

LIFETIME COMMERCIAL WARRANTY

To receive the benefits of this Lifetime Commercial Warranty (this “*Warranty*”), you must, no later than thirty (30) days after the Installation Date, complete and submit a warranty registration form at <https://form.jotform.com/210206985154151>. Such registration is a condition precedent to coverage under this Warranty, and the failure to do so will cause the loss of such benefits, but not the exclusions and limitations in this Warranty.

1. The Lifetime Coverage Period: Subject to the terms and conditions of this Warranty, Penntek Industrial Coatings, LLC (“*Penntek*”) warrants to the Owner(s) of the industrial or commercial premises where a Penntek Coating System (the “*Penntek System*”) is installed (the “*Location*”) that, beginning on the date of completion of such installation (the “*Installation Date*”) and continuing until the sooner to occur of (a) the life of the period after the Installation Date and before any ownership interest(s) in the Location is or are transferred other than as expressly permitted by this Warranty or (b) the end of:

- The lifetime of the Owner(s) (the “*Lifetime Coverage Period*”), the Penntek Polyaspartic Topcoats (individually and collectively, the “*Penntek Topcoats*”), if and as used as part of in the Penntek System, will not discolor due to ultraviolet (UV) exposure from the sun, except for typical changes, oxidation or weathering of the Penntek Topcoats due to the passage of time under normal atmospheric conditions and
- The five (5) year period from the Installation Date (the “*General Coverage Period*”), the Penntek System will be free from defects that result in peeling, blistering, chipping or other forms of delamination beyond normal wear and tear (collectively, “*Delamination Damage*”).

2. Parameters: During the Lifetime Coverage Period and the General Coverage Period (as relevant, individually, the “*Applicable Coverage Period*”), this Warranty covers the Penntek Topcoats and the Penntek System when installed and is subject to the exclusions and limitations described in this Warranty, including without limitation, that, except as expressly provided herein, this Warranty cannot be transferred or assigned.

3. Certain Definitions: As used in this Warranty: (a) the “*Owner(s)*” (i) means or refers to the owner(s) in fee simple of the Location on the Installation Date, unless the entire ownership of the Location is transferred no later than twelve (12) months after the Installation Date, then the first immediately subsequent owner(s) in fee simple of the Location become(s) the Owner(s) and (ii) may consist of (A) one natural person, (B) more than one natural person, (C) a combination of one or more natural persons and one or more corporations, limited liability companies, partnerships, trusts or anything else so designated by Penntek (in the singular, “*entity*” and in the plural, “*entities*”) or (D) one or more entities; (b) the “*lifetime of the Owner(s)*” means with respect to the situation described in: (i) Section 3(a)(ii)(A) of this Warranty, the lifetime of that natural person; (ii) Section 3(a)(ii)(B) hereof, the earliest lifetime of a natural person who has an ownership interest in the Location or (iii) Sections 3(a)(ii)(C) or 3(a)(ii)(D) hereof, the sooner to occur of (A) the dissolution (or substantive equivalent as determined by Penntek) of the entity or any entity included as the Owner(s) or (2) the earliest lifetime of a natural person who has a direct or indirect ownership interest in the Owner(s) or is a direct or indirect beneficiary of a trust that is one of the Owner(s); and (c) “*Penntek Coating System*” or the “*System*” means the combination of chemical and other components (which may include without limitation concrete preparation and repair products, basecoat, chips and topcoats) expressly specified, authorized or approved in writing by or sourced from Penntek (and approved by Penntek for such application) (individually and collectively, “*Authorized Components*”) (i) as installed or used in such installation at the Location by a dealer expressly authorized by Penntek for such purpose (“*Authorized Installing Penntek Dealer*” or “*Authorized Penntek Installer*”) or (ii), in the case of maintenance only, as performed by an Authorized Installing Penntek Dealer or any other(s), provided that such installation or maintenance conforms to the instructions or direction expressly provided or expressly authorized by Penntek (as well as other good preparation, installation and maintenance practices).

