

**IN THE DISTRICT COURT OF LANCASTER COUNTY,  
NEBRASKA**

**STATE OF NEBRASKA, ex rel.  
MICHAEL T. HILGERS,  
ATTORNEY GENERAL,**

Plaintiff,

v.

**STANGER ENTERPRISES,  
LLC, D/B/A PREMIER POOLS  
AND SPAS**

Defendant.

Case No: CI 23 - \_\_\_\_\_

**COMPLAINT**

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The State of Nebraska, ex rel. Michael T. Hilgers, Nebraska Attorney General, by and through the undersigned attorneys (hereinafter “Attorney General” or “State of Nebraska”), brings this action against Stanger Enterprises, LLC, d/b/a Premier Pools and Spas (“Premier Pools”), to address an ongoing pattern of deceptive, unfair, unconscionable, and unlawful business practices by Premier Pools that has left Nebraskans with unfinished holes in their yards, unsafe construction sites, stalled home projects, and significant financial losses. The State of Nebraska seeks to obtain injunctive relief, the refund of monies paid, civil penalties, license revocations, and other equitable relief to address Premier Pools’ violations of the Consumer Protection Act, Neb. Rev. Stat. § 59-1601 et seq. (“CPA”), the Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301 et seq. (“UDTPA”), and the Consumer Review Fairness Act, 15 U.S.C. § 45b et seq. (“CRFA”).

## INTRODUCTION

1. Nebraska homeowners and contractors have paid large sums of money to Premier Pools only to be left with unfinished holes in their yards, stalled construction projects, hazardous worksites, and shoddy craftsmanship.

2. Premier Pools' scheme goes like this: (1) Premier Pools first requires customers to pay 45% of the total bill before construction begins, (2) Premier Pools then digs a large hole in the customer's yard, (3) after the hole is dug, Premier Pools refuses to continue work until customers pay an additional 50% of the total bill, and (4) once the customer has shelled out 95% of the cost of a finished pool, Premier Pools disappears, makes empty promises to return to finish the job, and evades and ignores refund requests, leaving behind gaping, dangerous pits in Nebraskan backyards.

3. Premier Pools tells consumers that the 50% post-dig payment is required to finish the job. But once Premier Pools takes possession of this second payment, Premier Pools leaves consumers stranded. In fact, some dig sites have sat unworked for so long that weeds have taken over. Pictures over the season of one such worksite follow.

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### Original Hole



**Overgrown Hole**



**Current Hole**



4. As a result of Premier Pools' conduct, many customers and contractors have had no choice but to hire other companies to get

their pool job done, without any refund from Premier Pools. Other customers have been stuck with an incomplete job and dangerous worksite at their home. Pools are expensive, and many consumers understandably report that they need their large sums of money back from Premier Pools before they can afford to fix the job and correct the mess Premier Pools has stranded them with. These business practices are extortive, deceptive, unfair, and plainly unlawful. Neb. Rev. Stat. §§ 59-1602 and 87-302(a).

5. While negative reviews reporting Premier Pools' scheme and unlawful practices can be found online on social media and various business review sites, Premier Pools has unlawfully sought to suppress bad reviews and complaints. Specifically, Premier Pools includes a gag clause in its form agreements that restricts customers' ability to complain and post reviews about their experiences. Restrictive gag clauses are plainly unlawful and constitute unfair trade practices. 15 U.S.C. §§ 45b(c) and 45b(d)(1). As a matter of law, including a restrictive and unlawful gag clause in a form contract is an unconscionable act and practice. Neb. Rev. Stat. § 87-303.01.

6. The Nebraska Attorney General's Office has received numerous complaints regarding Premier Pools' conduct and scheme from swindled customers and contractors who are desperate to get their money back. In at least once complaint, Premier Pools reportedly refused to complete work on a job because the consumer had filed a complaint with the Nebraska Attorney General's Office. This retaliatory behavior is unlawful and constitutes unfair trade practices. Neb. Rev. Stat. § 59-1602. Moreover, this retaliatory behavior is also an unconscionable act. Neb. Rev. Stat. § 87-303.01.

7. The Nebraska Attorney General is responsible for enforcement of the CPA, UDTPA, and other state and federal laws that affect Nebraska consumers, including the CRFA. Neb. Rev. Stat. §§ 59-1608 and 87-303.05; 15 U.S.C. § 45b(i)(2).

8. The Attorney General has cause to believe that Premier

Pools has violated the CPA, UDTPA, and CRFA, and brings this action in the public interest because Premier Pools has deceived, misled, attempted to gag, and caused financial harm to Nebraska consumers.

### **PUBLIC INTEREST**

9. The Attorney General believes this action to be in the public interest of the citizens of the State of Nebraska and brings this lawsuit pursuant to the CPA, UDTPA, CRFA, and his statutory and common law authority, powers, and duties.

### **PARTIES**

10. The State of Nebraska, by and through its Attorney General and on behalf of all of Nebraska's citizens and consumers, is the Plaintiff in this action.

11. The Attorney General of Nebraska is Nebraska's Chief Law Enforcement Officer. The Attorney General is expressly authorized to enforce Nebraska's consumer protection laws, including both the CPA and UDTPA. Neb. Rev. Stat. § 59-1608(1); 87-303.05(1). The United States Congress expressly empowered state attorneys general to enforce the CRFA. 15 U.S.C. § 45b(e).

12. In addition to his express statutory authority, the Attorney General has standing to bring a legal action, in the name of the State when the object of that action is a suit to vindicate the public interest. *See State ex rel. Meyer v. Peters*, 188 Neb. 817, 819-21, 199 N.W.2d 738, 739-41 (1972); *State v. Pacific Express Co.*, 80 Neb. 823, 115 N.W. 619, 620-23 (1908).

13. Stanger Enterprises, LLC is a Nebraska limited liability company with its principal office at 26099 Fort Circle, Valley, NE 68064, and is doing business as "Premier Pools and Spas."

14. Aaron M. Stanger is the listed agent and owner of Stanger Enterprises, LLC. Upon information and belief, Mr. Stanger is

a resident of Douglas County.

### **JURISDICTION AND VENUE**

15. This Court has jurisdiction over the subject matter of this action pursuant to Neb. Rev. Stat. §§ 59-1608 and 87.303.05(1) because Defendants have transacted business within the State of Nebraska at all times relevant to this Complaint.

16. This Court has personal jurisdiction over Premier Pools because (1) Premier Pools is a domestic limited liability company registered under the laws of Nebraska; (2) Premier Pools is physically located in Nebraska; (3) Premier Pools' principal officer, agents, and employees reside in Nebraska; and (4) the conduct and injuries from which the claims in this Complaint arise took place in Nebraska.

17. Venue for this action properly lies in the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 59-1608.01 and 87-303.05(1). Venue is also proper because Premier Pools conducts business in Lancaster County.

### **FACTS**

18. The State of Nebraska re-alleges and expressly incorporates by reference all facts set forth in the preceding paragraphs as though fully set forth here.

19. Premier Pools entices consumers with the promise of building them their "dream pool." It sells itself as a company that has built "thousands of high-quality" pools since 2009. See <https://premierpoolspa.com/>.

