



THE BLACK TANK

147 ESSEX STREET  
HAVERHILL, MA 01832  
(978) 619-0044

## 5 YEAR LIMITED WARRANTY

The Black Tank warrants that, under normal use in accordance with the applicable user manual, the Products shall, at the time of delivery to Buyer and for a period of sixty months from the date of delivery (or such other period as may be agreed upon in writing by the parties), be free from defects in material or workmanship and shall substantially conform to The Black Tanks specifications for such Product, or such other specifications as The Black Tank has agreed to in writing, as applicable. The Black Tanks sole and exclusive obligation, and Buyer's sole and exclusive right, with respect to claims under this warranty shall be limited, at The Black Tanks option, either to the replacement or repair of a defective or non-conforming Product or to an appropriate credit for the purchase price thereof. The Black Tank will have a reasonable time to repair, replace or credit. The non-conforming or defective Products shall become The Black Tanks property as soon as they have been replaced or credited. At The Black Tanks sole discretion, any replacement products may be new or like-new and may contain remanufactured parts, equivalent to new in performance.

The Black Tank reserves the right to choose all contractors and/or consultants in connection with validation and rectification of a product complaint. If it is subsequently determined that The Black Tank or its products are not responsible for an alleged product failure, it is agreed the costs of such contractors and/or consultants and any rectification costs incurred will be repaid to The Black Tank.

Buyer may ship Products returned under warranty to The Black Tanks designated facility only in conformance with The Black Tanks then-current return material authorization policy. Where a warranty claim is justified, The Black Tank will pay for freight expenses. Buyer shall pay for returned Products that are not found to be defective or non-conforming together with the freight, testing and handling costs associated therewith.

Notwithstanding the foregoing, The Black Tank shall have no obligations under warranty if the alleged defect or non-conformance is found to have occurred as a result of environmental or stress testing, misuse, use other than as set forth in the user manual, neglect, use of a non-approved power supply, use of non-approved dimming accessories, improper installation or accident, or as a result of improper repair, alteration, modification, storage, transportation or improper handling.

The express warranty granted above shall extend directly to Buyer and not to Buyer's customers, agents or representatives and is in lieu of all other warranties, whether express or implied, including without limitation any implied warranties of fitness for a particular purpose, merchantability, or non-infringement of intellectual property rights. All other warranties are hereby specifically disclaimed by The Black Tank.

### LIMITATION OF LIABILITY

THE BLACK TANK SHALL NOT BE LIABLE FOR ANY LOST PROFITS, INSTALLATION OR RE-INSTALLATION COSTS, LOST SAVINGS, LOSS OF REPUTATION, LOSS OF GOODWILL, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR THE SALE OF ANY PRODUCTS OR SERVICES BY THE BLACK TANK OR THE USE THEREOF WHETHER OR NOT SUCH DAMAGES ARE BASED ON TORT, WARRANTY, CONTRACT OR ANY OTHER LEGAL THEORY – EVEN IF THE BLACK TANK HAS BEEN ADVISED, OR IS AWARE, OF THE POSSIBILITY OF SUCH DAMAGES.

Buyer's claim for damages must be brought by Buyer within ninety (90) days of the date of the event giving rise to any such claim, and any lawsuit relative to any such claim must be filed within one (1) year of the date of the claim. Any claims that have been brought or filed not in accordance with the preceding sentence are null and void. The limitations and exclusions set forth above in this Section shall apply only to the extent permitted by applicable mandatory law.