4. Exclusions: Each of the following is expressly excluded from this Warranty:

- Damage (including without limitation Delamination Damage) caused by or resulting from in whole or in part any or all of the following: (a) physical abuse to or misuse of the Penntek System (such as, but not limited to, (i) excessive weight or wear for typical industrial or commercial use or (ii) dragging or dropping one or more heavy objects); (b) accidents, fire or acts of God (including without limitation floods, tornadoes, hurricanes, earthquakes or other weather-related events) causing such things as, but not limited to, discoloration, staining, fading, excessive wear, scratching, marring, dents, gouges, tears, scuffs, cuts or similar results; (c) atypical industrial or commercial use (such as, but not limited to, application in excessive moisture environments (including without limitation underwater or standing water)); (d) cracks; (e) modifications or alterations of either chemical or physical characteristics (including, but not limited to, substituting one or more components not expressly approved in writing by or not sourced from Penntek (and approved by Penntek for such application) (individually and collectively, “*Unauthorized Components*”) for any or all Authorized Components or mixing Unauthorized Components with Authorized Components); (f) exposure to corrosive materials (including but not limited to brake fluid and battery acid); (g) repair or service of the Penntek System not performed by an Authorized Penntek Installer; (h) temperature extremes (including without limitation heat beyond original intended use); or (i) shifting or settling of the surface receiving the basecoat (“*substrate*”), base, subbase, subgrade or foundation;

- Damage caused by (a) alkali, hydrostatic pressure, efflorescence, mold, mildew or excessive moisture in concrete or its base, subbase or subgrade or (b) defective or compromised concrete or its base, subbase or subgrade or other deterioration thereof (including without limitation exposed concrete reinforcement causing rust);
- Discoloration, fading, staining or other adverse effects caused by, but not limited to, dyes, inks, contact with synthetic or rubber products (such as, but not limited to (a) soft tires, (b) tire shine, scuffs or burnout or (c) floor mats that mark), rust (whether from vehicles or otherwise), misuse of maintenance products or use of maintenance products not expressly specified, authorized or approved in writing by or sourced from PennTek (and approved by PennTek for such application), other improper maintenance, contaminants, spills and tracked-in matter, including, but not limited to, asphalt, resins and driveway sealers;
- Defects caused by any or all improper (a) preparation product or coating choice, (b) substrate, base, subbase, subgrade or other surface choice or preparation and (c) installation or other application, including without limitation (i) the failure to install one or more coatings of appropriate type, depth or thickness (including, but limited to, the failure to install two (2) layers of the PennTek Topcoats) or (ii) the substrate not having any or all of the following: (A) a profile of twenty (20) to thirty (30) grit, (B) a neutral pH of seven (7) and (C) a moisture vapor transmission that exceeds five and one-half percent (5.5%) using Tramex CME 4 moisture meter tests (individually and collectively, such improper conduct is **"Installation Error"**);
- Differences in appearance between the PennTek System as (a) originally installed or as repaired and (b) the area(s) subsequently repaired; and
- Use of PennTek substrate preparation or substrate repair products without the more or less contemporaneous application of the other parts of the PennTek System.

4. Exclusive Remedy: For the PennTek Topcoats or the PennTek System determined by PennTek to be defective or to have failed under the conditions covered by this Warranty within the Applicable Coverage Period, PennTek will provide free of charge to an Authorized PennTek Installer designated by PennTek the Authorized Components sold by PennTek required to repair or replace the defective or failed part(s) of the PennTek System involved. Labor costs for such repair or replacement are not covered, unless (a) such defective or failed part(s) is or are subject to a recall ordered by PennTek and (b) PennTek determines that Installation Error played no part in such defect or failure. As determined by PennTek, such Authorized Components provided will be of (i) substantially equal or (ii) greater value and quality than what was used originally. The remedy described in this Warranty is the sole and exclusive remedy for claims under this Warranty.