SWIMMING POOL CONTRACTOR SINCE 2009

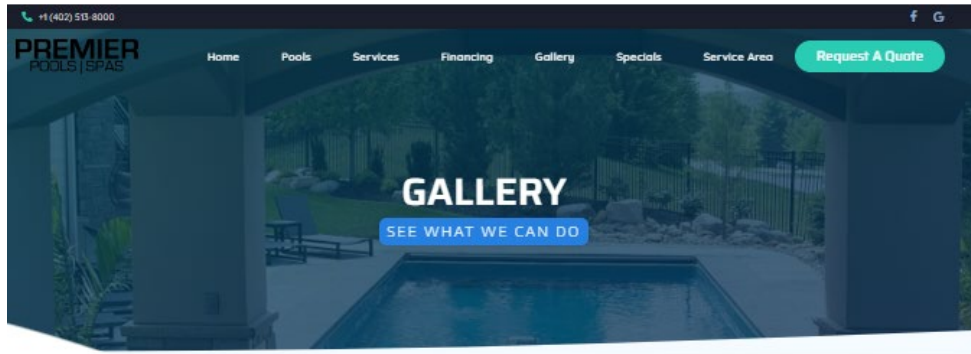
## NEW IN-GROUND POOL INSTALLATION COMPANY IN NEBRASKA & IOWA

Do you have a vision of a backyard retreat that rivals the finest resorts? A restful haven to help you recharge your batteries after a long day? A pool that is as well-built as it is beautiful? Premier Pools and Spas opened back in 2009, we combine old-school ways with new technology to provide you with the best swimming pool possible. From **fiberglass pools to concrete pools**, we pride ourselves on having the highest standards of quality.

Premier Pools and Spas are the best custom pool builders in Nebraska & Iowa. We have built thousands of high-quality pools for over 13+ years. When you're looking for a **pool-building company** that will go above and beyond your expectations, it's hard to beat the team at Pool Builders. We take pride in our craftsmanship, and attention to detail, even down to our friendly customer service.

You can rest assured that your swimming pool will be custom-built to suit all of your needs. We start by sitting down with you and discussing what's important for this project, whether it is style or function; then we get into the size specifications, as well as materials used in construction. Get in touch with our swimming pool contractors today to get started on your dream pool!

20. But despite having built “thousands” of pools for over a decade, its website is barren of examples. The Premier Pools website does include some promotional pictures of finished pools, many of which have third-party watermarks denoting the image belongs to the pool manufacturer. See <https://premierpoolspa.com/>. As for pictures of Premier Pools’ own work, no images resolve on Premier Pools’ website’s “Gallery” page (<https://premierpoolspa.com/gallery/>) nor under its “concrete pool gallery” section (<https://premierpoolspa.com/concrete-pools/>).




21. The photos on Premier Pools' website lead consumers to believe that these photos of finished pools represent the company's level of craftsmanship and work. Examples of photos from third-party manufacturers Thursday Pools and Latham Fiberglass follow.





22. Premier Pools photos are deceptive and misleading. For example, Premier Pools uses the below “Before & After” image on its website besides copy with a call-to-action that is entitled “What We Do.” But the pictured “After” pool is not in fact what Premier Pools did (or does).



**BEFORE**

**AFTER**

**What We Do**

**WE HANDLE POOL CONSTRUCTION, MAINTENANCE, RENOVATIONS & MORE!**

We're not JUST an elite pool contractor! We do it all. If you're searching for a one-stop pool company, then you've come to the right place.

Yes, our custom pools are gorgeous, but we take the same care with your renovations and maintenance. Our goal is to deliver the ultimate in service whether we're designing an elegant pool with a waterfall, or cleaning the skimmer. We leave no stone unturned to ensure that our customer's needs are well met.

[Request A Quote](#) [Call Us \(402\) 513-8000](tel:4025138000)

23. A reverse Google Image Search of the image reveals that this particular “Before & After” photo is from a job completed by a company named Willsha Pools in Westover Hills, Texas—over 600 miles away. Willsha Pools’ website includes other images from the project along with a description of the job, which can be found at the following address: <https://willshapools.com/pool-remodel-in-westover-hills-texas/>.



Free Estimate

First Name\* Last Name\*

Email\*

Phone Number\*

Comments

Get Your Free Estimate

Pool Remodel & Grand Staircase in Westover Hills, Texas

“ Was looking for a pool builder in DFW that was experienced, trustworthy and responsive and Willsha was able to build

24. The pools being built by Premier Pools look nothing like its promotional photos. Instead, consumers are getting concrete pools that—even after a year of being “under construction”—look like this:







25. Regarding its custom pool building services, Premier Pools states the following: “Not only do we use the highest quality materials and modern strategies, but we keep our concrete pools on budget, and on time.” See <https://premierpoolspa.com/concrete-pools/>. Premier Pools is anything but “on time.” The estimates Premier Pools provides lead consumers to believe that pool projects will be completed

in around 120 working days. Neither its 120-day estimate nor Premier Pools' "on time" representation are accurate. In fact, customers cite project delays that extend beyond a year.

26. Given Premier Pools' false promises, deceptive photos and representations, and low-quality of service being delivered, it's no wonder consumers are complaining. However, Premier Pools has also sought to suppress negative public feedback and complaints.

27. In the regular course of selling pools and pool services, Premier Pools offers form contracts to prospective customers that contain a gag clause. Premier Pools' form gag clause states the following:

b. Prior to Client posting or engaging in any social media review or seeking assistance from the Better Business Bureau, Company shall be notified of intent and given the opportunity to remedy any situation. If the situation can not [sic] be mutually resolved or a review posted or the BBB contacted without Company notification, this agreement will be terminated by notice of Company.

Attached as Exhibit A is an exemplar of Premier Pools' form contract (with purchaser's personal information redacted) that contains this gag clause.

28. Despite the gag clause, consumers have made their complaints known. For example, Premier Pools' Better Business Bureau page has a total of three customer reviews from 2023. All three reviews on give the company one-star. Screenshot of those reviews follow.



Angela F



05/19/2023

I have been working with Premier for 19 months. This company is nothing short of a ponzi scheme. collecting 95% of the money before they will dig. I paid my initial deposit in August 2021 of 125K, with an additional payment of 82k on March 15, 2022 for them to break ground. They did not shoot the concrete for the pool until October 2022. Fast forward to May 2023 I still dont have a pool and no end in sight. I wish I could share my pictures of their horrific work.



Monica P



09/15/2023

Worst company ever. Once you pay the stop communicating. We have had a hole in our yard with standing water and no work. Multiple visits and fines from the city. Not to mention what our neighbors have to see. Truly just take you money and do nothing. I would advise everyone to stay away from this company. We have a lien on our house because they could not pay contractors. Absolutely the worst pool company in Omaha. Nothing but false promises.



Kyle M.



09/15/2023

DO NOT DO BUSINESS WITH THESE PEOPLE ROB PETER TO PAY PAUL & can't even pay Paul Project Started Early 7-26-22 Aaron the Owner Collected 30% Down. He then demanded another 30% immediately before stepping foot on the property. In September 2022 a hole was dug and they demander FULL payment. which was made that week. NEVER SAW OR HEARD FROM HIM AGAIN. Number blocked Voicemail Full, does not return calls or texts. By October i learned i had a Lien on my property. They never paid the contractor that dug the hole. I contacted that company that filed the lien and they said it was because Premier Pools and spas aka Stanger Enterprises refuses to pay them. Calling their office, they eventually assigned Forman to field calls but in the last year i have had a hand full of them and some of them even laugh when you make comments on the poor business aspect of their business. This year got as far as a plumber coming to do my inside work and oh boy what a disaster. They scheduled. 2 weeks out and no showed. Called to find out why and it was because Premier Towed them a lot of money. I rescheduled and the foreman agreed they would be paid in time for the reschedule. FALSE. I was stood up again. The foreman then asked if I could find a plumber for them as they don't have any, they are in good standing with.... OMG . I found them one and wow that turned into a disaster. They were asking the plumber to basically pull the permit and they work under it and didn't want to pay. I'm not a plumber or know exactly what was discussed but i was told it was illegal and that i need to run from this company from the plumber. Next is the City. With a torn-out fence, and yard, and a mountain of dirt collecting weeds alongside of a mud hole collecting water for a year you can image the city visits and fines backing up. No work has been done in a year. HOW THEY ARE A BUSINESS I WILL EVER UNDERSTAND RUN RUN RUN FAR AWAY

29. Premier Pools not only offered a form contract and entered contracts with gag clauses—both the offering and entering of

which are plainly unlawful—but Premier Pools also sought to enforce a gag on customers complaining to the Attorney General. Specifically, Premier Pools refused to continue working on a customer’s pool based on the fact that the consumer had filed a complaint with our office. When the customer reached out about the pool project, an agent of Premier Pools told that consumer the following: “As I stated you sent a complaint to the Attorney General and we cannot continue work until the issue is resolved.” When that consumer asked Premier Pools to finish the job, Premier Pools’ agent responded with the following: “I am waiting office to give the okay to schedule as last week they received a complaint you file [sic] with the Attorney General.”

