

**ZOOMABILITY, INC.**  
**LIMITED WARRANTY**

Zoomability, Inc., a Delaware corporation with its registered office located at 2711 Centerville Road, Suite 400, Wilmington, DE 19808 (“SELLER”) warrants that the equipment and equipment parts manufactured by Seller (the “Product”) and sold or provided to the first end user (“BUYER”) are produced according to usual practices, customs, standards, specifications and tolerances of trade prevailing in the country of origin at the time of production and shall, subject to the limitations and exclusions set forth below, be free from defects in design, material, and workmanship.

**1. REGISTRATION REQUIREMENT**

- (A) This Limited Warranty becomes effective only if BUYER completely fills out and delivers to SELLER the Warranty Form and original proof of purchase, according to the procedure set forth in Section 3 herein to:

Zoomability Inc · 1445 Briar Chapel Pkwy, Chapel Hill, NC 27516

- (B) By returning the Warranty Form to SELLER as provided above, BUYER admits to having fully read and understood the SELLER’s Safety Manual included in the Owners Manual, provided to Buyer at time of purchase, and to have complied with all the instructions mentioned in that document.

**2. INSTALLATION, PAYMENT AND MAINTENANCE REQUIREMENTS**

This Limited Warranty applies only if:

- (1) The Product is used properly and is operated in accordance with the SELLER’s Safety Manual as furnished to BUYER at the time of purchase;
- (2) The Product is not misused or abused, and there is no evidence of mishandling, neglect, modification or repair without the approval of SELLER, or damage done to the Product by anyone other than SELLER;
- (3) The person submitting the Warranty Form is the first end user of the Product;
- (4) All other Sections of this Limited Warranty are complied with.

**3. PROCEDURE FOR OBTAINING WARRANTY SERVICE**

For the Limited Warranty to apply, BUYER must completely fill out and deliver (by placing in the mail) to the SELLER the Warranty Form and original proof of purchase within the Warranty Period (defined in Section 5) and within ten (10) days of the date BUYER discovered the alleged defect. Notwithstanding the foregoing, in the event that

SELLER determines, in its sole discretion, that BUYER reasonably should have discovered the alleged defect before its actual discovery, this Limited Warranty shall not apply. At SELLER's option, BUYER must ship the defective Product to SELLER's address set forth in Section 1(A) of this Limited Warranty with mailing or shipping charges prepaid. The procedure described in this Section 3 shall hereinafter be referred to as the "Warranty Claim Procedures". BUYER shall bear all expenses associated with returning the Product to SELLER, including, without limitation, the costs of shipment, import taxes, duties and tariffs if applicable. If SELLER determines that the returned Product is covered by the Limited Warranty, SELLER agrees to cover all expenses of returning any repaired or replaced Product to BUYER.

#### **4. WARRANTY SERVICES PROVIDED**

If the Product is proved to SELLER's satisfaction to be defective, within the Warranty Period (defined in Section 5), SELLER's obligations under this Limited Warranty shall be limited to either repairing or replacing the Product, at SELLER's sole discretion, and only if such defect was caused solely by defective design, workmanship and/or materials. Such repair or replacement shall be SELLER's sole obligation and BUYER's exclusive remedy hereunder and shall be conditioned upon BUYER's fulfilling its obligations under SELLER's Warranty Claim Procedures.

#### **5. WARRANTY PERIOD**

This Limited Warranty of the Product applies for **twelve (12)** months from the date the Product is sold, rented, leased, or donated to the first end user (the "Warranty Period"). Notwithstanding the foregoing, in no event shall the Warranty Period extend beyond a period of twenty four (24) months from the date of shipment of the Product from SELLER to any third party whether or not an end user. The Warranty Period shall not be tolled for any reason. No action by SELLER or BUYER shall operate to extend or revive this Limited Warranty without the prior written consent of SELLER.

#### **6. EXCLUSIONS FROM WARRANTY**

The following is not included under this Limited Warranty:

- (1) Scratches, dents, marks or other visible surface wear on the Product, unless SELLER is notified as soon as the Product is received by the BUYER;
- (2) Normal wear and tear from everyday use;
- (3) Misuse or abuse by the BUYER;
- (4) Physical damage to the Product as a result of tampering, mishandling, neglect, accidental damage, modification or repair without the approval of SELLER, unreasonable use and/or negligence of the BUYER whether

foreseeable by SELLER or not;

- (5) Items, equipment, goods, products, and components not sold by SELLER;
- (6) Seals, friction plates, brake linings, tires, wires, exterior coatings, bolts, nuts, fittings, batteries, paint, services, inspections, diagnostic time and travel time;
- (7) Damage to Products caused by the carrier during shipping;
- (8) Deterioration resulting from age, storage, weathering, lack of use;
- (9) Continued Product use after an alleged defect is discovered or should reasonably have been discovered;
- (10) Improper installation of any kind from persons other than SELLER or authorized SELLER personnel; and,
- (11) Duty, taxes, environmental fees, including without limitation, disposal or handling of tires or batteries.

