

CLOW CANADA

LIMITED WARRANTY

LIMITED WARRANTY FOR GOODS OTHER THAN iHYDRANT® PRODUCTS

For Goods other than iHydrant® products, Clow Canada (“Seller”) warrants that the Goods provided by Seller will be of the kind described in the purchase order and free from defects in material and workmanship under conditions of normal for the warranty periods stated below, provided the Goods are installed and maintained according to Seller instructions and applicable codes. Seller reserves the right to make any modifications required by production conditions to information set forth in Seller Company’s catalogues and advertising literature. Seller will not be liable or responsible for (A) any defects attributed to normal wear and tear, erosion or corrosion, improper storage, use, or maintenance, or use of Goods with incompatible products, or (B) defects in any part of Goods manufactured by others. If (B) above is applicable, Seller will, as an accommodation to Buyer, assign to Buyer any warranties given to it by any such other manufacturers; provided, however, that the foregoing will not extend Seller’s warranty to any accessory products unless Seller specifically agrees in writing. All warranties are void if Goods are modified or used in conjunction with products or accessories not manufactured or approved by Seller or which are incompatible with Goods. This warranty does not cover failure of any part manufactured by others, failure of any part from external forces, including but not limited to corrosive soils, earthquake, installation, vandalism, vehicular or other impact, application of excessive torque to the operating mechanism, frost heave or other Force Majeure.

The following warranty periods apply to Goods:

- All fire hydrants – **twelve (12) years** from date of shipment
- All resilient wedge gate valves – **ten (10) years** from date of shipment
- AWWA C500, all specialty valves, any ULFM product not included above, service boxes and parts, pipe joint restraints and flange adapters – **one (1) year** from date of shipment
- The warranty period for iHydrant products is stated below.

Any claim by Buyer with reference to Goods for any cause will be deemed waived by Buyer unless submitted to Seller in writing within ten (10) calendar days from the date Buyer discovered, or should have discovered, any claimed breach. Buyer will give Seller an opportunity to investigate. If Buyer gives prompt notice to Seller of any defect and an opportunity to inspect the alleged defect as provided above, Seller will, in its sole discretion, either: (i) repair the defective or nonconforming Goods; (ii) replace nonconforming Goods, or part thereof, which are sent to Seller by Buyer within sixty (60) calendar days after receipt of the Goods at Buyer’s plant or storage facilities; or (iii) if Seller is unable or chooses not to repair or replace, return the purchase price paid and cancel any obligation to pay unpaid portions of the purchase price of nonconforming Goods. In no event will any obligation to pay or refund exceed the purchase price paid. Repair and/or replacement as provided above will be shipped EXW (Ex-Works) Seller’s facility (Incoterms® 2020) unless otherwise agreed in writing by Seller. Buyer will prepay all transportation charges for return of all or part of Goods to Seller, unless otherwise agreed in writing by Seller. Seller will not be responsible for any labour, removal, or installation charges that may result from repair and/or replacement of any Goods. Buyer’s exclusive remedy and Seller’s sole liability for any loss, damage, injury, or expense of any kind arising from manufacture, delivery, sale, installation, use, or shipment of Goods will be, at Seller’s option, the remedies described above, whether based on contract, warranty, tort, or any other basis of recovery.

If any claim is made against Buyer based on a claim that any Goods constitute an infringement of any intellectual property rights of a third party, including Canadian-issued patents and registered industrial designs (collectively “IP Rights”), Buyer will notify Seller immediately. Seller may, with Buyer’s assistance, if required, but at Seller’s expense, conduct settlement negotiations or defense of any litigation. If any Goods are held to infringe any IP Rights, and their use is enjoined, or, if as a result of a settlement, Seller deems their continued use inadvisable and provided that Buyer has given Seller the immediate notice required above and has used Goods only in accordance with the provisions of this Agreement and has not altered or changed them in any material way, Seller will, at its option and expense, procure for Buyer the right to continue using Goods, modify Goods so that they become non-infringing, replace Goods with non-infringing Goods of substantially equal quality, or accept Goods for return and refund the purchase price, less reasonable depreciation. The above is intended as a complete allocation of risks between the parties, including without limitation liability for infringement of IP Rights. Buyer understands that its rights to bring claims against Seller and its ability to recover damages under this Agreement are limited by Section 8 of the Terms and Conditions of Sale.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY LAW OR STATUTE OR ARISING FROM TRADE USAGE OR COURSE OF DEALING. THERE IS NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR STRICT LIABILITY, WILL SELLER BE LIABLE FOR ANY PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, LOSS OF USE OF GOODS OR OTHER PROPERTY OR EQUIPMENT, DAMAGE TO OTHER PROPERTY, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, DOWNTIME, OR CLAIMS OF BUYER’S CUSTOMERS FOR ANY OF THE

