

General Terms and Conditions

Flexpipe Systems products and services are sold and furnished in accordance with these General Terms and Conditions. These Terms and Conditions supersede all prior terms and conditions and shall be the sole terms and conditions which apply to any sale or other furnishing of products or services. Acceptance by Buyer of any sale proposal furnished by Flexpipe Systems shall be deemed a full acceptance by Buyer of all the Terms and Conditions set forth herein. Different or additional terms proposed by Buyer are deemed material alterations and are objected to and rejected unless agreed to by Flexpipe Systems in writing.

1. Subject to the limitations hereafter set forth, Flexpipe Systems warrants the products and services sold by it to be free from defects in workmanship or material for one year from the earlier of shipment of products from the factory, or commencement of storage of the products on behalf of buyer or the completion of performance of services in the case of services. Any claim by Buyer based on any defect in workmanship or material shall be sent in writing to Flexpipe Systems within 7 days from the date of delivery or performance of service or, where the defect was not apparent on reasonable inspection, within 7 days of discovery of the defect during the warranty period. If Buyer does not notify Flexpipe Systems accordingly, Flexpipe Systems shall not be liable for such defect and Buyer shall be bound to pay the full invoice as if the products and services have been delivered and performed without defect. Flexpipe Systems' obligation under this warranty for any products or services confirmed by Flexpipe Systems to be defective in workmanship or materials is limited to, at Flexpipe Systems' option, repairing or replacing such products, or re-performing such services, or refunding the amount which Flexpipe Systems received from Buyer for the defective products or services. In no event shall Flexpipe Systems be liable for special, indirect, incidental or consequential damages including loss of profits environmental damage, remediation claims or third party costs including, but not limited to, excavation, testing or removing products whether or not caused by the negligence or fault of Flexpipe Systems, and in no event shall Flexpipe Systems' liability exceed the value of the sales proposal. **IT IS EXPRESSLY AGREED THAT THIS WARRANTY SHALL BE IN LIEU OF ANY OTHER WARRANTY, EXPRESSED OR IMPLIED, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, WHICH ARE HEREBY EXPRESSLY DISCLAIMED.** To the full extent allowed by law, Flexpipe Systems disclaims any warranty to any persons other than Buyer.
2. Flexpipe Systems shall not be liable under the above warranty if the product or service has been subject to misuse, negligence or accident, modification, heating, bending, welding, or alteration of any kind, or has not been operated or installed in accordance with Flexpipe Systems' instructions or has been operated under conditions more severe than or otherwise exceeding, those set forth in the specifications for the product or service.
3. Flexpipe Systems shall not be liable under the above warranty if the total invoice for the products and services has not been paid in full by the due date for payment.
4. The above warranty shall not apply to parts, materials or equipment not manufactured by Flexpipe Systems. The Buyer shall only be entitled to the benefit of any such warranty or guarantee given by the manufacturer to Flexpipe Systems. In addition, this warranty shall not apply to services not performed directly by Flexpipe Systems employees, or designate.
5. Products and services shall be subject to Flexpipe Systems' stated manufacture variations. All tables published by Flexpipe Systems are based upon information believed reliable; however, Flexpipe Systems does not warrant the accuracy of same. All measurements and weights set forth in such tables are subject to reasonable tolerance variations. Flexpipe Systems reserves the right to make changes to the products which are required to conform with any applicable statutory requirements or which do not materially affect their quality or performance.
6. Flexpipe Systems retains for itself exclusively all proprietary rights in and to all designs, engineering details and data concerning the services or products sold by it.
7. Flexpipe Systems reserves the right, by giving notice to Buyer at any time before delivery or performance, to increase the price of the products or services to reflect any increase in the cost to Flexpipe Systems, which is due to any factor beyond the control of Flexpipe Systems (such as, without limitation, any foreign exchange fluctuation, currency regulation, alteration of duties, increase in the costs of labour, materials or other costs of manufacture), any change in delivery dates, quantities, or specifications for the products or services which is requested by Buyer, or any delay caused by any instructions of Buyer, or failure of Buyer to give Flexpipe Systems adequate information or instructions.
8. Any taxes or charges which Flexpipe Systems may be required to pay or collect under any existing or future law upon or applicable to the sale, purchase, lease, furnishing, manufacture, processing, transportation, delivery, storage, use or consumption of the product or services shall be for the account of Buyer.
9. Flexpipe Systems shall make delivery of all products ex works at Flexpipe Systems' facility. Flexpipe Systems will use its best efforts in good faith to deliver the goods on or before the agreed delivery date, as adjusted in accordance with the terms hereof. Time for delivery shall not be of the essence unless previously agreed to in writing by Flexpipe Systems.
10. Where the products are to be delivered in instalments, failure by Flexpipe Systems to deliver any one or more of the instalments in accordance with these General Terms and Conditions or any claim by Buyer in respect of any one or more instalments shall not entitle Buyer to treat these General Terms and Conditions or the order as a whole as repudiated.
