

HEARTWARE™ MONITOR KIT LIMITED WARRANTY

This Limited Warranty relates to the HeartWare™ Monitor Kit (the "Product"), a component of the Medtronic HeartWare™ Ventricular Assist Device System (the "HVAD™ System"). For a period of two (2) years commencing on the date Medtronic ships the Product to an ordering facility, Medtronic provides the following assurances to and for the benefit of the warranty holder:

- (1) Should the Product function in a manner inconsistent with its intended operation or performance due to a defect in workmanship or materials under normal use in accordance with the HVAD™ System's Instructions for Use, Medtronic will, at its option, either:
 - (a) Issue a credit to the purchaser for a functionally-comparable Product replacement (the "Replacement") in an amount equal to the lesser of (i) the net purchase price paid by the original purchasing facility for the original Product, or (ii) the net purchase price paid by the warranty holder for the Replacement; or
 - (b) Provide to the warranty holder a Replacement without charge.

To qualify for this Limited Warranty, each of the following conditions must be met:

- (1) The product malfunction must have occurred within two (2) years of the date on which Product shipped to the ordering facility.
- (2) The Product must be used in accordance with Product labeling and not altered or subjected to misuse, reuse, abuse, neglect, improper storage, attempts to repair, improper handling, or the like, or damaged by accident, fire or other hazard.
- (3) The Product subject to the warranty claim must be returned to Medtronic at 14400 NW 60th Ave., Miami Lakes, FL 33014 within thirty (30) days of the Product malfunction date. By returning the Product and seeking a remedy under this Limited Warranty, the warranty holder agrees that the returned Product shall be the property of Medtronic.
- (4) An HVAD™ System Warranty Form must be submitted to Medtronic per the instructions set forth on the Warranty Form within thirty (30) days of the Product malfunction date.

The remedies provided hereunder are offered only when all conditions specified in this Limited Warranty are met. The determination of whether the Product is covered by this Limited Warranty shall be made by Medtronic after completing its process and analysis. If Medtronic determines that the Product subject to the warranty claim is not covered by this Limited Warranty and a Replacement has been provided to the warranty holder without charge, Medtronic shall invoice the warranty holder for the Replacement and the warranty holder shall be liable for such invoice.

This Limited Warranty is limited to its express terms. In particular:

- (1) THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, AND FITNESS FOR A PARTICULAR USE. THE REMEDIES PROVIDED UNDER THIS LIMITED WARRANTY ARE THE WARRANTY HOLDER'S EXCLUSIVE REMEDIES. AS TO ALL OTHERS, MEDTRONIC MAKES NO WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, WHETHER ARISING FROM STATUTE, COMMON LAW, CUSTOM, OR OTHERWISE. THIS LIMITED WARRANTY SHALL NOT EXTEND BEYOND THE TIME PERIOD SPECIFIED IN THE FIRST PARAGRAPH OF THIS LIMITED WARRANTY. EXCEPT AS EXPRESSLY SET FORTH IN THIS LIMITED WARRANTY, MEDTRONIC IS NOT RESPONSIBLE FOR ANY DIRECT, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES, INCLUDING LOST PROFITS, WHETHER THE CLAIM IS BASED ON WARRANTY, CONTRACT, TORT, OR OTHERWISE.
- (2) This Limited Warranty is made only to the warranty holder to whom the Product was shipped.

The exclusions and limitations set forth above are not intended to, and should not be construed as to, contravene mandatory provisions of applicable law. If any part or term of this Limited Warranty is held to be illegal, unenforceable, or in conflict with applicable law by a court of competent jurisdiction, the validity of the remaining portions of the Limited Warranty shall not be affected and all rights and obligations shall be construed and enforced as if this Limited Warranty did not contain the particular part or term held to be invalid. This Limited Warranty gives the warranty holder specific legal rights. The warranty holder may also have other rights, which vary from state to state. No person has any authority to bind Medtronic to any representation, condition, or warranty with respect to the Product that deviates in any respect from this Limited Warranty.