5. LIMITATIONS: THIS WARRANTY IS IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, OBLIGATIONS OR LIABILITIES, INCLUDING, BUT NOT LIMITED TO, EACH IMPLIED WARRANTY OF MERCHANTABILITY OR IMPLIED WARRANTY OF FITNESS. ANY WARRANTY THAT IS FOUND TO ARISE BY WAY OF FEDERAL OR STATE LAW IS LIMITED TO AND DOES NOT EXTEND BEYOND THE SCOPE AND DURATION OF COVERAGE AS SET FORTH IN THIS WARRANTY. EACH ACTION FOR BREACH OF WARRANTY MUST BE BROUGHT NO LATER THAN TEN (10) DAYS AFTER THE APPLICABLE COVERAGE PERIOD. IN NO CASE SHALL PENNTEK BE LIABLE FOR ANY OR ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES OF ANY KIND FOR BREACH OF THIS OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. THE EXCLUSION OF INCIDENTAL AND CONSEQUENTIAL DAMAGES SHALL BE INDEPENDENT OF ANY FAILURE OF THE ESSENTIAL PURPOSE OF ANY WARRANTY. THIS WARRANTY DOES NOT COVER LOSS OF USE OF ANY OR ALL OF THE AREA WHERE THE PENNTEK SYSTEM WAS APPLIED. No agent, representative or employee of any or all of PennTek and each Authorized PennTek Installer has the authority to alter the terms and conditions of this Warranty.

6. Warranty Claims: In the event that you have a warranty claim, it must be made in writing within thirty (30) days after the basis for such claim has or reasonably should have been detected and no later than ten (10) days after the end of the Applicable Coverage Period. To make a claim, the Owner(s) must complete a warranty form by (a) online submission to Warranty@penntekcoatings.com or (b) paper copy sent to: PennTek Industrial Coatings, LLC, Attn: Warranty Department, 7580 Lakeville Blvd., Lakeville, MN 55044.

7. Legal Remedies: This Warranty, as well as any and all claims or causes of action arising out of or relating to this Warranty (regardless whether in contract or tort or by statute), shall be governed by and interpreted under the substantive and procedural laws of the State of Minnesota without regard to that state's conflicts of laws provisions, except that, to the extent otherwise applicable, the United Nations Convention for the International Sale of Goods does not apply. The written notice of claim and the repair or replacement remedy described in this Warranty must be made or completed prior to initiating any action to seek legal or equitable remedies for breach of this Warranty or any implied warranties. Any action for breach of this Warranty or any implied warranty must be commenced no later than ninety (90) days after the Applicable Coverage Period. Legal disputes relating to this Warranty or an alleged breach of any or all of this Warranty, implied warranties or representations by PennTek of any kind must be litigated at the trial level as a bench trial in state court in Apple Valley, Minnesota or federal court in Minneapolis, Minnesota, **as the Owner(s) and PennTek hereby waive trial by jury.** The right of the Owner(s) to participate as a class member or members in any class action lawsuit brought against PennTek regarding any alleged defect or performance failure regarding all or any part(s) of the PennTek System is expressly waived. Any authorization or performance of repairs, attempt to resolve a complaint or filing of a claim under this Warranty will not (a) constitute a waiver of PennTek's rights or (b) extend (i) the Applicable Coverage Period or (ii) when Owner(s) must commence an action to enforce any breach of warranty or other claim, unless prohibited by state law. The interpretation of this Warranty by PennTek will control.



8. Acceptance of Terms: By registration of this Warranty, other performance or the acceptance of performance under this Warranty, the Owner(s) accept the terms and conditions of this Warranty.

9. Modification: If, in the view of Penntek, applicable law contains or may contain any requirement(s) or other provision(s) that is or are contrary to, in conflict with or missing from any provision(s) or part(s) thereof in this Warranty (collectively, the ***“Identified Provisions”***), Penntek, at any time, may elect by notice from Penntek to the Owner(s) (effective upon receipt thereof or as otherwise designated by Penntek therein) that such requirement(s) or provision(s) be deleted from, substituted for or added to the Identified Provisions to the minimum extent necessary in the opinion of Penntek to address the issue(s).

10. Information: The following is to be completed by the Authorized Penntek Installer on or about the Installation Date:

<u>Information regarding the Owner(s)</u>	<u>Authorized Penntek Installer Information</u>
Name(s): _____	Name: _____
Installation Address: _____	Address: _____
Customer Email Address: _____	_____
Installation Date: _____ Area Coated: _____ Color: _____	
Condition: _____ Air Temp.: _____	
Total Sq. Ft.: _____ Verticals: _____ Stairs: _____	
Mender A: _____ Base A: _____ Top A: _____ Flake Lot: _____	
Mender B: _____ Base B: _____ Top B: _____ Flake Lot: _____	

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