

Hardware Warranties - Terms and Conditions / Outline (Updated August 2016)

Throughout this legal document, "Modern Power Solutions PTY LTD" will be referred to as "MPS"

### **HOW CONSUMER LAW RELATES TO THIS WARRANTY**

For Australian consumers: The rights described in this warranty are in addition to the statutory rights to which you may be entitled under the Competition and Consumer Act 2010 and other applicable Australian consumer protection laws and regulations. Our goods come with guarantees that cannot be excluded under the Australian Consumer Law. You are entitled to a replacement or refund for a major failure and for compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the goods repaired or replaced if the goods fail to be of acceptable quality and the failure does not amount to a major failure. Repair of the goods may result in loss of data. Goods presented for repair may be replaced by refurbished goods of the same type rather than being repaired. Refurbished parts may be used to repair the goods.

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY HAVE OTHER RIGHTS THAT VARY FROM STATE TO STATE (OR BY COUNTRY OR PROVINCE). OTHER THAN AS PERMITTED BY LAW, MPS DOES NOT EXCLUDE, LIMIT OR SUSPEND OTHER RIGHTS YOU MAY HAVE, INCLUDING THOSE THAT MAY ARISE FROM THE NONCONFORMITY OF A SALES CONTRACT. FOR A FULL UNDERSTANDING OF YOUR RIGHTS YOU SHOULD CONSULT THE LAWS OF YOUR COUNTRY, PROVINCE OR STATE.

### **WARRANTY LIMITATIONS SUBJECT TO CONSUMER LAW**

TO THE EXTENT PERMITTED BY LAW, THIS WARRANTY AND THE REMEDIES SET FORTH ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL, WRITTEN, STATUTORY, EXPRESS OR IMPLIED. MPS DISCLAIMS ALL STATUTORY AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS, TO THE EXTENT PERMITTED BY LAW. IN SO FAR AS SUCH WARRANTIES CANNOT BE DISCLAIMED, MPS LIMITS THE DURATION AND REMEDIES OF SUCH WARRANTIES TO THE DURATION OF THIS EXPRESS WARRANTY AND, AT MPS'S OPTION, THE REPAIR OR REPLACEMENT SERVICES DESCRIBED BELOW. SOME STATES (COUNTRIES AND PROVINCES) DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY (OR CONDITION) MAY LAST, SO THE LIMITATION DESCRIBED ABOVE MAY NOT APPLY TO YOU.

### **WHAT IS COVERED BY THIS WARRANTY?**

MPS warrants the MPS-branded hardware product and MPS-branded accessories contained in the original packaging ("MPS Product") against defects in materials and workmanship when used normally in accordance with MPS's published guidelines for a period of ONE (1) YEAR from the date of original retail purchase by the end-user purchaser ("Warranty Period"). MPS's published guidelines include but are not limited to information contained in technical specifications, user manuals and service communications.

Please note: All claims made under the MPS One-Year Limited Warranty will be governed by the terms set out in this warranty document.

## **WHAT IS NOT COVERED BY THIS WARRANTY?**

This Warranty does not apply to any non-MPS branded hardware products or any software, even if packaged or sold with MPS hardware. Manufacturers, suppliers, or publishers, other than MPS, may provide their own warranties to you – please contact them for further information. Software distributed by MPS with or without the MPS brand (including, but not limited to system software) is not covered by this Warranty. Please refer to the licensing agreement accompanying the software for details of your rights with respect to its use. MPS does not warrant that the operation of the MPS Product will be uninterrupted or error-free. MPS is not responsible for damage arising from failure to follow instructions relating to the MPS Product's use.

This Warranty does not apply: (a) to consumable parts, such as batteries, unless failure has occurred due to a defect in materials or workmanship; (b) to cosmetic damage, including but not limited to scratches, dents and broken plastic on ports unless failure has occurred due to a defect in materials or workmanship; (c) to damage caused by use a third party component or product that does not meet the MPS Product's specifications (MPS Product specifications are available at [www.MPS.com](http://www.MPS.com) under the technical specifications for each product and also available in stores); (d) to damage caused by accident, abuse, misuse, fire, earthquake or other external cause; (e) to damage caused by operating the MPS Product outside MPS's published guidelines; (f) to damage caused by service (including upgrades and expansions) performed by anyone who is not a representative of MPS or an MPS Authorised Service Provider ("AASP"); (g) to a MPS Product that has been modified to alter functionality or capability without the written permission of MPS; (h) to defects caused by normal wear and tear or otherwise due to the normal aging of the MPS Product; (i) if any serial number has been removed or defaced from the MPS Product; or (j) if MPS receives information from relevant public authorities that the product has been stolen or if you are unable to deactivate passcode-enabled or other security measures designed to prevent unauthorised access to the MPS Product, and you cannot prove in any way that you are the authorised user of the product (eg. by presenting proof of purchase).

