

## **Nox Medical Warranty**

Nox Medical (the “Company”) sells and Customer purchases the instruments produced by the Company and provided hereunder (the “Equipment”) subject to the following terms and conditions:

### **1. Limited Warranty**

The Company warrants that the Equipment shall be free from defects in materials or workmanship, under normal use and service, for a period of two (2) years from the date of delivery of the Equipment to the original purchaser by the Company or its authorized representative. The Company shall not be responsible for any damage or failure caused directly or indirectly by operation of the Equipment outside of the allowable electrical, temperature and other environmental limits specified by the Company, or by deficiencies in Customer-supplied services or supplies. For reference, the Company product manuals provide specific guidance on how the Equipment should be properly cared for and used.

### **2. Extended Warranty**

Beyond the original two (2) year warranty, one (1), two (2), and three (3) years of additional warranty coverage are offered for purchase at the point of sale. In the event that additional years of warranty coverage is purchased, the same terms will apply to the extended warranty as do the original Equipment warranty.

### **3. Exclusions**

- A. The Equipment includes some components and accessories which by their nature are not intended to, and will not, function for two (2) years. If any such component or accessory which is manufactured by the Company and provided with the Equipment fails to give reasonable service for a reasonable period of time, the Company will at its option replace such component or accessory. What constitutes reasonable service and a reasonable period of time shall be determined by the Company in its sole discretion after the Company is in possession of all the facts concerning operating conditions and other pertinent factors, and after such component or accessory has been returned to the Company with transportation charges prepaid.
- B. The Company makes no warranty concerning components or accessories not manufactured by the Company. In the event of a defect in any component or accessory not manufactured by the Company, the Company will give such reasonable assistance as is requested by the Customer in obtaining from the manufacture of said component or accessory whatever adjustment is available under the warranty given by said manufacturer.
- C. The Company shall be released from all obligations under the warranty provided above in the event repairs or modifications to the equipment are made by persons other than the Company, unless such repairs or modifications are made with the prior written consent of the Company or consist only of the installation of a plug-in component manufactured by the Company.

**4. Exclusive Remedy**

The Company's entire liability and the Customer's exclusive remedy shall be as follows:

- A. In the event a defect occurs within the warranty period, and investigation and factory inspection by the Company discloses that such defect developed under normal and proper use, the Company will use its best efforts to correct the problem by, at the sole election of the Company, replacement of the defective component(s). Replacement parts or components provided during the warranty period shall be deemed to have been delivered on the original delivery date of the Equipment for purposes of warranty coverage. The Company's liability shall include costs and material during the warranty period. All components which are claimed to be defective must be returned to the Company. If the Company deems the components are found to be defective as provided in this paragraph, in which case the Company will pay all transportation charges.
- B. In the event that the above remedy is found to fail of its essential purpose, and for any other claim concerning performance or nonperformance by the Company pursuant to or in any other way related to the sale of the Equipment, or for damages for any cause whatsoever and regardless of the form of action, whether in contract or in tort including negligence, Customer's exclusive remedy shall be in its actual damages up to the amount paid to the Company for the Equipment.

**5. Disclaimers**

THE WARRANTY SET FORTH IN PARAGRAPH 1 ABOVE IS IN LIEU OF ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL THE COMPANY BE LIABLE FOR ANY LOST PROFITS OR OTHER SPECIAL CONSEQUENTIAL OR INCIDENTAL DAMAGES, EVEN IF THE COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The Customer understands that the company relies on the disclaimers set forth in this paragraph in setting prices for the Equipment, and that such prices would be higher were it not for these disclaimers, and these disclaimers will not be affected by any failure of the Company to achieve satisfactory repair or replacement of the defective components of the Equipment.

**6. General**

These terms and conditions constitute the entire obligation of the Company with respect to the Equipment, and supersede any and all prior statements, representations and warranties made by any person, including dealers and representatives of the Company, with respect to the Equipment, These terms and conditions may not be changed or modified except by a writing signed by an officer of the Company. These terms and conditions shall be governed by the laws of the state of Georgia.