



## **Roto Frank of America, Inc. Warranty for Window and Door Manufacturers and Authorized Distributors**

**Updated January 2017**

Roto Frank of America products (hereinafter "products" or "product", as the case requires) are warranted against material defects in materials and workmanship for a period of 10\* years from the date of purchase under normal use and service subject to the conditions and limitations set forth herein.

This Limited Warranty is expressly limited to window or door manufacturers and Roto-authorized distributors that purchase the products directly from Roto for use in the ordinary course of business (hereinafter "customer" or "customers", as the case requires) and may not be assigned or transferred. This Limited Warranty does not cover normal wear and tear or discoloration on finishes, any product accidentally damaged or damaged during shipping, damaged by fire or water, tampered with or any product which has been improperly installed, abused, misused, worn out, altered, used for a purpose other than that for which it was intended, or in a manner inconsistent with any instructions regarding use of such product, nor does it cover corrosion related damage.

THIS LIMITED WARRANTY IS EXCLUSIVE. ROTO MAKES NO OTHER WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED OR STATUTORY, WITH RESPECT TO THE PRODUCTS, WHETHER AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT OR ANY OTHER MATTER. No agent, employee or representative of Roto has any authority to bind Roto to any affirmation, representation, or warranty concerning Roto's products or parts, except as stated herein.

Roto's obligation under this Limited Warranty shall be exclusively limited to repairing or replacing any product which Roto finds to be materially defective in its sole judgment and discretion after a good faith investigation into a warranty claim made in accordance with this Limited Warranty. If the product should become materially defective during the warranty period, Roto will, at its option, repair or replace it with a substantially similar product or part. Roto's liability is limited only to the replacement value of the materially defective product, which shall be the customer's exclusive remedy and Roto's sole liability for a warranty claim under this Limited Warranty. This exclusive remedy shall not have failed of its essential purpose (as that term is used in the Uniform Commercial Code) as long as Roto remains willing or able to repair or replace the defective product within a commercially reasonable time after being notified of customer's warranty claim. Roto may, at its option, replace a materially defective product that has been discontinued with a substantially similar product. THIS LIMITED WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED OR STATUTORY. ROTO SHALL NOT, IN ANY EVENT, BE LIABLE TO A CUSTOMER FOR CONSEQUENTIAL, SPECIAL, EXEMPLARY, INCIDENTAL OR PUNITIVE DAMAGES OF ANY KIND, OR LOSS OF ANTICIPATED BENEFITS OR PROFITS WHETHER IN CONTRACT OR TORT FOR BREACH OF WARRANTY, NEGLIGENCE, ON THE BASIS OF STRICT LIABILITY OR FOR ANY OTHER REASON, RESULTING FROM THE PURCHASE OR USE OF ANY PRODUCT OR ARISING FROM THE BREACH OF THIS LIMITED WARRANTY EVEN IF ROTO KNEW OF THE LIKELIHOOD OF SUCH DAMAGES. Roto is not responsible for the cost of replacement of assembled parts, the cost of labor which may be required for the replacement of said product, the cost of shipping a replacement or defective product to or from Roto's warehouse or such other location where Roto directs customer to ship products in connection with a warranty claim or any interruptions in business occasioned by an inability to use any of the product for any reason whatsoever. Any oral or written description of the product is for the sole purpose of identifying the product and shall not be construed as an express warranty.

In order to make a warranty claim under this Limited Warranty, a customer shall notify Roto of any material defect warranted hereunder and ship the defective product to Roto's warehouse in Chester, Connecticut or such other location directed by Roto. Within a commercially reasonable time of receiving such products, Roto shall inspect such products and determine whether such products are eligible to be repaired or replaced under this Limited Warranty. If such products are eligible for repair or replacement under this Limited Warranty, Roto shall proceed to repair or



replace such warranted product(s) within a commercially reasonable time and ship such repaired or replaced product(s) to customer, in accordance with customer's shipping instructions. Any products that Roto determines are not eligible to be repaired or replaced under this Limited Warranty shall be promptly returned to customer or disposed of, at customer's option.

This Limited Warranty is expressly and exclusively for the benefit of Roto's customers. This Limited Warranty is not assignable or transferable to any third party, including any third-party purchaser of the products from a customer or any end user of a window or door manufacturer's finished product(s) such as a consumer purchasing such window or door manufacturer's finished product(s) in a consumer transaction. Notwithstanding the foregoing, if any of the products are "consumer products" as defined under the Magnuson-Moss Warranty Act ("MMWA"), applicable state law or comparable consumer protection laws applicable to the sale of the products to consumers in a jurisdiction other than in the United States of America and you are a consumer the following statements apply to you: (a) some jurisdictions do not allow the prohibition of assignment or transfer of this Limited Warranty to a consumer, so the herein contained limitations on assignment and transfer of this Warranty may not apply to you; (b) some jurisdictions do not allow limitations on implied warranties or on how long an implied warranty lasts, so the herein contained limitations with respect to implied warranties may not apply to you, **HOWEVER, IF ANY IMPLIED WARRANTY IS REQUIRED UNDER THE MMWA, AN APPLICABLE STATE LAW OR COMPARABLE CONSUMER PROTECTION LAW, IT IS LIMITED TO 30 DAYS DURATION OF THE LIMITED WARRANTY PROVIDED HEREIN;** (c) some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so the herein contained limitation or exclusion may not apply to you; and (d) this warranty gives Roto's customers specific legal rights and you may also have rights which vary from jurisdiction to jurisdiction.

