



## Statement of Limited Warranty – Terms and Conditions of Sale

**1. Software.** Any software provided is licensed pursuant to the terms of ExaDigm’s Software License Agreement. An electronic copy of the Software License Agreement is provided with the Software and a printed copy is available upon request. The terms and conditions of the Software License Agreement are incorporated in its entirety in this Terms and Conditions of Sale (“Terms and Conditions of Sale”) by this reference. The terms of the Software License Agreement control, except for the limited warranty set forth below (“Limited Warranty”).

### **2. Limited Warranty.**

**a. Warranty Period.** ExaDigm warrants to End User, subject to the limitation and disclaimer below, that all ExaDigm hardware and software will conform to the applicable ExaDigm Specifications and be free from defects in material and workmanship under normal use for a period of twenty four (24) months after shipment by ExaDigm (“Limited Warranty”). The date of original shipment from ExaDigm will be determined by shipping evidence on file at ExaDigm. This Limited Warranty extends only to the original purchaser of the hardware and the software and may not be transferred. "Specification" as used herein means the guaranteed minimum and maximum levels set forth in ExaDigm’s published datasheets in effect at time of sale.

**b. Lithium Batteries.** Notwithstanding the provisions as outlined in 2a. above, lithium batteries are warranted for a period of ninety (90) days after original shipment by ExaDigm if batteries were purchased (either separately or as a component of hardware) directly from ExaDigm or directly from an ExaDigm Authorized Reseller.

**c. Accessories.** With the exception of Lithium Batteries as outlined in 2b. above, all accessories are not covered by this Limited Warranty.

**d. Limitation and Disclaimer Regarding Software.** ExaDigm does not warrant or represent that the software is error free or that the software will operate without problems or disruptions. Additionally, due to the steady and ever-improving development of various attack and intrusion technologies, ExaDigm does not warrant or represent that any networks, systems or software provided by ExaDigm will be free of all possible methods of access, attack or intrusion.

**e. Hardware Warranty Remedy.** With the exception of Out of Box Failure (as defined in 2g. below), with respect to hardware, during the Limited Warranty period upon proper notice (as defined in 6 below) to ExaDigm by End User and ExaDigm’s determination that the hardware is entitled to the Limited Warranty, ExaDigm will, at its sole option, either:

- (1) Repair and return the defective hardware, or
- (2) Refund the original purchase price upon presentation of proof of purchase to ExaDigm.

**f. Software Warranty Remedy.** With the exception of Out of Box Failure (as defined in 2g. below), with respect to software, during the Limited Warranty period upon proper notice (as defined in 6 below) to ExaDigm by End User, ExaDigm will, at its option, either:

- (1) Use reasonable commercial efforts to attempt to correct or provide workarounds for errors, or
- (2) Replace the software with functionally equivalent software.

**g. Out of Box Failure.** The Out of Box Failure Period is defined as follows: (i) Thirty (30) days from original shipment for hardware and/or software purchased directly from ExaDigm by an End User or (ii) Ninety (90) days from original shipment by ExaDigm to the Authorized Reseller, for hardware and/or software purchased directly from an ExaDigm Authorized Reseller. If ExaDigm determines returned hardware and/or software to be defective and within the Out of Box Failure Period, ExaDigm will Replace the defective hardware with a new component, replace the software with functionally equivalent software, and will pay next-day freight and handling charges for both receipt of the damaged materials and return of the replacement materials to End User. Out of Box Failure replacement is voided if the hardware and/or software are found to be manipulated by End User as defined in 3a – f below.

**3. Restrictions on Limited Warranty.** The Limited Warranty does not apply if software or hardware:

- a. Is altered from its original specifications;
- b. Is installed, configured, implemented or operated in any way that is contrary to its documentation;
- c. Has damage resulting from negligence, accident, or environmental stress;
- d. Was subject to unauthorized repair or modification;
- e. Is non-compatible with other components used by Buyer; or
- f. Is provided to Buyer for pre-production or evaluation purposes.

Furthermore, ExaDigm's obligation to honor the Limited Warranty is contingent upon ExaDigm's receipt of payment in full for the hardware and software entitled to the limited warranty.

**4. General Warranty Disclaimer.** EXCEPT AS SPECIFIED IN THIS LIMITED WARRANTY, ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES (INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION REGARDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT, TITLE, SATISFACTORY QUALITY OR ARISING FROM A COURSE OF DEALING, TRADE PRACTICE, USAGE, SAMPLE, MODEL, OR LAW), ARE EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW.

TO THE EXTENT AN IMPLIED WARRANTY CANNOT BE EXCLUDED, THAT WARRANTY IS LIMITED IN DURATION TO THE WARRANTY PERIOD MENTIONED ABOVE. BECAUSE SOME STATES, COUNTRIES OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, THE ABOVE LIMITATION MAY NOT APPLY. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS, WHICH VARY FROM JURISDICTION TO JURISDICTION. THE LIMITED WARRANTY ABOVE IS THE SOLE REMEDY FOR ANY BREACH OF ANY WARRANTY WITH RESPECT TO THE HARDWARE AND SOFTWARE AND IS IN LIEU OF ANY AND ALL OTHER REMEDIES.