SELLER expressly reserves the right to inspect the Product and its components, parts, and BUYER's installation, use, maintenance, and any other activity or inactivity of the BUYER, when determining whether an alleged Product defect is covered by the Limited Warranty.

## **7. LIMITATIONS ON WARRANTY; DISCLAIMER OF WARRANTIES**

This Limited Warranty is provided by SELLER, and it contains the only express warranty provided to BUYER by SELLER. SELLER does not authorize any other person, including distributors, to give any other warranties on SELLER's behalf.

**SELLER DISCLAIMS ANY EXPRESS WARRANTY NOT PROVIDED HEREIN AND ANY IMPLIED WARRANTY, GUARANTY OR REPRESENTATION AS TO PERFORMANCE, QUALITY AND ABSENCE OF HIDDEN DEFECTS, AND ANY REMEDY FOR BREACH OF CONTRACT, WHICH BUT FOR THIS PROVISION, MIGHT ARISE BY IMPLICATION, OPERATION OF LAW, CUSTOM OF TRADE OR COURSE OF DEALING, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SELLER FURTHER DISCLAIMS ANY RESPONSIBILITY FOR LOSSES, EXPENSES, INCONVENIENCES, SPECIAL, INDIRECT, SECONDARY OR CONSEQUENTIAL, INCIDENTAL, AND CONTINGENT DAMAGES WHATSOEVER, INCLUDING DAMAGES ARISING FROM OWNERSHIP OR USE OF PRODUCT.**

Implied warranties in jurisdictions where they may not be disclaimed shall be in effect only

for the duration of the express warranty set forth herein.

If BUYER has a claim under this Limited Warranty or under any implied warranties provided to BUYER by state law, BUYER may not file a court action based on that claim any later than one (1) year after BUYER's right to file a court action accrues. In those states which do not allow this limitation on the time period for filing a court action, this provision is inapplicable.

## **8. SELLER'S LIMITATION OF LIABILITY**

SELLER's liability with respect to the Product sold to BUYER shall be limited to the warranty provided herein. SELLER SHALL NOT BE SUBJECT TO ANY OTHER OBLIGATIONS OR LIABILITIES, WHETHER ARISING OUT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY) OR OTHER THEORIES OF LAW, WITH RESPECT TO PRODUCTS SOLD OR SERVICES RENDERED BY SELLER, OR ANY UNDERTAKING, ACTS OR OMISSIONS RELATING THERETO.

Without limiting the foregoing, SELLER SPECIFICALLY DISCLAIMS ANY LIABILITY FOR PROPERTY OR PERSONAL INJURY DAMAGES, PENALTIES, SPECIAL OR PUNITIVE DAMAGES, DAMAGES FOR LOST PROFITS OR REVENUES, SERVICES, DOWN TIME, SHUT DOWN OR SLOW DOWN COSTS, OR FOR ANY OTHER TYPES OF ECONOMIC LOSS, AND FOR CLAIMS OF BUYER'S CUSTOMERS OR ANY THIRD PARTY FOR ANY SUCH DAMAGES. SELLER SHALL NOT BE LIABLE FOR AND DISCLAIMS ALL CONSEQUENTIAL, INCIDENTAL AND CONTINGENT DAMAGES WHATSOEVER.

SELLER NEITHER ASSUMES NOR AUTHORIZES ANY THIRD PARTY TO ASSUME FOR IT, ANY COMMITMENT OR ASSUMPTION OF LIABILITY OF ANY KIND IN CONNECTION WITH ITS PRODUCTS.

## **9. MISCELLANEOUS**

Any description of the Product, whether in writing or made orally by SELLER or SELLER's agents, specifications, samples, models, bulletins, drawings, diagrams or similar materials used in connection with BUYER's order, are for the sole purpose of identifying the Product and shall not be construed as an express warranty. Any suggestions by SELLER or SELLER's agents regarding use, application, or suitability of the Product shall not be construed as an express warranty unless confirmed in writing by SELLER to be such.

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