

LIMITED WARRANTY Underground Chemical Tanks

Xerxes Corporation ("Xerxes") warrants to ("Owner") that our underground chemical tanks, if installed, used and maintained in the United States in accordance with Xerxes' published specifications, installation instructions and operating guidelines, and all applicable laws and regulations, and the limited chemical applications provided by Xerxes' customer in Exhibit A attached hereto, at temperatures not to exceed 100° F, will be free from material defects in materials and workmanship for a period of one (1) year from date of original delivery by Xerxes.

This warranty is limited by the provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or "Superfund") which designates certain chemicals as "hazardous substances." See 42 United States Code, § 9601(14). The United States Environmental Protection Agency, Office of Underground Storage Tanks (U.S. E.P.A.) requires that new underground chemical tanks that store "hazardous substances" have secondary containment and interstitial monitoring. See 40 Code of Federal Regulations, § 280 and 281. THIS WARRANTY IS NULL AND VOID IF A SINGLE WALL TANK HAS BEEN USED FOR PRODUCTS CONTAINING A "HAZARDOUS SUBSTANCE" WITHOUT USE OF SECONDARY CONTAINMENT AND INTERSTITIAL MONITORING.

Xerxes warrants to Owner that all Xerxes manufactured chemical tank accessories, if installed, used, and maintained in the United States in accordance with Xerxes' published specifications, installation instructions and operating guidelines, and all applicable laws and regulations, and the limited chemical applications provided by Xerxes' customer in Exhibit A attached hereto, at temperatures not to exceed 100° F, will be free from material defects in materials and workmanship for a period of one (1) year following the date of original delivery by Xerxes.

If any tank is to be removed from an installation, moved to Owner's new location and is intended for active service at the new location, the tank must, in addition to inspection, be recertified by Xerxes in order to maintain the warranty as originally extended. The foregoing warranty does not extend to tanks or accessories (collectively "Goods") damaged due to acts of God, war, terrorism or failure of Goods caused, in whole or in part, by misuse, improper installation, storage, servicing, maintenance, or operation in excess of their rated capacity or contrary to their recommended use, whether intentional or otherwise, or any other cause or damage of any kind not the fault of Xerxes. Xerxes only warrants repairs or alterations performed by Xerxes or its authorized contractors. Xerxes does not warrant any product, components or parts manufactured by others.

Owner's sole and exclusive remedy for breach of warranty is limited at Xerxes' option to: (a) repair of the defective tank or accessory, (b) delivery of a replacement tank or accessory to the point of original delivery, or (c) refund of the original purchase price. A claimant must give Xerxes the opportunity to observe and inspect the tank and/or accessory prior to removal from the ground or the claim will be forever barred. All claims must be made in writing within one (1) year after tank and/or accessory failure or be forever barred. THE FOREGOING WARRANTY CONSTITUTES XERXES' EXCLUSIVE OBLIGATION AND XERXES MAKES NO OTHER WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO THE GOODS, OR ANY SERVICE, ADVICE, OR CONSULTATION, IF ANY, FURNISHED TO OWNER BY XERXES OR ITS REPRESENTATIVES, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR OTHERWISE. THE SELLER (XERXES) UNDERTAKES NO RESPONSIBILITY FOR THE QUALITY OF THE GOODS, EXCEPT AS OTHERWISE PROVIDED IN THIS CONTRACT. THE SELLER (XERXES) ASSUMES NO RESPONSIBILITY THAT THE GOODS WILL BE FIT FOR ANY PARTICULAR PURPOSE FOR WHICH YOU (OWNER) MAY BE BUYING THESE GOODS, EXCEPT AS OTHERWISE PROVIDED IN THE CONTRACT. THE REMEDIES SET FORTH IN THE ABOVE WARRANTY ARE THE ONLY REMEDIES AVAILABLE TO ANY PERSON OR ENTITY FOR BREACH OF WARRANTY OR FOR BREACH OF ANY OTHER COVENANT, DUTY, OR OBLIGATION ON THE PART OF XERXES. XERXES SHALL HAVE NO LIABILITY OR OBLIGATION TO ANY PERSON OR ENTITY FOR BREACH OF ANY OTHER COVENANT, DUTY, OR OBLIGATION UNDER THIS WARRANTY EXCEPT AS EXPRESSLY SET FORTH HEREIN. IT IS EXPRESSLY AGREED THAT THIS WARRANTY DOES NOT FAIL OF ITS ESSENTIAL PURPOSE. XERXES SHALL HAVE NO LIABILITY FOR TANK INSTALLATION OR REMOVAL COSTS, ENVIRONMENTAL CONTAMINATION, FIRES, EXPLOSIONS OR ANY OTHER CONSEQUENCES ALLEGEDLY ATTRIBUTABLE TO A BREACH OF WARRANTY, OR INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR OTHER DAMAGES OF ANY DESCRIPTION, WHETHER ANY SUCH CLAIM OR DAMAGES BE BASED UPON WARRANTY, CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER TORT, OR OTHERWISE. IN NO EVENT SHALL XERXES' TOTAL LIABILITY HEREUNDER EXCEED THE ORIGINAL PURCHASE PRICE OF THE GOODS WHICH GAVE RISE TO SUCH LIABILITY.

