

Seller Warranties. Seller warrants that the inspection and repair services provided to Purchaser (“Services”) are provided in a workmanlike manner, under conditions of normal use and regular service and maintenance, for a period of one (1) year from the date the Services are provided. Seller makes no warranties for (i) parts, materials or components received from third parties, (ii) lining of any outlets, (iii) any exterior "Paint Over Paint" type systems, (iv) grit contamination and /or damage to the PD components unless Purchaser authorizes in Authorization piping and plenum plates removal prior to blasting the exterior, or (v) the designs and specifications provided or requested by Purchaser. This warranty is conditioned upon use and handling practices by Purchaser which qualify as good commercial practices of the trade.

Notwithstanding the foregoing, Seller does not warrant and shall have no obligation with respect to Services, or to the equipment upon which Services are provided, that (i) have been repaired or altered by someone other than Seller; (ii) have been subject to misuse, abuse, neglect, intentional misconduct, accident, Purchaser or third party negligence, unauthorized modification or alteration, use beyond rated capacity, a force majeure event, or improper or a lack of maintenance; (iii) have failed due to ordinary wear and tear; (iv) have been exposed to adverse operating or environmental conditions, or (v) has failed due to damage caused or contributed to, by the use of the railcars in excess or outside the scope of the AAR, FRA and DOT usage parameters assumed in the applicable AAR, FRA and DOT standards and regulations. **SELLER MAKES NO OTHER WARRANTY AND THIS WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT.** This warranty shall extend only to Purchaser, and shall not extend to any successor or transferee of Purchaser without Seller’s express written consent.

WITH REGARD TO ANY VALVES RESEALED BY SELLER OR OTHERWISE WORKED ON OR SERVICED BY SELLER, THE WARRANTY SHALL BE LIMITED TO (1) ONLY ONE FULL LOADING CYCLE AND (2) SOLELY WITH RESPECT TO A WARRANTY CLAIM WHICH IS MADE (A) AFTER THE APPLICABLE CAR IS APPROPRIATELY LOADED WITH ANY LEGALLY PERMISSIBLE FOR SUCH CAR COMMODITY OR LEAK TESTED THROUGH A PROPERLY CONDUCTED LEAK TEST, AND (B) PRIOR TO SUCH APPLICABLE CAR ENTERING SERVICE.

Components, materials or parts received from third parties are covered only by the warranty, if any, of the manufacturer thereof. Seller shall, if requested by Purchaser in writing, assign to Purchaser any such component, material or part warranty, to the extent assignable. Seller shall have no other obligation with respect to components, materials or parts received from third parties.

Purchaser warrants that it will use the equipment upon which the Services are performed, properly and in accordance with all applicable federal, state and local laws and regulations, and all requirements and recommendations of the Association of American Railroads.

Seller’s sole and exclusive liability to Purchaser and Purchaser’s sole and exclusive remedy against Seller for breach of Seller’s warranty or any other claims or causes of action against Seller in contract, tort or otherwise, shall be limited to rework or repair of any Services found to be in breach of Seller’s warranty, or, at Seller’s option, a refund of the purchase price of such

Services. In the event of any breach of Seller's warranty, at Seller's request, Purchaser will, at Purchaser's expense, ship the affected equipment to Seller's plant or such other place as Seller may reasonably designate. Purchaser will not transport or cause delivery of any equipment to Seller for rework or repair of Services unless Seller first requests and expressly approves transportation or delivery in writing. Purchaser will not repair, rework, replace or discard the affected Services until Seller has first been given a reasonable opportunity to inspect and rework, repair, replace or discard, if necessary. Any claim by Purchaser will be deemed waived unless submitted in writing to Seller within thirty (30) days from the date discovered by Purchaser. Any cause of action for breach of warranty must be brought by Purchaser within one (1) year from the date the cause of action arises.

