

## TERMS OF SALE AND LIMITED WARRANTY

The following Terms and Conditions of Sale ("**Terms of Sale**") shall apply to and form a part of all sales and purchase of the products ("**Products**") of Higbie, LLC, a Michigan limited liability company ("**Higbie**").

**Orders; Fulfillment and Delivery.** You may place an order for Products by contacting Higbie (an "**Order**"). Unless otherwise agreed by Higbie in a written agreement, Higbie's acceptance of an Order is expressly limited to the terms of such acceptance and these Terms of Sale, and any additional or different terms provided by you, are expressly rejected. You may not alter, cancel, or delay the delivery of an Order, without the express written consent of Higbie, and where consent is provided such alteration, cancellation, or delay is subject to additional charges. Higbie reserves the right to refuse any Order, in its sole discretion. Fulfillment of any Order is subject to Product availability. All Products are shipped FOB Origin, meaning that Higbie is responsible for delivery to the carrier, and that you shall be responsible for all freight, insurance, duty, taxes, and other costs and expenses applicable to the transportation of the Products (in addition to the purchase price for Product), and that risk of loss for Products passes to you upon delivery to the carrier.

**Pricing and Payment.** An invoice shall be issued to you upon delivery of Products to the carrier. Unless otherwise stated by Higbie, payment terms for credit-approved purchasers are NET 30 of invoice. Payment shall be in U.S. dollars and in immediately available funds. Higbie reserves the right to assess interest on overdue payments at a rate of one-and-one-half percent (1½%) per month (or the maximum rate allowed by applicable law, whichever is less) from the due date until paid in full.

**Taxes.** Purchaser shall bear, all legally imposed transaction taxes, duties, and import or export taxes or charges, on the Products including, but not limited to, sales, excise, use, value added, goods and services, provincial sales tax, consumption and business taxes, and other similar transaction-based taxes.

**Product Issues; Returns; and Repairs.** All Product issues should initially be addressed by trouble-shooting. You may not return any Product to Higbie without the prior written authorization of Higbie and a valid Return Materials Authorization ("**RMA**") number. If you need Product assistance, please contact a Higbie representative using the information provided below. Any authorized Product return must contain the RMA number and Higbie-provided RMA form, shipping prepaid. Higbie can provide Product service and/or repair for Product outside of the Limited Warranty upon request. All non-warranty service and repair requires preapproval, and is subject to additional charges, including shipping charges. Please contact a Higbie representative using the information provided below.

**Limited Warranty.** THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS THAT VARY COUNTRY, PROVINCE, AND OR STATE. EXCEPT AS PERMITTED BY LAW, HIGBIE DOES NOT EXCLUDE OR LIMIT OTHER RIGHTS YOU MAY HAVE. TO UNDERSTAND YOUR RIGHTS, PLEASE CONSULT THE LAWS OF YOUR COUNTRY, PROVINCE, AND/OR STATE.

**WHAT THIS LIMITED WARRANTY COVERS:** Higbie warrants its unaltered unopened products ("Products") against defects in materials and workmanship when properly installed, used, and maintained substantially in accordance with our published documentation for a period of one (1) year from date the date of shipment or delivery (the "Warranty Period").

**WHAT IS NOT COVERED BY THIS LIMITED WARRANTY:** This Limited Warranty is limited and does not apply to: (i) cosmetic damage; (ii) normal wear and tear or normal aging; (iii) damage caused by use with another product, good, or equipment; (iv) defects or damage caused by negligence, misuse, accident (including without limitation collision, fire, liquid or food contact, or other external cause), neglect, abuse, alteration, unusual stress, modification, improper or unauthorized installation, wiring, or testing, improper storage or transportation, or if the serial number has been removed; (v) damage caused by exposure to unusual physical, thermal, or electrical stress; (vi) repair, modification, or alteration by any party other than Higbie; and (vii) use not in accordance with our published documentation. This Limited Warranty extends only so far as the original end-user purchaser and is not assignable or transferable to any subsequent purchaser or user. Except as expressly provided in our published documentation, do not open any Product. **OPENING THE PRODUCT WILL CAUSE DAMAGE THAT IS NOT COVERED BY THIS LIMITED WARRANTY, AND WILL VOID THIS LIMITED WARRANTY.**

**HIGBIE'S RESPONSIBILITY IN THE EVENT OF A BREACH OF THIS LIMITED WARRANTY:** If during the Warranty Period you submit a valid claim to Higbie, **YOUR SOLE AND EXCLUSIVE REMEDY**, and Higbie's sole and exclusive responsibility, under this Limited Warranty will be, at Higbie's option, to either: (i) repair the Product; (ii) replace the Product with a product that performs substantially in accordance with our published documentation; or (iii) exchange the Product for a refund of the original purchase price paid to Higbie for the Product. Any replacement may be, at the option of Higbie, a new or remanufactured Product.