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AFORESAID DAMAGES (COLLECTIVELY “CONSEQUENTIAL DAMAGES”), EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BUYER UNDERSTANDS THAT IT WILL NOT BE ABLE TO RECOVER CONSEQUENTIAL DAMAGES EVEN THOUGH IT MAY SUFFER SUCH DAMAGES IN SUBSTANTIAL AMOUNTS. SELLER WILL NOT BE LIABLE, AND BUYER AGREES TO INDEMNIFY SELLER, FOR ALL PERSONAL INJURY, PROPERTY DAMAGE, AND OTHER LIABILITY RESULTING IN WHOLE OR PART FROM BUYER’S NEGLIGENCE OR WILLFUL MISCONDUCT. PURSUANT TO SECTION 22(5) OF THE LIMITATIONS ACT (ONTARIO), THE PARTIES AGREE THAT THE LIMITATION PERIOD PROVIDED FOR IN THE LIMITATIONS ACT (ONTARIO) (ALLOWING PROCEEDINGS BASED ON CLAIMS MADE UP TO THE FIFTEENTH ANNIVERSARY OF THE DAY ON WHICH THE ACT OR OMISSION ON WHICH THE CLAIM IS BASED TOOK PLACE) IS SHORTENED TO THE EFFECT THAT (i) SELLER WILL NOT BE LIABLE FOR ANY CLAIM BY BUYER WITH REFERENCE TO GOODS FOR ANY CAUSE UNLESS SUBMITTED TO SELLER IN WRITING WITHIN TEN (10) DAYS FROM THE DATE BUYER DISCOVERED, OR SHOULD HAVE DISCOVERED, ANY CLAIMED BREACH AND, (ii) EXCEPT AS PROVIDED IN THIS STATEMENT, NO CLAIMS OF ANY KIND, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, MAY BE BROUGHT AGAINST SELLER MORE THAN SIX (6) YEARS AFTER DELIVERY OF GOODS TO BUYER. In any contract by Buyer for resale of Goods, Buyer will effectively disclaim, as against Seller, any implied warranty of merchantability and all liability for property damage or personal injury resulting from handling, possession, or use of Goods, and will exclude, as against Seller, any liability for Consequential Damages.

LIMITED WARRANTY FOR iHYDRANT® PRODUCTS

For iHydrant Goods, the following warranties apply:

Hardware.

All standard iHydrant products sold by Seller will be free of defects in material and workmanship under conditions of normal use for **two (2) years** from date of shipment from Seller. Normal use prohibits the removal and use of the included SIM card with any non-iHydrant equipment and such prohibited usage may expose Buyer to additional liabilities. Seller will not be liable or responsible for defects in any part of iHydrant products manufactured by others, but Seller will, as an accommodation to Buyer, assign to Buyer any warranties given to it by any such other manufacturers; provided, that the foregoing will not extend Seller’s warranty to any accessory products unless Seller specifically agrees in writing. This warranty will be void if, in Seller’s reasonable opinion, the defect was caused in whole or part by: (a) normal wear and tear, including scratches or other cosmetic damage to the product surface that does not affect the operation of the product; (b) improper handling, use, operation, or testing by anyone other than Seller or an iHydrant certified installer; (c) failure to properly install or maintain the iHydrant product by anyone other than Seller or an iHydrant certified installer; (d) failure to install, maintain, or service products in accordance with the current edition of any applicable safety code or Seller’s written instructions; (e) modification, alteration, or unauthorized repair by anyone other than Seller or an iHydrant certified installer; (f) use with products or components that are incompatible with the iHydrant product; (g) Force Majeure events or acts of vandalism, sabotage, or hacking; (h) radio frequency interference; (i) removal from the country where the products were purchased, use in a country in which they are not registered for use, and/or use in a country for which they were not designed; (j) use in fail-safe environments in which failure of the products could lead to personal injury or significant property damage; (k) products having been subjected to operating conditions outside of specified parameters; (l) operational non-performance due to cellular service outages or insufficient cellular service signal coverage, if signal coverage has deteriorated since original installation; or (m) any other cause beyond normal usage in accordance with Seller’s written instructions. This warranty is conditioned on proper storage, installation, use and maintenance, including Seller-recommended scheduled maintenance, in accordance with applicable written recommendations from Seller, including but not limited to recommendations arising from preinstallation studies conducted by Seller. Seller reserves the right to make any modifications required by production conditions to information set forth in iHydrant catalogues and advertising literature.

Any claim by Buyer with reference to the product(s) for any cause will be deemed waived by Buyer unless submitted to Seller in writing within ten (10) calendar days from the date Buyer discovered, or should have discovered, any claimed breach. Buyer will give iHydrant an opportunity to investigate. If Buyer furnishes prompt notice to Seller of any defect and an opportunity to inspect the alleged defect as provided above, Seller will, in its sole discretion, either repair or replace any defective product or component thereof, on a pre-emptive basis, meaning that Seller personnel or an iHydrant certified installer will visit the allegedly defective unit in the field and will diagnose it on location. If any on-site defects are found, sufficient component or full product replacements will be installed as soon as possible, preferably on that first diagnostic visit. Should the alleged defect be diagnosed as a firmware or software issue, such issue will be prioritized by the iHydrant Engineering team for their prompt attention. If no defects are discovered, Seller may charge Buyer for any costs directly related to such visit.