## **5. Limitation of Liabilities.**

**a. Damages.** IN NO EVENT SHALL EXADIGM, ITS SUPPLIERS, OR ITS AUTHORIZED RESELLERS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR (A) ANY LOST REVENUE, PROFIT, OR DATA, OR (B) FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES REGARDLESS OF HOW THOSE DAMAGES WERE CAUSED. NOR WILL EXADIGM, ITS SUPPLIERS, OR ITS AUTHORIZED RESELLERS BE LIABLE FOR ANY MONETARY OR PUNITIVE DAMAGES ARISING OUT OF THE USE OF, OR INABILITY TO USE EXADIGM HARDWARE OR SOFTWARE. EXADIGM'S LIABILITY SHALL NOT EXCEED THE PRICE PAID BY THE CUSTOMER FOR ANY HARDWARE OR SOFTWARE COVERED UNDER THE TERMS AND CONDITIONS OF THIS WARRANTY.

**b. Payment Obligations.** EXADIGM'S OBLIGATION TO HONOR THE LIMITED WARRANTY IS CONTINGENT UPON EXADIGM'S RECEIPT OF PAYMENT IN FULL FOR THE HARDWARE AND SOFTWARE ENTITLED TO THE LIMITED WARRANTY.

**c. Application.** THE LIMITATION OF LIABILITY AND RESTRICTION ON DAMAGES APPLY WHETHER IN CONTRACT, TORT, NEGLIGENCE, OR OTHERWISE, AND SHALL APPLY EVEN IF THE LIMITED WARRANTY FAILS OF ITS ESSENTIAL PURPOSE.

**6. Procedure for Return of Hardware or Software under Limited Warranty.** Where repair or replacement is required under the Limited Warranty, End User must:

**a.** Contact ExaDigm either by phone at 866.392.8326, option 4, or by email at [rma@exadigm.com](mailto:rma@exadigm.com) within three (3) days after discovery of defects or failure to meet Specifications;

**b.** Obtain a Return Materials Authorization number ("RMA Number") prior to returning any hardware and/or software;

**c.** Include the ExaDigm RMA Number on all packaging;

**d.** And pay freight and handling charges for defective return to the address specified by ExaDigm. The model, serial number and description of the problem are required to be recorded on the RMA. If any one or more of the foregoing conditions is not satisfied, ExaDigm shall have no liability under this Limited Warranty whatsoever. ExaDigm will ship repaired or replacement components within a commercially reasonable time after receipt of any hardware and/or software returned for the Limited Warranty purposes to the address provided by End User. ExaDigm will pay ground shipping and handling charges for return of the repair or replacement materials to End User. Should End User require shipping via any other method (faster delivery or specific carrier), End User will pay all associated shipping charges.

**7. Hardware or Software Found to be Conforming to Specifications.** If upon evaluation by ExaDigm, any hardware and/or software are found to be conforming to Specifications without adjustments, other than those described in the User's Manual, ExaDigm will charge an evaluation fee and the freight and handling charges to return the equipment.

**8. Out of Scope Repairs.** If End User requires hardware and/or software repairs outside the scope of this Limited Warranty, ExaDigm will provide an estimate of the cost for the repairs. Credit card payment for the repairs and shipping is required prior to the initiation of repairs by ExaDigm.

**9. Miscellaneous.**

**a. Duty to Mitigate Damages.** End User has an obligation to mitigate any damages related to integration of defective or nonconforming hardware or software.

**b. Governing Law, Jurisdiction and Venue.** The Limited Warranty shall be governed by and construed in accordance with the laws of the State of California without reference to that State's conflict of laws rules and as if the contract was wholly formed within the State of California. End User agrees that jurisdiction and venue shall be in Los Angeles County, California. Under no circumstances shall the United Nations Convention on the International Sale of Goods be considered for redress of grievances or adjudication of any warranty disputes that include ExaDigm hardware or software.

**c. Severability and Supersession.** If any provision of these Terms and Conditions of Sale are held invalid, then the remainder of these Terms and Conditions of Sale will continue in full force and effect.

Where a buyer has entered into a signed contractual agreement with ExaDigm for supply of hardware, software or services, the terms of that agreement shall supersede any terms contained within this Limited Warranty.

**d. Revisions.** End User understands and acknowledges that the terms of this Limited Warranty, as well as material information regarding the form, function, operation and limitations of ExaDigm hardware and software will change from time to time, and that the most current revisions will be publicly available at the ExaDigm corporate web site ([www.exadigm.com](http://www.exadigm.com)).

**e. Conflicts.** In the event of a conflict between the language of these Terms and Conditions of Sale and any sample or model shown by Seller to Buyer, the written terms of this Terms and Conditions of Sale accurately express the intentions of the parties. The terms of this Terms and Conditions of Sale will displace any conflicting warranty based on a sample or model.