30. As a result of doing business with Premier Pools, consumers have lost sums in the five- to six- figures. The contracted cost of the pool projects reported to the Attorney General ranged \$80,000 to \$140,000. Given that its scheme involves extracting a 95% payment, Premier Pools has repeatedly taken sums between \$76,000 to \$133,000 from consumers based on deceptive representations and without the intent to deliver on its promises. For example, on numerous occasions, Premier falsely represented that it needed the second payment—estimated between \$40,000 to \$70,000—to finish the job it started.

31. As described above, Premier Pools requires consumers to make payment installments, typically with 45% of the payment to be paid upon signing the contract (“Signing Installment”), 50% due upon excavation of the pool (“Excavation Installment”), and 5% due when the pool is filled with water.

32. Consumers consistently followed this payment procedure, making payments to Premier Pools, with the expectation that after 95% of the pool project cost had been paid, necessary materials would be purchased and pool excavation and construction would begin.

33. The work required by Premier Pools under the contracts required that Premier Pools use the Signing Installment for initial

expenses of materials and pool design needed to commence construction of the pool. See Exhibit A (the “Contract Amount” section of exemplar contract).

34. However, in at least one instance, Premier Pools accepted the Signing Installment but failed to order any materials or equipment necessary to perform their contracted obligations.

35. The work required by Premier Pools under the contracts also required the plans created by Premier Pools and approved by the consumer to obtain regulatory approval before the commencement of any work on the pool.

36. However, in at least one instance, Premier Pools accepted the Signing Installment and Excavation Installment but failed to submit the plans for regulatory approval or undertake any other actions to obtain necessary regulatory approval.

37. In some instances, after receiving both the Signing Installment and the Excavation Installment, Premier Pools would show up at the pool sites and perform little to no work, often leaving behind equipment and a gaping hole in the ground.

38. On many occasions, following excavation and payment of the Excavation Installment, consumers did not witness any substantial progress on their pools for months.

39. The pool construction sites were left in unsafe conditions, resulting in damage to fences, decks, and concrete patios. Dirt piles remained on the sites for extended periods, sometimes six months or longer. Rebar protruded from the ground, and stagnant water accumulated in unfinished pools, posing safety concerns for the consumers and their families, neighbors, and pets.

40. Consumers attempted to contact Premier Pools through various means such as text messages, emails, and phone calls. These attempts were frequently ignored or evaded.



41. In the rare event when consumer complaints were answered, Premier Pools made promises about completing the construction. In these communications, Premier Pools often shifted blame onto subcontractors, weather conditions, or alleged payment issues.

42. In one instance, a subcontractor placed a lien on a consumer's residence because the subcontractor had not been paid by Premier Pools. The consumer reached out to Premier Pools repeatedly to get the lien addressed. The lien remained for approximately four months before eventually being removed.

43. On at least five occasions, Premier Pools accepted nearly full payment from consumers and failed to complete the pool.

44. On at least three occasions, Premier Pools accepted nearly full payment from consumers, but completed pools that were unsafe and/or unusable.

45. Several consumers incurred additional financial expenses to hire another company to complete the pools or rectify Premier Pools' unacceptable work.

46. Premier Pools has collected large sums of money from Nebraska consumers using business practices that are unlawful. These consumers deserve their money back. They deserve to live in homes without dangerous and ugly gaping holes in their yards. They deserve to get the pools and pool services they have paid for.

47. Premier Pools' scheme must be addressed. Its pattern of deceit and misleading consumers, of unconscionable acts and practices, and unlawful activities warrants relief that makes consumers whole again and prevents this from ever happening again.

**COUNTS I THROUGH VII:  
VIOLATIONS OF THE CONSUMER PROTECTION ACT  
DECEPTIVENESS  
(Neb. Rev. Stat. § 59-1602 et seq.)**

48. The State of Nebraska re-alleges the facts above and incorporates them herein by reference.

49. Premier Pools is a “person” within the meaning of the CPA, Neb. Rev. Stat. § 59-1601(1).

50. Premier Pools conducts “trade and commerce” within the meaning of the CPA, Neb. Rev. Stat. § 59-1601(2).

51. The CPA, Neb. Rev. Stat. § 59-1602, prohibits “...deceptive acts or practices in the conduct of any trade or commerce.”

52. An act or practice is deceptive if it possesses the tendency or capacity to mislead or creates the likelihood of deception.

53. Premier Pools engaged in deceptive acts or practices in violation of the CPA, Neb. Rev. Stat. § 59-1602, by, without limitation:

- a. Passing off the pool and pool services of another as its own.
- b. Representing expressly or by implication, that its pools and pools services included certain characteristics, or benefits that they did not have.
- c. Representing expressly or by implication, that its pools and pools services are properly licensed and permitted or have approval that they do not have.
- d. Representing expressly or by implication, that its pools and pools services are of a particular standard, or quality they are not.
- e. Advertising goods or services with the intent not to sell them as advertised.

- f. Using a scheme to defraud consumers that involved knowingly false or fraudulent pretenses, representations, or promises made in order to receive the Excavation Installment.
- g. Using or employing deception, fraud, false pretense, false promise, misrepresentation, unfair practice, or concealment, suppression, or omission of any material fact in connection with its pool and pool services.

54. Premier Pools' actions constitute deceptive acts or practices in the conduct of any trade or commerce in violation of Neb. Rev. Stat. § 59-1602. Each and every advertisement, failure to disclose information, misrepresentation, deceptive representation, and fraudulent representation constitutes a separate and independent violation of the Consumer Protection Act. Neb. Rev. Stat. § 59-1602.

**COUNTS VIII THROUGH X:  
VIOLATIONS OF THE CONSUMER PROTECTION ACT,  
UNFAIRNESS  
(Neb. Rev. Stat. § 59-1602 et seq.)**

55. The State of Nebraska re-alleges the facts above and incorporates them herein by reference.

56. Premier Pools is a "person" within the meaning of the CPA, Neb. Rev. Stat. § 59-1601(1).

57. Premier Pools conducts "trade and commerce" within the meaning of the CPA, Neb. Rev. Stat. § 59-1601(2).

58. The CPA, Neb. Rev. Stat. § 59-1602, prohibits "unfair...acts or practices in the conduct of any trade or commerce."

59. An act or practice is unfair if it is offensive to public policy, immoral, unethical, oppressive, unscrupulous, or falls within some common law, statutory, or other established concept of unfairness, or causes substantial injury to consumers.

60. It is an unfair trade practice to offer form contracts containing a provision that: prohibits or restricts individual consumers' ability to communicate reviews, performance assessments, and similar analysis about a seller's goods, services, or conduct; or that imposes a penalty or fee against individual consumers who engage in such communications. 15 U.S.C. § 45b.