Purchaser Indemnification. Purchaser agrees, at its sole cost and expense, to defend, indemnify and hold harmless Seller and its direct and indirect owners, parents, affiliates and subsidiaries and its and their respective members, managers, directors, officers, employees, representatives and agents (collectively, the "Indemnified Persons") to the fullest extent permitted by law, from and against any claims, liabilities, demands, suits, judgments, costs, expenses, loss or damage of any kind or character (including reasonable attorneys' fees and disbursements of counsel) (collectively, "Losses") , including, but not limited to, any and all Losses (i) arising out of, resulting from, incident to or caused by or to any of the railcars or other equipment upon which Services are provided, or to or by the contents thereof, (ii) arising out of, resulting from, incident to or caused by any injury to or death of any person or damage to any property, including environmental pollution, which includes liability under CERCLA, due in whole or in part to any railcar or other equipment upon which Services are provided, or any contents thereof (iii) arising out of, resulting from, incident to or caused by the use, operation, maintenance, or condition of any of the railcars or other equipment upon which Services are provided, (iv) arising out of, resulting from, incident to or caused by any claims for injury or damage related to improper handling, transport, release or disposal of any commodity transported in any of the railcars or other equipment upon which Services are provided, or disposed therefrom, or any consequential damages related to spoilage, spillage, or improper handling or disposal of any such commodity, or (v) in connection with any third party claim brought against Seller asserting that the Services supplied by Seller infringe or misappropriate any registered U.S. intellectual property right of any third party to the extent the infringing portion of the Services was provided pursuant to Purchaser's specifications. Prompt notice in writing shall be given by Seller of any such claim and the Purchaser shall promptly undertake and assume the defense thereof. This duty to defend, indemnify and hold harmless includes, but is not limited to, any injury, death or damage to persons or property, including environmental pollution, caused by the spillage, leakage, emission or discharge of any commodity in or from any of the railcars or other equipment upon which Services are provided. Without limiting the generality of the foregoing, Purchaser agrees, at its sole cost and expense, to defend, indemnify and hold harmless the Indemnified Persons from any Losses (a) arising out of, resulting from, incident to or caused by any removable parts (dome covers, outlets, outlet caps, valves, fittings, etc.) including if any of the foregoing is lost, damaged, or broken, (b) arising out of, resulting from, incident to or caused by any damaged lining, (c) arising out of, resulting from, incident to or caused by any damage to any railcar or other equipment upon which Services are provided, related to or connected with the commodity or other material placed or allowed to accumulate in or on the railcar or to which the railcar is exposed, whatever the cause, (such damage shall not be considered "ordinary wear and tear") including liability for environmental contamination or

releases caused by or resulting from the commodity or other material placed in the railcar or any release resulting from material remaining in the railcar upon return of the railcar to Seller, even if occurring while in the possession or control of Seller after such return, (d) arising out of, resulting from, incident to or caused by any damage or loss caused by the use, abuse, misuse, of any railcar or other equipment upon which Services are provided, by Purchaser or its employee, agent, sublessee, customer, or consignee, or by any omission of Purchaser or its employee, agent, sublessee, customer, or consignee, (e) arising out of, resulting from, incident to, or caused by any loss or damage while any railcar or other equipment upon which Services are provided is on any private siding or track of any private or industrial railroad (f) arising out of, resulting from, incident to or caused while any railcar or other equipment upon which Services are provided, is in the custody of any individual or entity not subject to the AAR Rules for Interchange, and (g) any loss or damage where the responsible party or the cause cannot be identified. Notwithstanding anything herein to the contrary, Purchaser agrees, at its sole cost and expense, to defend, indemnify and hold harmless the Indemnified Persons from any Losses arising out of, resulting from, incident to or caused by: (i) Purchaser's application, maintenance, and removal of interior protective linings and coatings, (ii) repairing or replacing of any maintenance item that is removed, broken off or altered for any reason, or is missing, damaged, altered or replaced with a non-standard item, or (iii) any loss or damage occurring during any cleaning of the railcar prior to return by Purchaser including any environmental damage resulting from the improper handling, release or disposal of an residues, whether such cleaning is done by Purchaser, a third party, or by Seller or Seller's contractor due to Purchaser's failure to return a railcar in a clean condition.

Purchaser shall not settle any such claims or actions in a manner that would require any action or forbearance from action by Seller without the prior written consent of Seller. In addition, Purchaser shall not settle any such claims or actions unless Seller, its officers, employees and directors are fully released.

NOTWITHSTANDING ANYTHING TO THE CONTRARY, UNDER NO CIRCUMSTANCES SHALL SELLER BE LIABLE FOR ANY LOSSES, COSTS, EXPENSES, LIABILITIES OR DAMAGES OF ANY KIND OR CHARACTER, INCLUDING BUT NOT LIMITED TO, DIRECT, ACTUAL, SPECIAL, PUNITIVE, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, ANY LOSS OF ANTICIPATED PROFITS INCURRED BY PURCHASER, LOSS OF USE OF EQUIPMENT OR GOODS, COST OF SUBSTITUTE EQUIPMENT, PARTS OR GOODS, OR THEIR INSTALLATION, OR ANY DOWNTIME). NONE OF SELLER-RELATED PARTIES (OTHER THAN SELLER, AND WITH RESPECT TO SELLER ONLY TO THE EXTENT EXPRESSLY SET FORTH HEREIN) WILL HAVE OR BE DEEMED TO HAVE ANY DUTY OR OBLIGATION TO PURCHASER OF ANY KIND OR CHARACTER.