If any provision of this Limited Warranty is held to be invalid, illegal, or unenforceable under any statute, regulation, ordinance, executive order, or other applicable rule of law, that provision will be deemed severed to the extent necessary to comply with such statute, regulation, ordinance, order, or rule. In the event such provision is deemed severed, Roto and its customer or other party having rights under this Limited Warranty by law will negotiate in good faith to arrive at an alternative arrangement approximating the original intentions of this Limited Warranty. The remaining terms and conditions of this Limited Warranty will remain in effect.

\*Roto's European Aluminum product is warranted against material defects in materials and workmanship for a period of 2 (two) years from the date of purchase under normal use and service subject to the conditions and limitations set forth above.

## Terms and Conditions of Sale

1. *Place of Delivery.* All shipments are F.O.B. Roto Distribution Center.
2. *Shipping Dates are Approximate.* Lead times and estimated Shipping Dates (hereinafter "Shipping Dates") are approximate and are based upon prompt receipt of all necessary information. Roto will use commercially reasonable efforts to deliver products on or before the estimated Shipping Date. Roto will use commercially reasonable efforts to notify Purchaser if the estimated Shipping Date(s) cannot be honored.
3. *Force Majeure.* Roto will not be responsible for any delay in or impairment of performance or non-performance occasioned by any cause beyond its reasonable control, including, but not limited to, strikes, lockouts or labor disruption, delays of vendors or carriers, fire, wars, riots or embargo delays, government or regulatory actions, shortages of transportation equipment, fuel, labor or materials, severe weather conditions, or otherwise. Any such delays shall affect a corresponding extension of Roto's performance dates.
4. *Return of Goods.* Purchaser shall not return products except with Roto's advance written authorization. All authorized returns are subject to a restocking charge of 20% of the original purchase price, plus any other charges incurred to restore the product to a saleable condition. Product considered for return must be standard product and must have been purchased within the 12-month period prior to the date of requested return. Under no circumstances will Roto accept the return of any discontinued product or any product not returned in its original carton with all parts and in full carton quantities. Freight on all returned product must be prepaid to Roto's distribution center and must be received within 30 days of the date that Roto authorizes return of the products.
5. *Risk of Loss.* Delivery of products to a common carrier shall constitute delivery to Purchaser and risk of loss shall pass to Purchaser at the time of such delivery to such common carrier. Claims for damaged or lost products in transit shall be filed by Purchaser directly with the common carrier. Estimated Shipping Dates are computed from time of entry of order to delivery of products to a common carrier at Roto's distribution center. Roto shall not be liable for damages of any kind, including but not limited to incidental, consequential or expectation damages or any other direct or indirect damages resulting from delays in shipping, including but not limited to loss of use of the products or lost profits. Section 2-510 of the Uniform Commercial Code is superseded by the terms set forth herein and shall have no effect. All non-conforming products must be reported by Purchaser to Roto within seven (7) days of invoice date. After such 7-day period, Purchaser shall be deemed to have accepted the products notwithstanding any non-conformity.
6. *Solvency of Purchaser.* Purchaser represents by accepting this order that it is not insolvent as that term is defined in §1- 201(23) of the Uniform Commercial Code. In the event that Purchaser becomes insolvent before delivery of the products, it will immediately notify Roto. The failure to notify Roto shall be construed as a reaffirmation of Purchaser's solvency at the time of delivery.
7. *Remedies* NOTWITHSTANDING ANYTHING CONTAINED HEREIN TO THE CONTRARY, IN NO EVENT WILL ROTO BE LIABLE FOR ANY PUNITIVE, CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OF ANY KIND WHATSOEVER IN CONNECTION WITH THE SALE OR DELIVERY OF PRODUCTS OR ANY OTHER ACTION OR INACTION ARISING OUT OF THESE TERMS AND CONDITIONS. IN NO EVENT WILL ROTO HAVE ANY LIABILITY IN CONNECTION WITH ANY PRODUCT SOLD HEREUNDER IN EXCESS OF THE PURCHASE PRICE FOR SUCH PRODUCT.
8. *Waiver.* No claim or right arising out of a breach of this terms and conditions can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party.



9. *Taxes.* All applicable sales, use, excise or other taxes levied by federal, state or local authorities will be paid by the Purchaser unless otherwise agreed in writing.
10. *Payment Terms, Service Charges and Costs.* Invoices will be dated as of the date of the shipment, and unless otherwise agreed to in writing, are payable 30 days from invoice date. Late charges at the rate of 1-1/2% per month may be charged on past due accounts. We reserve the right to withhold shipment of new products on all past due accounts and with respect to accounts which are not creditworthy as determined by Roto, in Roto's sole discretion. In the event that Roto shall bring any action upon any default in performance or observance of any covenant herein, Roto shall be entitled to recover its costs and expenses, including reasonable attorneys' fees in addition to any and all other remedies available to it.
11. *Time for Bringing Action.* Any and all actions brought by Purchaser for a breach of or otherwise in connection with these terms and conditions must be commenced within one (1) year after the cause of action has occurred.
12. *Terms and Conditions are a Contract.* These terms and conditions constitute a contract between Purchaser and Roto, notwithstanding that neither party signs these terms and conditions. Purchaser has accepted these terms and conditions by placing an order with Roto for products.