11. Flexpipe Systems is not liable for delays in delivery or failure to make delivery caused by the elements, acts of God, lack of or inability to obtain materials, fuel or supplies, acts of Buyer, acts of civil or military authorities, breakdown of equipment, differences with workmen, fire, flood, or other casualty, labour shortages, governmental regulations, or requirements, orders bearing priority rating established pursuant to law, shortages or failure of raw materials, supplies, fuel, power or transportation, or other causes beyond the reasonable control of Flexpipe Systems, whether similar or dissimilar to those enumerated, and whether or not foreseeable, and any delivery date will be extended accordingly.
12. Unless otherwise requested under section 21, if the Buyer fails to take delivery of the products then, without prejudice to any other right or remedy available to Flexpipe Systems, it may:
 - (a) store the products until actual delivery and charge Buyer for reasonable costs of storage (including insurance); or
 - (b) sell the products at the best price readily obtainable and (after deducting all reasonable storage and selling expenses) account to the Buyer for the excess over the price in the sale proposal or charge Buyer for any shortfall below the price in the sale proposal.
13. Risk of damage to or loss of products shall pass to Buyer at the "Need By" date indicated on the "Sales Order Acknowledgement".
14. Notwithstanding delivery and the passing of risk in the products, or any other provision of these General Terms and Conditions, title to the products shall not pass to Buyer until Flexpipe Systems has received payment in full (in cash or cleared funds) of the price of the products and services and for which payment is then due.
15. Unless otherwise agreed to in writing, all invoices are payable Net 30, and Flexpipe Systems shall be entitled to recover payment, notwithstanding that delivery may not have taken place and title to the products has not passed to Buyer. Where the parties have entered in progress payment terms, Flexpipe Systems shall invoice and Buyer shall make payments upon each milestone being achieved.
16. If Buyer fails to make any payment on the due date then, without prejudice to any other right or remedy available to Flexpipe Systems, Flexpipe Systems shall be entitled to:
 - (a) cancel the sale proposal or suspend any further deliveries or services to Buyer;
 - (b) appropriate any payment made by Buyer to such of the products supplied under any other sale proposal between Buyer and Flexpipe Systems as Flexpipe Systems may think fit (notwithstanding any purported appropriation by Buyer); and
 - (c) charge Buyer interest (both before and after any judgment) on the amount unpaid, at the rate of 2 per cent per month until payment in full is made (a part of a month being treated as a full month for the purpose of calculating interest).
17. The partial invalidity of any of these General Terms and Conditions shall not affect the validity and applicability of the remainder thereof.
18. These General Terms and Conditions shall be construed, performed and enforced under the laws of the Province of Alberta and the federal laws of Canada applicable therein, excluding any conflict of law principles or rules which would impose any law or laws of another jurisdiction. Flexpipe Systems and Buyer hereby irrevocably attorn to the exclusive jurisdiction of the Courts of the Province of Alberta.
19. Buyer shall not assign its rights or obligations under these General Terms and Conditions without Flexpipe Systems' written consent.
20. No statement or recommendation made or assistance given by Flexpipe Systems or its representatives shall constitute a warranty by Flexpipe Systems or a waiver or modification of any of the provisions hereof or create any liability for Flexpipe Systems. There are no understandings or agreements between Buyer and Flexpipe Systems relative hereto which are not fully expressed herein. These General Terms and Conditions contain the entire agreement of the parties regarding the subject matter hereof.
21. Upon request, Flexpipe Systems will store ordered material for a period of 60 days following the "Need By" date at no charge to the buyer. All products stored at Flexpipe facilities shall be insured by Flexpipe on behalf of the Buyer. Pipe not picked up within 60 days shall be subject to a storage and handling fee of \$500 per reel for each 12 months of storage or portion thereof.
22. Flexpipe pipe products are shipped on re-usable reels. The ordered length of pipe will be subdivided based on inventory and reel lengths available at time of shipment. Invoices are based on total length of pipe shipped. The quantity of reels, associated reel serial numbers, and reel deposit will be added to the customer invoice consistent with the delivered length of pipe. Timely return of reels is required, therefore unless otherwise arranged through your Flexpipe Sales Representative, the following shall apply: Reel deposits will be charged 30 days after shipment. Reels must be returned within ninety (90) days to receive a full refund of the reel deposit. After ninety (90) days, Flexpipe will charge rent of \$50 per reel per month. Rental amounts will be deducted from the outstanding deposit. Any reels not returned within three hundred and sixty five (365) days will be considered sold to the customer and all reel deposits will be forfeited. Repair costs for damaged reels shall be deducted from the reel deposit.
23. Return Policy: Within 90 days of purchase, Flexpipe will accept return of material for credit less a 15% restocking fee. Return Material Authorizations (RMA's) are required for all returns and can be obtained from your Flexpipe Field Project Coordinator or Sales representative. All returned material must be in re-saleable condition. Up to two (2) couplings and two (2) end fittings may be returned per reel of pipe with no restocking fee, up to a maximum of ten (10) fittings total per order. Pipe returns shall be limited to one full reel and one partial reel of greater than 350 meters (1150ft.) and shall further be subject to a \$200 inspection fee per reel. Pipe returns of less than 350 meters (1150ft.) will be scrapped and be subject to a \$200 disposal fee. Returns after ninety (90) days must be arranged in advance through your Flexpipe Sales representative. Material returned without authorization will not be unloaded at any Flexpipe facility. A fee of \$500 (storage and handling) shall be charged per reel for any customer owned pipe returned for storage at Flexpipe for each 12 months of storage or portion thereof. All fees shall be deducted from the reel deposit.