**TO OBTAIN SERVICE UNDER THIS LIMITED WARRANTY:** Prior to obtaining service under this Limited Warranty, please review the online resources accessible at <http://www.Higbie.com/support>. If you are still unable to correct any issue you are having with the Product, please contact a Higbie representative using the information provided below. A representative will assist you in determining whether the Product requires service, and how Higbie will provide it. To obtain warranty service for any Product subject to the foregoing Limited Warranty, you must notify Higbie to obtain a RMA number and return the Product in its original packaging, or in at least equally protective packaging, together with proof of purchase, to the address specified by Higbie in connection with the RMA. You are responsible for the cost of shipping the Product to Higbie and Higbie shall bear the cost of shipping the Product back to you after the completion of service under

this Limited Warranty. Any Product returned to Higbie without an RMA or without proof of purchase will be returned to you at your cost and expense.

TO THE EXTENT PERMITTED BY LAW, THE LIMITED WARRANTY AND REMEDIES SET FORTH ABOVE ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES, AND CONDITIONS, WHETHER ORAL OR WRITTEN, AND WHETHER EXPRESS, IMPLIED, OR STATUTORY. HIGBIE HEREBY SPECIFICALLY DISCLAIMS ALL STATUTORY OR IMPLIED WARRANTIES, AND OTHER WARRANTIES OF ANY KIND, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, AND AGAINST HIDDEN OR LATENT DEFECTS, QUALITY, AND TITLE. IF HIGBIE CANNOT LAWFULLY DISCLAIM SUCH WARRANTIES, THEN TO THE EXTENT PERMITTED BY LAW, HIGBIE LIMITS THE DURATION OF SUCH WARRANTIES TO THE SHORTER OF THE DURATION OF THE WARRANTY PERIOD OF THIS LIMITED WARRANTY OR THE MINIMUM TIME PERMITTED UNDER SUCH LAW, AND LIMITS THE REMEDIES OF THIS EXPRESS LIMITED WARRANTY TO, AT HIGBIE'S OPTION, THE REPAIR OR REPLACEMENT SERVICES DESCRIBED ABOVE. SOME STATES, COUNTRIES, AND/OR PROVINCES DO NOT ALLOW LIMITATIONS ON THE DURATION OF AN IMPLIED WARRANTY OR CONDITION, AND ACCORDINGLY THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

**Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, HIGBIE IS NOT IN ANY EVENT RESPONSIBLE FOR DIRECT, SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY NATURE WHATSOEVER, RESULTING FROM OR ARISING OUT OF ANY BREACH OF WARRANTY OR CONDITION, USE OF THE PRODUCT, OR UNDER ANY OTHER LEGAL THEORY INCLUDING WITHOUT LIMITATION, LOSS OF USE OF THE PRODUCT OR ANY GOOD OR EQUIPMENT USED WITH THE PRODUCT, COST OF ANY REPLACEMENT GOOD OR SUBSTITUTE EQUIPMENT, LOSS OF REVENUE OR LOSS OF ACTUAL OR ANTICIPATED PROFITS, LOSS OF BUSINESS OR LOSS OF OPPORTUNITY, LOSS OF GOODWILL, LOSS OF REPUTATION, LOSS OF, DAMAGE TO, COMPROMISE, OR CORRUPTION OF PROPERTY, THIRD-PARTY CLAIMS, OR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED INCLUDING THE REPLACEMENT OF EQUIPMENT AND PROPERTY, EVEN IF HIGBIE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL HIGBIE'S TOTAL CUMULATIVE LIABILITY EXCEED THE PRICE PAID FOR THE PRODUCT AT ISSUE. SOME STATES, COUNTRIES, AND/OR PROVINCES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.

**General.** If a provision of these Terms of Sale is determined to be unenforceable in any respect, the enforceability of the provision in any other respect and of the remaining provisions of these Terms of Sale shall not be impaired. These Terms of Sale are governed by the laws of the State of Michigan, United States of America, without giving effect to any conflict-of-law principle that would result in the laws of any other jurisdiction governing these Terms of Sale. Any action or proceeding arising out of these Terms of Sale shall be litigated in courts located in Washtenaw County, Michigan. Each party consents and submits to the jurisdiction of any local, state, or federal court located in Washtenaw County, Michigan. These Terms of Sale contains the entire understanding of the parties regarding the subject matter of these Terms of Sale and supersedes all prior and contemporaneous negotiations and agreements, whether written or oral, between the parties with respect to the subject matter of these Terms of Sale.

If you have any questions concerning these Terms of Sale or the statement of limited warranty please contact Higbie at 734.418.3277 or email us at [sales@higbie.com](mailto:sales@higbie.com).