61. Premier Pools engaged in unfair acts or practices in violation of the CPA, Neb. Rev. Stat. § 59-1602 by, without limitation:

- a. Offering, in the course of selling its goods or services, form contracts that contained a provision barring or restricting the ability of consumers purchasing Premier Pools' in-ground swimming pools from engaging in reviews, performance assessments, and similar analysis of Premier Pools' goods, services, or conduct.
- b. Entering into, in the course of selling its goods or services, form contracts that contained a provision barring or restricting the ability of consumers purchasing Premier Pools' in-ground swimming pools from engaging in reviews, performance assessments, and similar analysis of Premier Pools goods, services, or conduct.
- c. Retaliating against consumers who filed claims with the State of Nebraska regarding Premier Pools' pools and services, including by threatening to withhold services in response to the consumer's complaint.

62. Premier Pools' actions constitute unfair acts or practices in the conduct of any trade or commerce in violation of Neb. Rev. Stat. § 59-1602. Each and every act constitutes a separate and independent violations of the CPA. Neb. Rev. Stat. § 59-1602.

63. Each and every contract offered by Premier Pools containing a provision that bars or restricts the ability of a consumer to engage in reviews, performance assessments, and similar analysis of Premier Pools' goods, services, or conduct constitutes a separate and independent violation of the CPA. Neb. Rev. Stat. § 59-1602.

**COUNTS XI THROUGH XVIII:  
VIOLATIONS OF THE UNIFORM  
DECEPTIVE TRADE PRACTICES ACT  
DECEPTION  
(Neb. Rev. Stat. § 87-301 et seq.)**

64. The State of Nebraska re-alleges the facts above and incorporates them herein by reference.

65. Section 87-302(a) of the UDTPA specifies multiple practices, which when conducted in the course of business, constitute a deceptive trade practice.

66. Premier Pools is a “person” within the meaning of the UDTPA, Neb. Rev. Stat. § 87-301(19).

67. Premier Pools engaged in deceptive trade practices in violation of the UDTPA, Neb. Rev. Stat. § 87-302 by, without limitation:

- a. Passing off the pool and pool services of another as its own. Neb. Rev. Stat. § 87-302(a)(1).
- b. Representing expressly or by implication, that its pools and pools services included certain characteristics or benefits that they did not have. Neb. Rev. Stat. § 87-302(a)(5).
- c. Representing expressly or by implication, that its pools and pools services are properly licensed and permitted or have approval that they do not have. Neb. Rev. Stat. § 87-302(a)(7).
- d. Representing expressly or by implication, that its pools and pools services are of a particular standard, or quality they are not. Neb. Rev. Stat. § 87-302(8).
- e. Advertising goods or services with the intent not to sell them as advertised. Neb. Rev. Stat. § 87-302(10).

- f. Using a scheme to defraud consumers that involved knowingly false or fraudulent pretenses, representations, or promises made in order to receive the Excavation Installment. Neb. Rev. Stat. § 87-302(a)(16).
- g. Using or employing deception, fraud, false pretense, false promise, misrepresentation, unfair practice, or concealment, suppression, or omission of any material fact in connection with its pool and pool services. Neb. Rev. Stat. § 87-302(a)(21).

68. Premier Pools' actions constitute deceptive trade practices in violation of Neb. Rev. Stat. § 87-302. Each and every advertisement, failure to disclose information, misrepresentation, deceptive representation, and fraudulent representation constitutes a separate and independent violation of the UDTPA. Neb. Rev. Stat. § 87-302.

**COUNTS XIX THROUGH XXI:  
VIOLATIONS OF THE UNIFORM  
DECEPTIVE TRADE PRACTICES ACT  
UNCONSCIONABLE  
(Neb. Rev. Stat. § 87-301 et seq.)**

69. The State of Nebraska re-alleges the facts above and incorporates them herein by reference.

70. An unconscionable act or practice by a supplier in connection with a consumer transaction is a violation of UDPTA. Neb. Rev. Stat. § 87-303.01(1).

71. The unconscionability of an act or practice is a question of law for the court. Neb. Rev. Stat. § 87-303.01(2).

72. Premier Pools engaged in unconscionable acts and practices in violation of the UDTPA, Neb. Rev. Stat. § 87-303 by, without limitation:

- a. Offering a form contract to consumers in connection with the sale of its pools and pool services that included a gag clause.

- b. Entering into form contracts with consumers in connection with the sale of its pools and pool services that included a gag clause.
- c. Retaliating against consumers who filed claims with the State of Nebraska regarding Premier Pools' pools and services, including by threatening to withhold services in response to the consumer's complaint.

73. Premier Pools' actions constitute unconscionable acts and practices in violation of Neb. Rev. Stat. § 87-303.01. Each and every contract offered by or entered into by Premier Pools containing a gag clause constitutes a separate and independent violation of the UDTPA. Neb. Rev. Stat. § 87-303.01(1).

**COUNT XXII:  
VIOLATIONS OF THE CONSUMER REVIEW FAIRNESS ACT  
(15 U.S.C. § 45b et seq.)**

74. The State of Nebraska re-alleges the facts above and incorporates them herein by reference.

75. The CRFA renders void and prohibits the offering of form contracts containing a provision that: prohibits or restricts individual consumers' ability to communicate reviews, performance assessments, and similar analysis about a seller's goods, services, or conduct; or that imposes a penalty or fee against individual consumers who engage in such communications. 15 U.S.C. §§ 45b(a)(2), 45b(b)(1), 45b(c), and 45b(i)(1).

76. Premier Pools violated the CFRA by offering customers form contracts that contain gag clauses.

77. Premier Pools' gag clause restricts consumers ability to leave reviews or communicate about its services. In Premier Pools' form contract, it threatens to terminate its agreement with the customer if the customer leaves a review on social media or the Better Business Bureau without first both notifying Premier Pools of their

intent and giving Premier Pools an opportunity to remedy the situation.

78. Contractually requiring notification of intent to post a negative review or social media post is unlawful under the CRFA.

79. Contractually requiring a customer to give a business an opportunity to remedy the issue prior to customer writing a complaint, review, or social media post is also unlawful under the CRFA.

80. A violation of Section 2(c) of the CRFA is an unfair trade practice. 15 U.S.C. §§ 45b(c) and 45b(d)(1).

81. The State of Nebraska may enforce the CRFA and is entitled to seek appropriate relief. 15 U.S.C. § 45b(e).

82. The State of Nebraska has determined that restitution, civil penalties, injunctive relief, and discretionary relief are appropriate forms of relief to address unfair trade practices. *See* Neb. Rev. Stat. § 59-1608.

### **PRAYER FOR RELIEF**

**WHEREFORE**, the State of Nebraska, requests that this Court:

- A. Permanently enjoin and restrain Premier Pools, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in conduct described in the Complaint to be in violation of the Consumer Protection Act, pursuant to Neb. Rev. Stat. § 59-1608(1).
- B. Permanently enjoin and restrain Premier Pools, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unfair or deceptive acts or practices, in violation of the Consumer Protection Act, pursuant to Neb. Rev. Stat. § 59-1608(1).
- C. Permanently enjoin and restrain Premier Pools, its agents, employees, and all other persons and entities, corporate or otherwise, in active



concert or participation with any of them, from engaging in conduct described in the Complaint to be in violation of the Uniform Deceptive Trade Practices Act, pursuant to Neb. Rev. Stat. § 87-303.05.

