

LIMITED WARRANTY AGREEMENT

Contractor: A Plus Patio and Screen LLC (“Contractor”)

Owner(s): _____

Address of Project: _____

Contractor is pleased to provide a warranty as follows:

NOTICE

This warranty is in lieu of any other warranty, express or implied. Any implied warranties, including but not limited to, the implied warranty of merchantability, fitness for a particular purpose, habitability, and any UCC warranties are waived.

This warranty shall be null and void and Contractor shall not be liable for any damages or expenses, if the Owner does not first grant Contractor access to the premises and the opportunity of Contractor to inspect, correct, or replace alleged defective items, before Owner incurs expenses or has work done by a replacement contractor.

WHAT IS COVERED

Contractor warrants that the improvements constructed are reasonably free of defects and within customary tolerances of construction industry. “Customary tolerances of the construction industry” means tolerances common and expected in the construction industry and guaranteed to be performed by a skillful and professional contractor. This warranty also covers work under customary tolerances for all subcontractors and other trades people under contract with the Contractor, including the crew of the Contractor.

Contractor further warrants and guarantees that the work reasonably conforms to the requirements of the contract documents, drawings, plans, and specifications. If any defects are found, contractor shall repair or replace any of the alleged defective work at its cost. The work to be corrected will be the particular part or area that is defective. Contractor shall start corrective work within a reasonable time after written notice from the owner. Contractor shall have the option of repairing or replacing, at its election.

TERM OF WARRANTY—FIVE YEAR

This Warranty, as well as the statute of limitations for any claim of damages for defective work or materials, is one year from substantial completion, defined as the earlier of: 1) the date of final acceptance by the building inspection department, or 2) the date Owner first moves into the property. If Contractor performs warranty work within this period, this warranty shall be extended to the repaired or replaced work itself and be covered for one year after completion, as to that specific work.

TRANSFERABILITY

This warranty applies to the original owner and may be transferred to any subsequent owner within the initial five year period after substantial completion.

EQUIPMENT, MATERIAL, AND APPLIANCES

Contractor hereby assigns (to the extent they are assignable) and conveys to Owner all

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manufacturers= and suppliers’ warranties, together with operating instructions if available, on all goods, material, equipment and appliances provided to Contractor.

Contractor has provided certain material, equipment, appliances, and goods that have been manufactured and or furnished by third party vendors, supply houses, lumberyards, distributors, and manufacturers (“products”). Contractor will use its best efforts so that such products are new and purchased from reputable suppliers. Contractor also agrees to properly install such materials.

In the event a product is considered defective by the Owner, contractor shall use its best efforts to contact the supplier or manufacture and receive a free replacement. Contractor shall then within a reasonable time reinstall that new product without charge.

Contractor did not manufacture such products. Contractor warrants it’s services and workmanship only. Accordingly, contractor cannot warrant or guarantee these products themselves. Contractor will not be liable for latent defects in any product (not observable on reasonable inspection). Owner’s sole remedy for defective products, other than the obligation of Contractor to replace same, is against such third party vendors and their warranties, if any. This limitation still applies and a warranty is not deemed made, even if Contractor has furnished owner with product brochures, literature, or samples. Nor shall Contractor be liable for dangerous products, design defects in products, or defective warnings. However, Contractor shall lend assistance in settling any claim resulting from defects in these products.

HOW TO OBTAIN SERVICE

If a problem develops during the warranty period, Owner shall notify Contractor in **writing** of the specific problem. Owner shall give such notice promptly after first discovering the condition. Contractor will begin performing the obligations under this warranty within a reasonable time of receipt of such a request and will diligently pursue these obligations.

Repair work will be done during Contractors normal working hours, except where delay will cause additional damage. Owner also agrees to provide the presence (during the work) of a responsible adult with the authority to approve the repair and sign an acceptance of repair on completion.

There shall be no charge for the costs and expenses of examination or inspection by the Contractor, whether not a defect is found or later repaired or replaced. The work will be done either by Contractor=s crew or whatever competent workmen or subcontractors are designated by Contractor.

