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WARRANTIES

When you buy something, you expect it will work. You also expect it will last for some period of time. A warranty is the seller's legal promise or guarantee about the quality of the goods or services, and it allows you to take some kind of action if the purchase fails to work the way you were promised. Most new products today are covered by a warranty. There are two kinds of warranties: implied (or statutory) and express (or contractual).

What is an implied warranty?

An implied warranty is one required by law. Almost every purchase you make from a merchant (but not a private individual) is covered by an implied warranty. This means that if you buy something from a merchant, you can assume it has certain warranties. These warranties are implied because they don't have to be spoken or written down by anyone. However, as you will see, you can give up (or waive) your implied warranties. There are two important implied warranties. One is the warranty of merchantability. The other is the warranty of fitness for a purpose.

What is the warranty of merchantability?

This means the seller promises the product will do what it is supposed to do and there is no serious defect. For example, a car will run, or a toaster will toast. The warranty applies to used goods as well as new goods. It means the goods are fit to be sold, and are fit for the usual purpose for which such goods are sold. The goods must be as described on the package or label. It also means the goods are of fair or average quality and will work as expected depending on its age and condition.

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This warranty exists whether or not the seller says it or puts it in writing, unless you give up this warranty. There is no set length of time for how long this warranty lasts. However, it can't last longer than four years.

What is the warranty of fitness for a purpose?

This applies when you buy a product on the seller's advice it is suitable for a specific use. For example, a seller who suggests you buy a certain sleeping bag for zero degree weather creates an implied warranty that the sleeping bag will keep you warm at zero degrees. If the seller knows how you want to use the product, and helps you pick it out, then there is an implied warranty that the product can be used for that purpose and will work the way you want it to.

If you do rely on the seller's knowledge, this warranty exists whether or not the seller puts it in writing. There is no set length of time for how long this warranty lasts. However, it can't last longer than four years.

Can I give up implied warranties?

You can give up your implied warranties. If a seller wants you to give up your implied warranties, the seller must clearly say so in writing. This writing must be conspicuous. This means it must readily attract notice. In this case, the product is sold "as is." An "as is - no warranty" sale means exactly what it says. You accept the product in the condition in which it exists at the time of sale. The seller has no duty to fix the product or to take it back after the sale. This is true even if the product breaks down right after the sale is complete. An "as is - no warranty" sale is "buyer beware."

It is possible for you to give up your implied warranty without signing anything, if:

- The product is abused or misused, or is not properly maintained, or
- The product wears out over time under normal use, or
- The instructions are not followed.

What if I do not give up implied warranties?

If you don't give up implied warranties, you get the implied warranty of merchantability. You also may get the implied warranty of fitness for a purpose if you relied on the seller's knowledge.

What is an express warranty?

An express warranty is a specific promise made to you by the seller. You are not automatically entitled to an express warranty. Most express warranties come directly from the manufacturer or are included in the sales contract you sign with the seller. However, an express warranty can also be found in an advertisement (for example, "all coats 100% wool"), or on a sign in a store (for example, "satisfaction guaranteed"). An express warranty can also be an oral description of

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a product that makes you decide to buy it (for example, “gets out rust stains”). If the seller gives you any written warranty, you also get the implied warranties of fitness and merchantability automatically.

Only written warranties are covered by the federal warranty law, called the Magnuson-Moss Warranty Act. This Act requires manufacturers and sellers to give consumers detailed information about warranty coverage. The Act does not apply to oral warranties, warranties on services, or warranties on products sold for resale or commercial use. It does apply to products that cost \$10 or more and are purchased for personal use. There are three basic requirements in the Act:

- The warranty must clearly show if it is “full” or “limited,”
- The warranty information must be in a single document that is clear and easy to read, and
- A copy of the warranty must be available for you to read before you decide to buy.

When you get a warranty in writing, you should make sure you understand what it means. If a warranty does not state exactly what the seller will and will not do when the product fails to work, the warranty may not be following the law. Warranties must describe:

- What parts and repair problems the warranty does and does not cover.
- Any expenses not covered by the warranty.
- When warranty coverage begins and how long the warranty lasts. The warranty must also tell you if certain events, (such as product abuse or selling it to someone else), will end the warranty.
- What the company will do to correct the problems, and what it will not do.
- How you can get the warranty service, including the phone numbers and addresses of who you need to contact.
- How the state of Virginia’s laws affect your warranty rights.

A warranty may also tell you:

- If the warranty pays for any damage the product caused, or your time and expense in getting the damage repaired (these are called "consequential damages."),
- If there are conditions or limits on the warranty,
- What you have to do to get repairs, and
- How you must resolve any disputes over the warranty.

You should carefully compare the warranties on products before making a final decision to buy.

Can an express warranty be spoken or oral?

An oral promise can be an express warranty. You have a legal right to get what the seller promises, but you should beware. If there is an oral warranty and a written warranty, the oral warranty doesn't count. You get only the written warranty. If you are given an oral warranty, and

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also are given a writing that says there are no warranties, again the oral warranty doesn't count. Due to this, you should insist that any warranty be put in writing. If the seller won't do this, then the warranty probably is no good.