Software.

Software Goods are provided by Seller “AS IS” with no warranty of any kind.

Post-Installation Services.

If Seller is providing any paid services after installation, Seller and Buyer will enter into an iHydrant Service Agreement which sets forth Seller’s warranty of services.

Intellectual Property.

Except for rights expressly granted by Seller in writing, Seller retains exclusive interest in and ownership of its Intellectual Property developed prior to entering this Agreement or developed outside the scope of this Agreement, including all of the following in any jurisdiction in the world: (a) trademarks and service marks, including all applications and registrations, and the goodwill connected with the use of and symbolized by the trademarks and service marks; (b) copyrights, including all applications and registrations relating to them; (c) trade secrets and confidential know-how; (d) patents and patent applications; (e) websites and internet domain name registrations; and (f) other intellectual property and related proprietary rights, including all additions, updates and bug patches to, improvements on, new versions of, and other modifications to Intellectual Property made by either party during this Agreement. If any claim is made against Buyer based on a claim that any product constitutes an infringement of any U.S. Letter Patent, Buyer will notify Seller immediately. Seller may, with Buyer's assistance, if required, but at Seller's expense, conduct settlement negotiations or defense of any litigation. If any product(s) are held to infringe any U.S. Letter Patent, and their use is enjoined, or, if as a result of a settlement, Seller deems their continued use inadvisable and provided that Buyer has given Seller the immediate notice required above and has used product(s) only in accordance with the provisions of this Agreement and has not altered or changed them in any material way, Seller will, at its option and expense, procure for Buyer the right to continue using product(s), modify product(s) so that they become non-infringing, replace product(s) with non-infringing product(s) of substantially equal quality, or replace product(s) and refund the purchase price, less reasonable depreciation. The above is intended as a complete allocation of risks between the parties for patent infringement.

THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED BY LAW OR STATUTE OR ARISING FROM TRADE USAGE OR COURSE OF DEALING. THERE IS NO IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR STRICT LIABILITY, WILL SELLER BE LIABLE FOR ANY PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFIT, LOSS OF USE OF GOODS OR OTHER PROPERTY OR EQUIPMENT, DAMAGE TO OTHER PROPERTY, COST OF CAPITAL, COST OF SUBSTITUTE GOODS, DOWNTIME, OR CLAIMS OF BUYER'S CUSTOMERS FOR ANY OF THE AFORESAID DAMAGES (COLLECTIVELY "CONSEQUENTIAL DAMAGES"), EVEN IF BUYER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. BUYER UNDERSTANDS THAT IT WILL NOT BE ABLE TO RECOVER CONSEQUENTIAL DAMAGES EVEN THOUGH IT MAY SUFFER SUCH DAMAGES IN SUBSTANTIAL AMOUNTS. SELLER WILL NOT BE LIABLE, AND BUYER AGREES TO INDEMNIFY SELLER, FOR ALL PERSONAL INJURY, PROPERTY DAMAGE, AND OTHER LIABILITY RESULTING IN WHOLE OR PART FROM BUYER'S NEGLIGENCE OR WILLFUL MISCONDUCT. PURSUANT TO SECTION 22(5) OF THE LIMITATIONS ACT (ONTARIO), THE PARTIES AGREE THAT THE LIMITATION PERIOD PROVIDED FOR IN THE LIMITATIONS ACT (ONTARIO) (ALLOWING PROCEEDINGS BASED ON CLAIMS MADE UP TO THE FIFTEENTH ANNIVERSARY OF THE DAY ON WHICH THE ACT OR OMISSION ON WHICH THE CLAIM IS BASED TOOK PLACE) IS SHORTENED TO THE EFFECT THAT (i) SELLER WILL NOT BE LIABLE FOR ANY CLAIM BY BUYER WITH REFERENCE TO GOODS FOR ANY CAUSE UNLESS SUBMITTED TO SELLER IN WRITING WITHIN TEN (10) DAYS FROM THE DATE BUYER DISCOVERED, OR SHOULD HAVE DISCOVERED, ANY CLAIMED BREACH AND, (ii) EXCEPT AS PROVIDED IN THIS STATEMENT, NO CLAIMS OF ANY KIND, WHETHER BASED ON CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, MAY BE BROUGHT AGAINST SELLER MORE THAN SIX (6) YEARS AFTER DELIVERY OF GOODS TO BUYER. In any contract by Buyer for resale of Goods, Buyer will effectively disclaim, as against Seller, any implied warranty of merchantability and all liability for property damage or personal injury resulting from handling, possession, or use of Goods, and will exclude, as against Seller, any liability for Consequential Damages.