

1. Scope of Hardware Warranty

These terms and conditions (the "Hardware Warranty") apply to all Hardware Products, whether sold by Endace, or by an authorised Endace reseller, distributor or integration partner.

In this Hardware Warranty, unless the context requires otherwise:

- a) "Endace", "we", "our" or "us" means Endace Australia Pty Limited with its registered office at Level 12, 60 Castlereagh Street, Sydney NSW 2000, Australia;
- b) "Hardware Product" means an Endace hardware product, including all embedded firmware but excluding software and documentation;
- c) "Warranty Period" means 12 months following dispatch by us of a Hardware Product;
- d) "Warranty Services" means services that are provided under this Hardware Warranty to remedy a problem with a Hardware Product; and
- e) "you" or "your" means the end-user purchaser or recipient of a Hardware Product.

We warrant that during the Warranty Period the Hardware Product shall under normal use be free from material defects in materials or workmanship. Proof of purchase may be required as a condition of providing Warranty Services.

2. Warranty Services

If, during the Warranty Period, the Hardware Product does not meet the warranty set out above, we may in our sole discretion repair or replace the whole Hardware Product or just the defective components within that Hardware Product. The Hardware Warranty applies to the repaired or replaced Hardware Product or components for the remaining portion of the original Warranty Period. We reserve the right to elect, in our sole discretion, to give you a refund of the purchase price instead of a repair or replacement.

Products under warranty that are suspected to be faulty must be returned to Endace for evaluation. If found to be faulty the product will be repaired or replaced as described above. Potential charges apply if the returned product is found to be in good working order. Warranty coverage does not include access to Endace Support Services unless Support Services are explicitly purchased for the product. All Endace Support Services include hardware repair or replacement services. Warranty-only coverage (i.e. warranty service without support services) excludes e-mail or telephone support other than to receive shipping instructions and the results of the warranty service. On-site support or remote diagnostics of hardware or software is not included in warranty coverage.

To obtain Warranty Services, please email support@endace.com for instructions on returning the Hardware Product. You must prepay any charges, taxes, or duties associated with returning the Hardware Product. In addition, you are responsible for insuring any Hardware Product shipped or returned and assume all risk of loss or damage during transportation. If the Hardware Product is found to be faulty we will reimburse the reasonable costs of returning the Hardware Product.

3. Exclusions

This Hardware Warranty does not extend to any Hardware Product from which the serial number has been removed or that has become defective:

- a) as a result of accident, misuse, abuse, or other external causes;
- b) by being operated outside the usage parameters stated in the user documentation that is shipped with the Hardware Product;
- c) by its use with parts not manufactured or sold by Endace; or
- d) by its modification or service by anyone other than Endace or an Endace authorised service provider.

We do not warrant that operation of the Hardware Product will be uninterrupted or error-free. We are not responsible for damage caused wholly or in part by failure to follow instructions for the Hardware Product.

To the extent permitted by law, we expressly exclude all warranties or representations, either express or implied, not expressly set out in this Hardware Warranty (including any warranties of merchantability and fitness for a particular purpose) and any warranties that may not by law be excluded are limited in duration to the Warranty Period.

4. Limitation of liability

To the extent permitted by law:

- a) We will not have any liability or responsibility for any loss, damage or injury whether arising in contract, tort, equity or otherwise which does not flow directly or naturally from a breach of this Hardware Warranty including, in each case consequential loss of business or profits or other loss; and
- b) We shall only be liable for losses which flow directly or naturally from a breach by us of this Hardware Warranty up to a maximum of the price paid for the Hardware Product or the cost of repair or replacement of the whole Hardware Product or the defective components (whichever is the lesser).

5. Exclusive statement

This Hardware Warranty supersedes any prior agreements or representations in relation to the Hardware Product including any representations made in Endace sales literature or advice given by Endace or an agent or employee of Endace in connection with the purchase of a Hardware Product.

You acknowledge that you accept the terms of this Hardware Warranty to the exclusion of any standard terms you may have for purchases. No modification, alteration, or addition to this Hardware Warranty will be binding on Endace unless accepted in writing by an authorised Endace signatory.

6. Governing law / jurisdiction

This Hardware Warranty will be governed by the laws of New South Wales and the parties submit to the non-exclusive jurisdiction of the Courts of New South Wales.

7. Option to Purchase Support

You have the option of purchasing support from us at the price quoted by us. Any order for support will be covered under the terms and conditions of a separate support agreement.