What type of express warranties are there?

There are two types of express warranties. A full warranty means a faulty product will be fixed or replaced free. A full warranty does not have to cover the whole product. It may only cover part of the product, such as the picture tube of a TV. A full warranty means these things:

- Implied warranties last as long as the written warranty,
- Warranty service is free, including costs to return, remove, or reinstall the product,
- Warranty service is provided to anyone who owns the product during the warranty period,
- If the product can't be fixed after a reasonable number of times, you have the right to a replacement or refund, and
- You are not required to do anything other than contact the warranty company to receive warranty services.

A limited or partial warranty means you will have to pay something to fix or replace a faulty product. A limited warranty must tell you the following things:

- The portion of the repair costs for parts that the seller will pay.
- The portion of the repair costs for labor that the seller will pay.
- The parts of the product that are covered.
- The time limit for each covered part.
- Whether there is a deductible, and if so, how much.

Sometimes in a product with more than one part, some parts will be under full warranty. Others will be under limited warranty. Like other contracts, you should read warranties carefully. Full warranties are the exception rather than the rule.

What should I do to avoid warranty problems?

To lessen the chance of a problem with your warranty, here are some things you can do:

- Be careful about the person or firm offering the warranty. A warranty is only as good as the company that offers it.
- Read the warranty before you buy. See exactly what protection the warranty gives you.
- Save the sales slip and file it with the warranty.
- Do any maintenance or inspections required by the warranty.
- Use the product according to instructions. Abuse or misuse of the product may cancel your warranty.

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How should I handle a warranty problem?

If you have problems with a product or with getting the promised warranty service, you should read your product instructions and warranty carefully. Don't expect qualities or functions the product wasn't designed to give. Don't expect warranty coverage that wasn't promised.

A warranty doesn't mean you automatically get a replacement or refund if the product is faulty. The company may be allowed to try to fix it first. If you report a defect to the company during the warranty period and the product was not fixed properly, the company must correct the problem even if your warranty has run out.

If the product cannot be repaired then they must replace it. The replacement does not have to be new. It can be a used product that the company was able to repair as long as it works the way it is supposed to. If the company cannot repair or replace the product then they may offer you a different product, or a refund. If the company offers you a different, and more expensive, product they have the right to charge you the extra cost.

Discuss your complaint in person with the seller, and be prepared. Take copies of all the papers you got when you made the purchase. Talk with a sales person or customer service person, explain the problem, and say what action you would like taken. If the sales person or customer service person is not helpful, ask to speak with a supervisor, manager, or higher person in authority, and repeat your complaint.

If you can't reach an agreement, write the manufacturer. Your warranty should list the company's mailing address. Copy your letter and save it. You may want to send your letter by certified mail, return receipt requested. Save the certified mail receipt and the green return receipt.

If the seller and manufacturer refuse to help you, you may want to contact the Better Business Bureau and the Office of Consumer Affairs to file a complaint. You may also be able to sue the seller, but you will first need to talk to an attorney to see if you have a case.

If you have not fully paid for the product or service, keep making your payments. The only time you can reasonably stop making payments is if:

- There are serious (almost life threatening) problems with the product or service,
- You didn't know about the problems or defects when you made the purchase,
- You have given the seller and/or manufacturer a chance to fix the problem, and
- You have not damaged or abused the product.

Even if you meet these requirements, withholding payments is usually a bad idea and can allow the seller or lender to sue you. If you go to court and the judge does not agree that the situation was bad enough for you to stop making payments, then the seller will get a judgment against

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you. A judgment allows a creditor to try to collect all of the money that you may owe, and will hurt your credit score.

What do I do if defects appear after the warranty expires?

If you report a defect to the company during the warranty period and the product was not fixed properly, the company must fix the problem even if your warranty has run out.

If there were no defects or problems during the warranty period, then the manufacturer may offer a free repair after the warranty has expired. Some manufacturers have lists of products that have known defects that aren't severe enough to require a safety recall. The manufacturer may repair those products for free if you report the problem.

Should I purchase an extended warranty?

Extended warranties are a source of big profits for stores, who pocket up to 50% of what you pay. It is not likely that you will have a chance to use the extended warranty. Most name-brand products don't break down during the first few years and if they do, the original warranty usually covers them. These types of products often last well beyond the length of an extended warranty.

What is the difference between a warranty and a service contract?

A service contract is an optional agreement that you can buy with a product. This provides even more protection beyond the warranty. The difference between these is that a warranty comes with a product and is included in the price. A service contract, however, is a completely separate agreement from the purchase of the product. The fee for a service contract is separate from the purchase cost of a product and can even be purchased some time after you have already bought the product. The company that sells you the service contract may also be a completely different company than the one that sold you the product warranty.

Unlike warranties, service contracts do not have to be titled "full" or "limited" and they do not have to state the special standard disclosures. They still must be written so you can easily understand, and they must include all of the terms and conditions of the agreement.

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