Consumer Notice: This warranty gives you (Owner) specific legal rights. You (Owner) may also have other rights which vary from state to state.

Effective: 6/1/05

XERXES[®]
CORPORATION

Corporate Office • 7901 Xerxes Avenue South, Minneapolis, MN 55431-1288 • (952) 887-1890

TERMS AND CONDITIONS

1. **SITE ACCESS AND USE.** Use of this website and access to the information and content made available through this website is subject to these Terms and Conditions and any additional use policies and conditions Xerxes Corporation (“Xerxes”) may adopt. Xerxes may suspend or terminate access to this website at any time. Xerxes may also change this website and the information and other content made available at this website at any time.

2. **RESTRICTIONS AND LIMITATIONS.** All information and content made available through this website, including, but not limited to, information, text, graphics, trademarks, logotypes, data and data compilations, is the property of Xerxes or others. United States and international trademark, copyright and other intellectual property right laws protect that information and content.

Viewing and printing the information or other content made available through this website is permitted. All other copying, downloading, reproduction, distribution, adaptation, modification or communication of the information and content made available through this website is prohibited. Link to or framing of the website or the information and content made available through this website is prohibited. Robots, spiders and other automatic devices may not be used to monitor or copy any portion of this website.

3. **DISCLAIMERS.** Xerxes makes no warranties regarding this website or the content available through this website. Xerxes does not guarantee that access to this website will be uninterrupted or error-free, and we will not be responsible for any delay, down time or other performance problem.

4. **THIRD PARTY SITES.** From time to time, this website may incorporate links to other websites. Xerxes does not sponsor or endorse any linked websites, the information appearing on those websites, or any products or services described in or made available through those websites, and Xerxes makes no warranty or representation regarding any linked websites, the information appearing on those websites, or any products or services described in or made available through those websites. Use of such linked websites, and any information or products obtained as a result of that use, is at the user’s risk.

5. **DISCLAIMER OF WARRANTIES.** Xerxes does not guarantee the accuracy of any information on this website. Nothing in this website will be deemed to be, or will create any warranty with respect to Xerxes’ products, or to be incorporated in or form a part of any sales or other agreement with Xerxes.

6. **LIMITATION OF LIABILITY.** XERXES WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE ARISING OUT OF OR RELATING TO THIS WEBSITE (INCLUDING LIABILITY FOR NEGLIGENCE) EXCEPT FOR THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF XERXES. IN NO EVENT WILL THE LIABILITY OF XERXES OR ITS AFFILIATES, EMPLOYEES, OFFICERS, DIRECTORS, SITE PROVIDERS AND SUPPLIERS OF ANY KIND INCLUDE ANY SPECIAL, INDIRECT, INCIDENTAL OR

CONSEQUENTIAL LOSSES OR DAMAGES, EVEN IF XERXES HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

7. **GOVERNING LAW.** These Terms and Conditions will be interpreted and construed in accordance with the laws of the State of Minnesota. Any disputes, claims or controversies arising out of, or relating to, this Agreement may be brought in courts situated in Minnesota, and users consent to the exclusive jurisdiction of such courts for the resolution of all such disputes, claims and controversies.

8. **GENERAL.** If any of these Terms and Conditions conflict with any applicable statute or rule of law, or is held illegal, void or ineffective, the remaining portions will remain in full force and effect. No failure by either party to take any action or assert any right under these Terms and Conditions will be deemed to be a waiver of that right in the event of the continuation or repetition of the circumstances giving rise to that right.