Contractor has sole discretion as between repair or replacement. All efforts shall be made for a reasonable match, and to repair or replace in the event the original item is no longer available.

REMEDIES

With respect to any claim asserted by Owner, it is understood there is no right to recover or request compensation for: incidental, indirect, special, consequential, secondary, or punitive damages; loss of use; diminution in value; rental costs; moving costs; delay in occupancy; construction, mortgage, loan, or line of credit interest charges; mortgage interest rate increases; lost profits or income; medical costs; damages for mental distress, aggravation, personal injury; or pain and suffering.

Owner should notify Contractor within a reasonable period after first knowledge of a problem, not to exceed 60 days. To be covered, the physical signs of the problem must be observable and have started to cause damage before the one-year period expires.

WHAT IS NOT COVERED

This limited warranty does not cover the following items:

1. Damage or defects caused by the failure to maintain any item or keep it in good working order.
2. Damage resulting from fire, freezing, storms, electrical malfunction or surge, lightening, earthquake, pest damage, acts of God, or other unforeseen causes or accidents.
3. Damage from alterations, misuse, or abuse by any person; ordinary wear and tear; or problems caused by lack of maintenance.
4. Damage resulting from your failure to observe any operation instructions furnished at the time of installation.
5. Any item furnished, installed, modified, altered, or repaired by you or any other person other than Contractor.
6. Problems which arise in an attempt to match existing materials. There are limitations inherent in the matching of existing materials such as stucco, drywall, paint, wood, tile, flooring, concrete, and the like. Exact duplication in matching, texture, and color cannot be guaranteed. Variations within industry tolerances will be considered acceptable.

COMPLETE AGREEMENT

This warranty constitutes the entire integrated agreement and understanding of the parties as to any causes of action for losses, expenses, or damages under warranty, workmanship, or construction material/product defect issues, and supersedes as well as preempts any oral statements or representations by Contractor or its agents, before or after signing the contract.

Dated: _____

 (Contractor's signature)

Dated: _____

 (Owner=s signature)

Dated: _____

 (Owner=s signature)

**INSTRUCTIONS FOR
 WARRANTY AGREEMENT SIMPLE**

There is hardly a builder, contractor, or subcontractor in existence who does not stand behind their work. They only question is to what extent. The same contractor who would have no problem taking care of a reasonable punch list will bristle at the homeowner who calls him or her back over

and over again or for minor items that are well within industry standards. There is, therefore, nothing wrong with limiting your liability in this regard.

Please review the separate PDF file titled: “Construction Warranties—Law Summary” for full details as to how warranties work on a construction project.

It is certainly theoretically possible for a contractor to exclude all warranties, because, hypothetically, any contract is the subject of negotiation. However, most state laws draw the line with a full waiver. Also, it is impractical to expect that an owner would agree to such a one-sided provision. And, it is common in the trade for the contractor to give a one-year warranty.

For this reason the warranty in this section seeks to reasonably limit damage claims but not deny them entirely. Specifically, it is a one-year warranty for express or implied warranties.

Note that this is a general form only and provisions in each state can vary widely. It is also a good idea to have a local attorney draft special language. Some states allow more or less exclusions and warranties.

The full effectiveness of this warranty is accomplished only if the owner(s) sign it. For this reason, take whatever steps are necessary for them to execute contract. It will then become binding upon both parties and more importantly, to help in the enforcement of its provisions if you end up in court.

This agreement comes in both PDF and Word format (use margins of: Top—18 pt; Bottom—22; Left—58; Right—58). If there is no need to make any changes and if the owner finds the provisions acceptable, you would use the PDF format. If you want to make your own version (you certainly can do so, including after consultation with an attorney), want custom changes after negotiation, or the owner wants to add or delete certain clauses, you can edit the Word document.

This warranty agreement is a simplified or stripped down version of the longer warranty. Attempt to get the owner to sign the longer version first, because of its many protective provisions. If this fails, use this agreement which has less exclusions.