

1 **13-1433. Exclusion of implied warranties.**

2 [Implied warranties do not exist if the seller has excluded them by understandable language
3 which would alert the reasonably prudent buyer that warranties are excluded. Thus, if, in
4 discussing the [goods] [products], the seller tells the buyer that the [goods] [products] are being
5 sold "as is" or "with all faults," there is no implied warranty.]

6 [A supplier may exclude the implied warranty of merchantability, or any particular element
7 of that warranty, by using understandable language which mentions merchantability.]

8 [General language is sufficient to exclude the implied warranty of fitness for particular
9 purpose. For example, the warranty is excluded by a conspicuous statement that: "There are no
10 warranties which extend beyond the description on the face of the document".]

11 [If a buyer of [goods] [products] is given an opportunity to examine the [goods] [products]
12 before agreeing to buy and refuses to examine the [goods] [products], or if [~~he~~ ~~she~~ ~~it~~] the buyer
13 conducts an examination, there is no implied warranty with respect to defects which a reasonable
14 examination should have revealed.]

15 USE NOTES

16 The appropriate bracketed paragraph will be selected depending upon the nature of the
17 warranty claimed by the plaintiff and the type of exclusion relied upon by the defendant. The
18 bracketed first paragraph is applicable to either the implied warranty of merchantability or implied
19 warranty of fitness for a particular purpose. The bracketed second paragraph is applicable only to
20 the exclusion of the implied warranty of merchantability. The bracketed third paragraph is
21 applicable only to the exclusion of the implied warranty of fitness for a particular purpose. The
22 bracketed fourth paragraph is applicable to either the implied warranty of merchantability or
23 implied warranty of fitness for a particular purpose.

1 [As amended, effective November 1, 1991; as amended by Supreme Court Order No. S-1-RCR-
2 2025-00126, effective for all cases pending or filed on or after December 31, 2025.]

3 **Committee commentary.** — This instruction does not cover all circumstances of
4 exclusion of warranties as set forth in NMSA 1978, Section 55-2-316 (1961) [~~NMSA 1978~~]. Thus,
5 disclaimers of express warranties are possible under the Uniform Commercial Code, [~~55-2-316(1)~~
6 ~~NMSA 1978~~]Section 55-2-316(1)[~~NMSA 1978~~], but the committee has not drafted an instruction
7 in accordance with that section. Court and counsel will have to draft an instruction where exclusion
8 of an express warranty is a submissible issue. Similarly, the committee has not provided for an
9 issue regarding exclusion of implied warranties by course of dealing or course of performance or
10 usage of trade. Section 55-2-316(3)(c)[~~NMSA 1978~~].
11 [As amended by Supreme Court Order No. S-1-RCR-2025-00126.]