- D. Permanently enjoin and restrain Premier Pools, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in deceptive acts or practices, in violation of the Uniform Deceptive Trade Practices Act, pursuant to Neb. Rev. Stat. § 87-303.05.
- E. Permanently enjoin and restrain Premier Pools, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unconscionable acts or practices, in violation of the Uniform Deceptive Trade Practices Act, pursuant to Neb. Rev. Stat. § 87-303.05.
- F. Permanently enjoin and restrain Premier Pools, its agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in conduct described in the Complaint to be in violation of the Consumer Review Fairness Act, pursuant to 15 U.S.C. § 45b(e) and Neb. Rev. Stat. § 59-1608.
- G. Order Premier Pools to pay civil penalties for each violation of the Consumer Protection Act, the Uniform Deceptive Trade Practices Act, and the Consumer Review Fairness Act pursuant to Neb. Rev. Stat. §§ 87-303.11, 59-1614, and 15 U.S.C. § 45b(e).
- H. Order Premier Pools to restore to every person any money acquired by Premier Pools as a result of their violation of the Consumer Protection Act, the Uniform Deceptive Trade Practices Act, and the Consumer Review Fairness Act pursuant to Neb. Rev. Stat. §§ 59-1608(2), 87-303.05(1), and 15 U.S.C. § 45b(e)
- I. Order Premier Pools to pay the State's costs and attorney's fees in this matter, pursuant to Neb. Rev. Stat. §§ 59-1608(1) and 87-303(b).

- J. Order that any business license(s) that Mr. Stanger operates under in connection with Premier Pools in Nebraska be revoked., pursuant to Neb. Rev. Stat. §§ 59-1608(2), 87-303.05(1), and 15 U.S.C. § 45b(e).
- K. Order any other relief that the Court deems just and equitable.

DATED this 7th day of November 2023.

**STATE OF NEBRASKA, Plaintiff.**

BY: MICHAEL T. HILGERS, #24483  
Nebraska Attorney General

BY: /s/ Michaela J. Hohwieler  
Michaela J. Hohwieler, #26826  
Beatrice O. Strnad, *pro hac vice*  
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*Attorneys for Plaintiff*



**EXHIBIT A**

[Remainder Left Intentionally Blank]



## INSTALLATION SERVICES AGREEMENT

This Installation Services Agreement (this "Agreement") is dated as of the 18 day of July, 2022 ("Effective Date"), by and between Stanger Enterprises, LLC d/b/a Premier Pools and Spas, a Nebraska limited liability company, with an office located at 26099 Fort Circle, Valley, NE 68064 (the "Company"), and \_\_\_\_\_ (the "Client").

### WITNESSETH:

WHEREAS, Client desires to engage Company to provide certain services for the project set forth in the Statement(s) of Work attached hereto; and

WHEREAS, Company and Client desire to set forth the terms and conditions under which Company shall perform the services for Client.

NOW, THEREFORE, for and in consideration of the mutual promises set forth herein, the parties agree as follows:

#### 1. Services.

a. Subject to the terms of this Agreement, Company will render services as specifically described in the Statement(s) of Work (the "Services"). Either party may, at any time during the performance of the Services, request in writing changes to the Services. The parties shall evaluate and, if mutually agreed, implement all such changes in accordance with the change request, which will also set forth any changes to the project timeline and costs of the project (a "Change Order"). No changes will be effective unless and until memorialized in a written Change Order signed by authorized representatives of both parties. After signing, the Change Order shall be deemed to be fully incorporated into this Agreement. All Change Orders become due and payable immediately upon execution.

b. If conditions are encountered that are concealed, or subsurface, or are different than the conditions specified in the Statement of Work, notice by the observing party shall be given to the other party and, if possible, before conditions are disturbed. In such event, the cost of the project and the construction schedule shall be equitably adjusted for such conditions by a Change Order as set forth above.

c. Company will furnish and pay for all labor, material, equipment, tools, machinery, transportation, testing (if required by law), waste disposal, and all other work and services required to fully perform and complete the Services.

#### 2. Duties of Client.

a. Client agrees to cooperate with Company and shall exercise Client's best efforts to enable Company to perform the Services as required under this Agreement. Client agrees that all direction and supervision of the Company shall be exclusively the right and responsibility of Company. Client shall not negotiate additional work with any subcontractor or engage the services of any other contractors or subcontractors to perform work at the project location without Company's prior written consent. Any work contracted by Client with Company's consent shall be conducted in a manner that will not interfere with Company's Services under this Agreement. Company shall not be liable for any damage, expense, or delay caused directly or indirectly by such contractors performing such services.

b. Client shall be responsible for all required electrical, plumbing, fencing, landscaping, and any and all other improvements or installations requested by Client, other than

the Services. Client shall solely be responsible for obtaining all permits as required for the services outside of the scope of the Services.

c. Client shall provide Company with access to, and use of, water, gas, sewer and electrical utilities on site, including water to fill the swimming pool, hot tub, etc.

d. Client shall be responsible for repair, replacement, or relocation of all landscaping, concrete, fence, underground lines (including sprinkler systems) and wires, and Company will not be liable or responsible for damage or repair of any such items. Client shall be solely responsible for locating, and the cost for relocating, all private utilities as required for the project. Client shall pay for all utility connection fees and special facility charges rendered by utilities for connection, tap on, or permanent services resulting from the project.

e. Client shall be responsible for and will pay any and all taxes, fees, permits, assessments, relocation of utilities, electrician, and plumber charges; dump truck charges for additional hauling from the job site, extra grading, fencing, and compaction of soil, associated with or related to the Services performed hereunder.

f. Client shall provide Company, and its equipment, with access to the property to perform the Services required for the project. Client agrees to remove, store, and/or protect personal property during Company's work. Company is not responsible for Client's personal property, nor for any furniture, driveways, lawns, shrubs, etc. Company will make all reasonable effort to protect access area, however, Company is not responsible for damage to improvements located in or reasonably adjacent to access route or the pool site, including but not limited to such items as curbs, sidewalks, driveways, patios, lawn, shrubs, and sprinkler system.

g. Client will identify all property lines for Company and Company is entitled to rely exclusively on Client's identification of the property lines in the performance of the Services. In this regard, Client is responsible for providing Company with a Plot Plan that includes a boundary line survey certificate. If Client is unable to locate a Plot Plan, Client shall be responsible for having a new survey completed and provided to Company. Client agrees to hold Company harmless from any liability for damages to adjacent property arising out of the use of such adjacent property for access. Client shall secure proper permission for access if access is across property other than Client's.

h. Company will assist the Client in securing government approvals and construction building permits necessary for the construction of the project set forth in the Statement of Work, but all costs related to such approvals and permits will be borne solely by Client.

i. Client hereby authorizes the Company, at the cost of the Client, to obtain topographical surveys describing the physical characteristics of the project location, a record title report, all utility locations, and boring and soil tests.

j. Client shall contact Douglas County Health Department to schedule final inspection of their pool project per Douglas County Law, once project is completed. Douglas County phone number – (402) 444-7485

### 3. Price and Payment.

a. Subject to the terms and conditions herein, Client shall pay Company the amounts set forth in the Statement of Work. Any late payments can delay progress of the Services, and are subject to either 16% interest per annum, or the highest rate allowed by law (if lower), after ten (10) days of delinquency. Any delinquent payments may be sent to collections after thirty (30) days and all costs of collections, including interest payments and any attorney or collection agency fees, may be charged to Client.

b. All amounts payable by Client under this Agreement are exclusive of taxes and similar assessments. Client is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Client hereunder, other than any taxes imposed on Company's income.

c. Company agrees to submit proper lien waivers at the time of receiving payment from the Client. Upon request, Company will provide lien waivers from all subcontractors and material suppliers who assist Company in performance of the Services.

