Upon request of MSS or an authorized repair center for MSS, proof of legal import must accompany the warranty repair Product, otherwise the Product must be returned to the country of original purchase, to the manufacturer (Purchaser must bear all tax, duty and freight), or the Purchaser must bear charges for the warranty repair. No repair or replacement of Product or part thereof shall extend the Limited Warranty period as to the entire Product.

Warranty on the repair part and workmanship shall only be effective for a period of ninety (90) days following the repair or replacement of that part or the remaining period of the Product Limited Extended Warranty whichever is greater. Failure to return defective part to MSS will result in Customer being charged for replacement part.

## **8. EXCLUSIONS**

- The Extended Warranty does not cover any ancillary or consequential costs or expenses which MSS may incur in travelling to or from the repair site, including (without limitation) flight, vehicle hire or travel costs, hotel or other accommodation expenses, or subsistence costs (such as meals).
- Customer assumes the responsibility for accepting suitability of products and appropriate use. Products should be properly sized and selected for their intended application. Poor product performance, damage and/or failure as a result improper sizing and/or selection are not covered by Warranty.
- Damage caused by failure to properly maintain the unit and perform regular maintenance will not be covered by Warranty. All Products require periodic maintenance, as outlined in the preventative maintenance guide or user manual. Preventive maintenance is the responsibility of the customer. .
- Damage caused by use of a non-qualified or insufficiently trained personnel to perform repairs will not be covered by Warranty, except under special circumstances which will be handled on a case-by-case basis and will be solely at MSS' discretion. Maintenance records should be made available upon request.
- Damage caused by shipping and/or handling will not be covered by Warranty. Product should be inspected immediately upon receipt. Any shipping and/or handling damage should be brought to the attention of both the freight carrier and MSS as soon as possible.



Product should be carefully inspected upon receipt. If damage is found, product should be noted in the Acceptance Report and notified to MSS in writing within one (1) day of delivery. Any damage should be noted on the carrier shipment paperwork. Photographic evidence should be made available upon request.

- Damage or failure caused by an object striking the unit, fire, theft, freezing, environmental exposure, exceeding rated operating limitations, modifying or altering the Product, and/or any other misuse is not covered under the Warranty. Damage or failure due to natural hazards outside of human control (flood, hurricane, tornado, etc.) are not covered under the Warranty.
- Economic loss or extra expense due to unit damage/failure is not covered under the Warranty. Under no circumstances is MSS liable for any indirect, incidental, or consequential damages due to unit damage or failure.

This warranty is not valid in the following cases:

- When the serial number of the product has been damaged, altered or erased.
- When it has not been proven that the product is within the warranty period.
- When the failure is due to misuse, or failure to use the product in accordance with the User's Manual that accompanies the product.
- When the product has received any accidental or intentional physical damage or has been exposed to harmful elements such as water, acid, fire, weather, fluctuations in voltage or any other similar or analogous damage.
- Any equipment, parts or software that were not included in your product as originally sold to you. In these cases, any applicable warranty is provided by the original manufacturer.
- When the product has been altered.
- Failures due to reconfiguration of software and other applications not included in the original product. Under no circumstance is MSS responsible for any loss of information or data of the end user due to hardware or software issues.
- When the product has been exposed to a virus.
- Consumable parts needed for maintenance service or Spare parts that present normal wear and tear due to use. These items include but not limited to oil, hoses, belts, filters, and filter cartridges.
- When the product was purchased from an unauthorized Distributor or Reseller.
- Where the customer has not carried out preventive Maintenance to the NitroCube or its components, including Nitrogen Generator, Dryer and High-Pressure Booster Compressor



- Problems generated by not carrying out recommended follow-up actions identified in a preventive maintenance visit report, and quoted by MSS.
- Problems generated by omission of daily, weekly and monthly checks by the customer (end user) as recommended by MSS in the MSS NitroCube - Operator Maintenance Checks document provided to customer as part of installation pack.
- Networking or configuration issues.
- Remote Management System Annual License Cost
- When the NitroCube and its components have been operated or maintained by personnel that have not been trained and approved by MSS.

## 9. EVENTS OUTSIDE OUR CONTROL

- MSS will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under this contract that is caused by events outside our reasonable control (force majeure event).
- A force majeure event includes any act, event, non-happening, omission or accident beyond our reasonable control and includes in particular (without limitation) the following:
  - Strikes, lock-outs or other industrial action.
  - Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war.
  - Fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster.
  - Impossibility of the use of railways, shipping, aircraft, motor transport or other means of public or private transport.
  - Impossibility of the use of public or private telecommunications networks, and
  - The acts, decrees, legislation, regulations or restrictions of any government.
- Our performance under this contract is deemed to be suspended for the period that the force majeure event continues, and we will have an extension of time for performance for the duration of that period. We will use our reasonable endeavors to bring the force majeure event to a close or to find a solution by which our obligations under this contract may be performed despite the force majeure event.



## **10. TRANSFER OF WARRANTY**

The MSS Limited Extended Warranty is NOT transferable with the product to anyone who subsequently purchases, leases, or acquires the product from the original Purchaser. The limited warranty period will begin at the time such Limited Extended Warranty is purchased by the original Purchaser, without regard to any sale or transfer the product by the original Purchase to a third party at a later time. This warranty cannot be extended and cannot be re-registered at the time of sale or transfer previously referenced.

## **11. LIMITATION OF LIABILITY**

IT IS UNDERSTOOD AND AGREED THAT MSS'S LIABILITY WHETHER IN CONTRACT, IN TORT, UNDER ANY WARRANTY, IN NEGLIGENCE OR OTHERWISE SHALL NOT EXCEED THE RETURN OF THE AMOUNT OF THE PURCHASE PRICE PAID BY PURCHASER AND UNDER NO CIRCUMSTANCES SHALL MSS BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, OR LOST PROFITS, LOST REVENUES, LOST SAVINGS, OR LOST DATA. THE PRICE STATED FOR THE PRODUCTS IS A CONSIDERATION IN LIMITING MSS' LIABILITY.

## **12. LIMITATION ON BRINGING ACTION**

No action, regardless of form, arising out of the agreement to purchase the Product may be brought by purchaser more than one year after the cause of action has accrued, unless such limitation is expressly prohibited under applicable law.

## **13. GOVERNING LAW**

This extended warranty, and any action, regardless of form, arising out of the agreement to purchase the Product, is governed by and shall be construed and interpreted under North Carolina law.

## **14. MANDATORY ARBITRATION**

All disputes between the parties arising out of or relating to this Warranty document, including to interpret or enforce the terms herein, shall be settled by binding arbitration in Mecklenburg County, North Carolina before a single arbitrator pursuant to the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator may award any legal or equitable remedy. The prevailing party shall be awarded its costs and expenses incurred in any arbitration proceeding, including administrative costs, arbitrator's fees, and transcript fees, expert costs and fees, and reasonable attorney's fees. The parties agree that the arbitrators' award shall be final and that each of them expressly waive the right to trial by jury. MSS retains the right to change the terms or details of this agreement at any time.