4. Scope of Relationship.

a. Nothing herein contained shall constitute a partnership or joint venture between the parties. No party shall hold itself out contrary to the terms of this Agreement and no party shall become liable by any representation, act or omission of the other party contrary to the provisions herein. This Agreement is not for the benefit of any third party and shall not be deemed to give any right or remedy to any such third-party whether referred to herein or not.

b. Company, its employees, and other personnel performing Services under this Agreement may perform similar services for others, and nothing in this Agreement shall prevent Company from providing services to others.

c. At Company's sole discretion, Company has the right to perform all or a portion of the Services with subcontractors, provided that Company will remain responsible for the management of the subcontractors' performance of their work. Client may only communicate with such subcontractors through Company.

5. Limited Warranty. Company represents and warrants to Client, as of the date hereof, (a) Company will perform the Services in a professional manner in accordance with generally accepted industry standards for similar services, and (b) Company's deliverables will conform with the limited warranty attached to this Agreement. THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS AGREEMENT AND THE LIMITED WARRANTY ATTACHED HERETO ARE IN LIEU OF, AND COMPANY DOES HEREBY DISCLAIM, ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR USE, NON-INFRINGEMENT OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE.

6. Insurance. Company shall carry liability insurance to protect the Client from liability for property damage and injuries to the public during the performance of the Services, which may arise out of an action or omission of Company or its employees only, including workmen's compensation insurance, comprehensive general liability insurance, and automobile liability insurance. Client shall be responsible for purchasing and maintaining Client's own liability insurance and, at its option, may maintain such insurance as will protect Client against claims which may arise from the Services under this Agreement. Client shall be responsible for maintaining insurance that covers risk of loss or damage to materials stored on site.

7. Hold Harmless. Client agrees to indemnify, protect, defend, and hold the Company, and its officers, members, agents, employees, and designees harmless from all liabilities, penalties, costs, expenses, losses, suits for loss, judgments (including interest on judgments), expert witness fees, defense costs, and other damages and personal injuries, including bodily injury, death to persons, or property damage to property of anyone, including loss of use, which are in any way caused by or arise out of and/or connected with any negligence of Client(s) or their agents, and/or any breach of this Agreement by Client. Client understands and acknowledges that Company does not warrant or

guarantee previous workmanship or pre-existing materials, nor any materials or labor not originally provided by Company. Company will not be responsible for latent defects in materials and accessories supplied. Company will not be responsible for rework required as a result of the acts or errors of others.

8. Limitations of Liability. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, AND EXCEPT FOR COMPANY'S LIABILITY FOR GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD, COMPANY SHALL NOT BE LIABLE TO THE CLIENT FOR ANY SPECIAL, INCIDENTAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER ARISING OUT OF, RESULTING FROM, OR IN ANY WAY RELATED TO, THIS AGREEMENT AND/OR ANY GOODS OR SERVICES PROVIDED HEREUNDER, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER'S MAXIMUM RECOURSE AND COMPANY'S MAXIMUM LIABILITY FOR ANY AND ALL DAMAGES RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL COMPENSATION PAID TO COMPANY HEREUNDER. THESE LIMITATIONS WILL APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, WARRANTY, EQUITY, LAW, INDEMNITY, CONTRIBUTION, TORT, OR OTHERWISE. CLIENT HAS DIRECTED THE LOCATION OF THE POOL AND ANY OTHER IMPROVEMENTS TO BE INSTALLED HEREUNDER. COMPANY WILL HAVE NO LIABILITY ASSOCIATED WITH THE INCORRECT LOCATION OF THE POOL, OTHER IMPROVEMENTS, EQUIPMENT, OR FOR ENCROACHMENT OR INTERFERENCE UPON THE PROPERTY OR RIGHTS OF THIRD-PARTIES.

9. Termination.

a. This Agreement may be terminated by either party upon a breach of the terms of this Agreement by either party hereto that is not cured within fifteen (15) days following written notice of such breach. Notwithstanding the foregoing, Company has the right to suspend its performance of Services or terminate this Agreement if any payment is not submitted by Client within three (3) days of becoming due.

b. This Agreement shall immediately and automatically terminate upon the occurrence of (i) the dissolution or termination of Company, or (ii) the filing of any petition in bankruptcy or for receivership, the appointment of a trustee, or reorganization of debts under any similar law, by or against a party hereto, or the insolvency or written admission by a party hereto of an inability to pay its debts as they fall due.

c. The provisions set forth in the following Sections, and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Sections 5, 6, 8, 9, 10, 11-14, and 16-17.

10. Notices. All notices and other communications to be given or made under this Agreement shall be in writing and shall be personally delivered or mailed, by registered or certified mail, return receipt requested, postage prepaid, or by a national or international private delivery service to the addresses first set forth above.

11. Dispute Resolution.

a. The parties hereby agree that any action to enforce the terms of this Agreement, or for any other remedy arising out of said Agreement, shall be brought only in the state or federal courts located in Omaha, Douglas County, Nebraska and in no other court, and each party specifically acknowledges and submits to the personal jurisdiction of said court and waives as to such court any defense of inconvenient forum or improper venue. Each party agrees that they will not attempt to deny or defeat such personal jurisdiction by motion or other request for leave from any court. No party, assignee, successor or third party beneficiary to this Agreement will seek a jury trial and hereby irrevocably, unconditionally, knowingly and voluntarily waive, and agree to cause their affiliates to waive, any right to trial by jury in any suit, proceeding, counterclaim or any other proceeding relating to or arising out of this Agreement. No party will seek to consolidate any such action, in which a jury



trial has been waived, with any other action in which a jury trial cannot or has not been waived. The provisions of this section have been fully discussed by the parties hereto, and these provisions shall be subject to no exceptions. No party hereto has in any way agreed with or represented to any other party hereto that the provisions of this section will not be fully enforced in all instances.

b. Prior to Client posting or engaging in any social media review, or seeking assistance from the Better Business Bureau, Company shall be notified of intent and given the opportunity to remedy any situation. If the situation can not be mutually resolved or a review posted, or the BBB contacted without Company notification, this agreement will be terminated by notice of Company.

12. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska (regardless of the laws that might be applicable under principles of conflicts of law), as to all matters contained in this Agreement.

13. Entire Agreement; Waiver. This Agreement, together with the Statement of Work and Limited Warranty, contains the entire agreement and understanding of the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof. No modification, amendment, waiver, or alteration of this Agreement or any of the provisions hereof shall in any event be effective unless the same is in a written document executed by both parties. Any such written waiver shall be effective only in the specific instance and for the specific purpose for which given.

14. Successors and Assigns; Assignment. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto, and their heirs, successors, assigns and legal representatives. The rights and duties of Client are not assignable without the prior written consent of Company.

15. Severability. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of the Agreement.

16. Force Majeure. Company shall not be liable or responsible to the Client, or be deemed to have defaulted or breached this Agreement for its delay or failure to perform its obligations hereunder, to the extent that such delay or failure was caused by an event beyond Company's reasonable control, including without limitation acts of God, acts of the public enemy, acts/inactions of a governmental authority, negligence or intentional acts of the Client or of another contractor in the performance of a contract directly entered into with the Client, fires, floods, pandemic, epidemic, quarantine restrictions, strikes, freight embargoes, severe weather, price increases of material cost, and delays of subcontractors or suppliers arising from causes beyond the control and without the fault or negligence of such subcontractors or suppliers (all such events, "Force Majeure Events"). Performance of the Agreement shall be suspended for both parties until the Force Majeure Event is no longer impacting either party, provided that if a Force Majeure Event continues for more than sixty (60) days, the non-impacted party may terminate this Agreement.

17. Other Project Delays. Contractor agrees to start and work through to completion, but shall not be responsible for delays for any of the following reasons: failure of the issuance of all necessary building permits, funding of loans, cold weather below 60 degrees, precipitation, snow, acts of neglect or omission by Client, failure of Client to make payments when due, delays caused by inspection or changes ordered by inspectors, change orders, client response delay, delay in material(s) delivery or availability beyond Contractor's control, or other caused beyond Company's reasonable control. The project working days include Monday through Friday 8am to 5pm, except holidays or companies time off. With that approach, construction may be performed on the weekends, but such work does not count as working days.

Rain delays are common during construction. Partial rain days can still have an effect on production of the job as much as a full rain day. A partial rain day can delay work up to two additional days thereafter rain commences. Company will not work during a rain event if it poses any harm or risk to its employees. A working day with a 50 percent chance of rain does not count toward total allowed working days. A rain day is two days down time; the day of rain and the next two days thereafter. If rain falls in the night, the next two days are not included as work days. Down time may be extended if rainfall exceeds eighth of an inch (.125"). Snow or cold (60 degrees and below) events during spring, fall, and winter construction can delay work for weeks.

18. Project Communications.

- a. Client and Company shall generally communicate regarding the project and Services between the hours of 8:00 am and 5:00 pm Central Standard Time, Monday through Friday. With the exception of true emergency situations, Company will not be expected nor required to respond to communications from client outside of the hours of 8:00 am and 5:00 pm Central Standard Time. Generally speaking, Company will respond to any after hours communications during the next business day. In the event that Client chooses to contact a representative of Company after business hours and demands an after hours response, such representative's time will be billed at the rate of \$150.00 per hour. [Client also agrees to communicate with Company via phone call or email after hours.]
- b. Company will provide a project schedule that will include 3 meeting milestones at the beginning, middle, and end of the project. Additional communication is provided for any change orders, emergencies (discretion of Company), or critical communication for inspections. Any communication outside of these included times of communication will be billed at one hundred dollars (\$100.00) per hour.

19. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly executed, delivered and effective for all purposes.

20. BUYER'S RIGHT TO CANCEL. As provided under Neb. Rev. Stat. § 69-1604 and 16 CFR § 429.1 (and/or related statutes/rules), You may cancel this agreement by mailing a written notice to Premier Pools and Spas, 26099 Fort Circle, Valley, NE 68064, before midnight of the third business day after you signed this agreement. If you wish, you may use this page as that notice by writing "I hereby cancel" and adding your name and address. See the attached notice of cancellation form for an explanation of this right.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**COMPANY:**

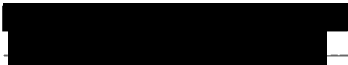
Stanger Enterprises, LLC d/b/a Premier Pools and Spas

By: \_\_\_\_\_


Name: \_\_\_\_\_

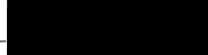
Title: \_\_\_\_\_

**CLIENT:**

Printed Name:  \_\_\_\_\_

By:  \_\_\_\_\_

Name:  \_\_\_\_\_

Title:  \_\_\_\_\_

## STATEMENT OF WORK

This Statement of Work outlines certain Services to be performed and deliverables to be furnished by Company, pursuant to that certain Installation Services Agreement, dated 18 July 2022 (the "Agreement"), by and between Stanger Enterprises, LLC d/b/a Premier Pools and Spas (the "Company"), and \_\_\_\_\_ (the "Client"), to which this Statement of Work shall be attached. Any capitalized terms used, but not defined herein shall have the meaning ascribed to it in the Agreement. The terms of the Agreement shall govern in the event of a conflict with the terms of this Statement of Work.

## EXECUTIVE SUMMARY

### Description of the Project:

1. Location of Project: \_\_\_\_\_
2. Project Commencement Date: To be determined
3. Contract Amount: \$ 77,629.00

## SCOPE OF WORK

Company shall provide the Services as follows:

1. *Pool Design*: Company shall provide a pool design which will be acceptable to the Client, whereby, the Client shall approve such design by the Client's written approval of the pool design or signed estimate # 5512 furnished to Client.
2. *Excavation*: Upon Client's written approval of the pool design, the Company shall provide all excavation for the pool, and the Company shall keep dirt on site.
3. *Build and Install*: Upon issuance of applicable permits, the Company shall build and install a swimming pool made of Concrete, with the approximate size of 14'x35', in the shape of the agreed upon design.
4. *Additional Services*: Provide additional services included in the estimate such as electrical and plumbing installation for the swimming pool.

NOTE: IF ANY ITEM OR SERVICE IS NOT EXPLICITLY STATED IN THE STATEMENT OF WORK, ESTIMATE, OR AN APPROVED CHANGE ORDER, IT IS UNDERSTOOD THAT IT IS NOT INCLUDED.

**CONTRACT AMOUNT**

Client agrees to pay Company for performance of the Services, subject to additions and deductions for changes as may be agreed upon in writing in accordance with the Agreement, the amount set forth as the "Contract Amount" in the Executive Summary of this Statement of Work. Additional costs may include items due to unforeseen conditions of the pool location and code compliant upgrades, including without limitation electrical, plumbing, and landscaping.


Client agrees to pay Company on the following schedule:

<b>Milestone</b>	<b>Payment Amount (% of Contract Amount)</b>
Contract Signing	45%
Excavation	50%
Pool Filled with Water	5%
Change Orders	Due on Signing

The 45% payment made at contract signing is a nonrefundable down payment to cover Contractor's initial expense of materials and pool design needed to commence construction of the pool.

**GROUND WATER ACKNOWLEDGEMENT**

Client is responsible for all fees associated with discovery or mitigation of ground water, if ground water is present before, during, or after the Services are performed. Said fees are above and beyond the scope and responsibility of Company. It is recommended to obtain soil samples from an engineering firm.

\_\_\_\_\_ If initialed here, Client has accepted to have soil samples tested for ground water by an engineering firm of choice and pays any and all associated fees above the contract price.  


If initialed here, Client has declined to have soil samples tested for ground water by an engineering firm of choice. BY DECLINING SOIL TESTING, CLIENT CANNOT HOLD COMPANY RESPONSIBLE FOR LINER ISSUES SUCH AS WRINKLES OR WATER UNDERNEATH LINER, POOL CRETE DISSOLVENT OR CRACKING, AS WELL AS UNEVEN SURFACES, SOILS SETTLING, UNEVENNESS OR FLOATING OF POOL.

### CLIENT WARNINGS:

- Cracking - Cracking of the pool shell, plaster finish, pool paint, and concrete decking, are all possible and considered a normal part of this type of construction. The cracking of concrete is attributed to the expansion and contraction of concrete. Such cracking is an anticipated outcome of using concrete and does not constitute a defect in workmanship. Stress, shrinkage, and settling cracks in concrete are not warrantied. Company will use its best discretion in timing for the placement of concrete. If the temperatures or wind speed are outside the recommended allowance (10+mph and 35-85 Degrees Fahrenheit), Company will install concrete on a different day. If the Client chooses to have concrete placed on a day that Company does not recommend, Company will not be held liable for the condition, color, or any aspect of the outcome.
- Ground water, water runoff, or drainage water damage - natural or induced from grading after project - can settle or shift soils, whether they are properly compacted or not, and cause failure to structures and property. Company will not be responsible for damage caused by ground water, surface water, and/or shifting of soils before or after completion of the Services.
- Settling or shifting soils – soils will continue to settle, even after Company properly compact soils. Company will not be liable for any damage caused by natural settling or shifting of soils.
- Leaks in plumbing, equipment, or the shell of the pool. Company's pools are pressure tested and inspected by the local government permitting agency. If there is a leak in the plumbing, it will have been caused by something outside of Company's control such as settling soils or water damage.
- Excessive loss of pool water due to evaporation (up to 6" of water loss per week is considered normal evaporation and acceptable) or due to pool shell leaking. If the pool shell is leaking it will be contributed to something outside of our control i.e. settling of structure or water damage.
- Fiberglass Pools - Settling of soils will continue during and after the construction. Pool styles with "Sundecks or Tanning Shelves" will always have the possibility of having a hollow floor, due to the nature of construction. The pools are designed to handle this, and does not constitute a defect in installation. Scratches and chips of the shell are normal during construction and will be remedied after the project is complete with a warranty claim. Bowing and curving of the pool shell walls, floors, and coping is not abnormal and is a result of the manufacturers process and nothing caused by Company.
- Acceptable ANSI/APSP/ICC-5 5.1.1 Construction tolerances. There shall be construction tolerances allowed on dimensional designs. The length, width, and depth shall be limited to a tolerance of plus or minus 3 in. ( $\pm 76$  mm). All other dimensions shall be limited to a tolerance of  $\pm 2$  in. ( $\pm 51$  mm), unless otherwise specified.
- Colors of Plaster, Tile, Paint, Coatings, or lighting may appear different than provided samples, pictures, or examples. Colors are not guaranteed to match examples, samples, or pictures.
- I Acknowledge and understand Client Warnings \_\_\_\_\_ Initials

## **LIMITED PRODUCT WARRANTY**

**THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS AND YOU MAY ALSO HAVE OTHER RIGHTS, WHICH MAY VARY FROM STATE TO STATE.**

**WE WARRANT THAT DURING THE WARRANTY PERIOD, THE PRODUCTS PROVIDED WILL BE FREE FROM DEFECTS IN MATERIALS AND WORKMANSHIP.**

**WARRANTY BECOMES EFFECTIVE UPON RECEIPT OF FINAL PAYMENT. FINAL PAYMENT IS TO BE PAID IN FULL IN ORDER TO OBTAIN FULL WARRANTY.**

**WE LIMIT THE DURATION AND REMEDIES OF ALL IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE TO THE DURATION OF THIS EXPRESS LIMITED WARRANTY.**

**SOME STATES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.**

**OUR RESPONSIBILITY FOR DEFECTIVE PRODUCTS IS LIMITED TO REPAIR OR REPLACEMENT AS DESCRIBED BELOW IN THIS WARRANTY STATEMENT.**

### **WHO MAY USE THIS WARRANTY?**

Stanger Enterprises, LLC d/b/a Premier Pools and Spas (“we” or “us”) extends this limited warranty only to the consumer who originally purchased the pool (“you”). It does not extend to any subsequent owner or other transferee of the pool.

### **WHAT DOES THIS WARRANTY COVER?**

This limited warranty covers defects in materials of the wall structure of the pool (not floor) and the products listed below, and such limited warranty will cover you for the Warranty Period as defined below. To the extent that any third party manufacturer provides us with a warranty on any third party product used in the Services, we will pass through such warranty to you and your claim against such warranty must be directly against such third party manufacturer.

### **WHAT DOES THIS WARRANTY NOT COVER?**

This limited warranty does not cover any damage due to: (a) improper use; (b) failure to follow the product instructions or to perform any preventive maintenance, including improper chemical usage and variances outside of the normal range, including the proper range for pH in swimming pools (7.4 to 7.6) or chlorine reading above 5 ppm; (c) modifications; (d) unauthorized repair; (e) normal wear and tear; (f) external causes such as accidents, abuse, or other actions or events beyond our reasonable control, including weather (such as exposure to ultraviolet light, weather related water events, sea air, or extreme changes in temperature); or (g) any third party products or materials, including fiberglass or epoxy.

This warranty does not cover shifting or settling of soil, ground movement, damages resulting from underground, surface, or drainage water, coating issues, paints, stains, any waterproofing coatings, or any problems that occur from an act of nature.

Vinyl Liner Pools – Warranty does not cover tears or cutting of any vinyl liner after installation, wrinkling or fitment issues spanning more than 2” of gapping distance between vinyl liner and pool structure in or around corners of the pool structure.

Concrete – Cracking of concrete is attributed to the expansion and contraction of concrete, and is an anticipated outcome of using concrete and does not constitute a defect in workmanship. Stress, shrinkage, and settling cracks in concrete are not warrantied.

Fiberglass Pools – Fiberglass pools are designed to remain full of water at all times. Lowering of the water below the skimmer level without the supervision of Premier Pools and Spas will result in voiding of any and all warranties from Premier Pools and Spas as well as the fiberglass Manufacturer.

Opening, Closing or Winterizing, inspection, or leak detection of any pools built by Premier Pools and Spas performed by any other company will void all warranties provided by Premier Pools and Spas. Any damage attributed by any other company is not the liability of Premier Pools and Spas

This Warranty does not include the cost of labor to repair or replace any part, component, or structure.

#### **WHAT IS THE PERIOD OF COVERAGE?**

This limited warranty starts on the date the Services set forth in the Agreement are complete and lasts for one (1) year thereafter (the “Warranty Period”). The Warranty Period is not extended if we repair or replace the pool. We may change the availability of this limited warranty at our discretion, but any changes will not be retroactive.

#### **WHAT ARE YOUR REMEDIES UNDER THIS WARRANTY?**

With respect to any defect during the Warranty Period, we will in our sole discretion, repair or replace such defective portion of the pool.

#### **HOW DO YOU OBTAIN WARRANTY SERVICE?**

In order to obtain warranty service, you must notify us of the defect in writing within ten (10) days of discovering the defect. Such notice must include a detailed description of the defect, including location of the pool and the issue at hand.

#### **LIMITATION OF LIABILITY**

**THE REMEDIES DESCRIBED ABOVE ARE YOUR SOLE AND EXCLUSIVE REMEDIES AND OUR ENTIRE LIABILITY FOR ANY BREACH OF THIS LIMITED WARRANTY. OUR LIABILITY SHALL UNDER NO CIRCUMSTANCES EXCEED THE ACTUAL AMOUNT PAID BY YOU FOR THE DEFECTIVE PRODUCT, NOR SHALL WE UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OR LOSSES, WHETHER DIRECT OR INDIRECT.**

**SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.**

## NOTICE OF CANCELLATION FORM

DATE: This Notice is Dated the Same Date as the Effective Date Contained in the Agreement (or the Date You Signed the Agreement), Whichever is Later

You may CANCEL this transaction, without any Penalty or Obligation, within THREE BUSINESS DAYS from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within TEN BUSINESS DAYS following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your Notice of Cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this Cancellation Notice or any other written notice, or send a telegram, to: Premier Pools and Spas, 26099 Fort Circle, Valley, NE 68064, NOT LATER THAN MIDNIGHT OF \_\_\_[three business days after the date written above].

I HEREBY CANCEL THIS TRANSACTION.

(Date) \_\_\_\_\_

(Buyer's signature) \_\_\_\_\_



**NOTICE OF CANCELLATION FORM (DUPLICATE)**

DATE: This Notice is Dated the Same Date as the Effective Date Contained in the Agreement (or the Date You Signed the Agreement), Whichever is Later

You may CANCEL this transaction, without any Penalty or Obligation, within THREE BUSINESS DAYS from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within TEN BUSINESS DAYS following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your Notice of Cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this Cancellation Notice or any other written notice, or send a telegram, to: Premier Pools and Spas, 26099 Fort Circle, Valley, NE 68064, NOT LATER THAN MIDNIGHT OF [three business days after the date written above].

I HEREBY CANCEL THIS TRANSACTION.

(Date) \_\_\_\_\_

(Buyer's signature) \_\_\_\_\_