## **YOUR RESPONSIBILITIES**

IF YOUR MPS PRODUCT IS CAPABLE OF STORING SOFTWARE PROGRAMS, DATA AND OTHER INFORMATION, YOU SHOULD MAKE PERIODIC BACKUP COPIES OF THE INFORMATION CONTAINED ON THE STORAGE MEDIA TO PROTECT THE CONTENTS AND AS A PRECAUTION AGAINST POSSIBLE OPERATIONAL FAILURES.

Before receiving warranty service, MPS or its agents may require that you furnish proof of purchase details, respond to questions designed to assist with diagnosing potential issues and follow MPS's procedures for obtaining warranty service. Before submitting your MPS Product for warranty service you should maintain a separate backup copy of the contents of its storage media, remove all personal information that you want to protect and disable all security passwords.

DURING WARRANTY SERVICE IT IS POSSIBLE THAT THE CONTENTS OF THE MPS PRODUCT'S STORAGE MEDIA WILL BE LOST, REPLACED OR REFORMATTED. IN SUCH AN EVENT MPS AND ITS AGENTS ARE NOT RESPONSIBLE FOR ANY LOSS OF SOFTWARE PROGRAMS, DATA OR OTHER INFORMATION CONTAINED ON THE STORAGE MEDIA OR ANY OTHER PART OF THE MPS PRODUCT SERVICED.

Following warranty service your MPS Product or a replacement device will be returned to you as your MPS Product was configured when originally purchased, subject to applicable updates. You will be responsible for reinstalling all other software programs, data and information. Recovery and reinstallation of other software programs, data and information are not covered under this Warranty.

### **WHAT WILL MPS DO IN THE EVENT THE WARRANTY IS BREACHED?**

If during the Warranty Period you submit a claim to MPS or an AASP in accordance with this warranty, MPS will, at its option:

- (i) repair the MPS Product using new or previously used parts that are equivalent to new in performance and reliability,
- (ii) replace the MPS Product with the same model (or with your consent a product that has similar functionality) formed from new and/or previously used parts that are equivalent to new in performance and reliability, or
- (iii) exchange the MPS Product for a refund of your purchase price.

MPS may request that you replace certain user-installable parts or MPS Products. A replacement part or MPS Product, including a user-installable part that has been installed in accordance with instructions provided by MPS, assumes the remaining term of the Warranty or ninety (90) days from the date of replacement or repair, whichever provides longer coverage for you. When a MPS Product or part is replaced or a refund provided, any replacement item becomes your property and the replaced or refunded item becomes MPS's property.

### **HOW TO OBTAIN WARRANTY SERVICE?**

Please access and review the online help resources described below before seeking warranty service. If the MPS Product is still not functioning properly after making use of these resources, please contact an MPS representative or, if applicable, an MPS owned retail store ("MPS Retail") or AASP, using the information provided below. An MPS representative or AASP will help determine whether your MPS Product requires service and, if it does, will inform you how MPS will provide it. When contacting MPS via telephone, other charges may apply depending on your location.

Online information with details on obtaining warranty service is provided below.

### **WARRANTY SERVICE OPTIONS**

MPS will provide warranty service through one or more of the following options:

- (i) Carry-in service. You may return your MPS Product to an MPS Retail or AASP location offering carry-in service. Service will be performed at the location, or MPS Retail or an AASP may send your MPS Product to an MPS Repair Service ("ARS") location to be serviced. Once you are notified that service is complete, you will retrieve the MPS Product from the MPS Retail or AASP location without delay, unless MPS notifies you that the MPS Product will be sent directly to your location from the ARS location.
- (ii) Mail-in service. If MPS determines that your MPS Product is eligible for mail-in service, MPS will send you prepaid waybills and if applicable, packaging material and instructions on how to properly pack and address your MPS product, so that you may ship your MPS Product to an ARS or AASP location. Once service is complete, the ARS or AASP location will return the MPS Product to you. MPS will pay for shipping to and from your location if all instructions regarding the method of packaging and shipping the MPS Product are followed.

(iii) Do-it-yourself (DIY) parts service. DIY parts service allows you to service your own MPS Product. If DIY parts service is available in the circumstances, the following process will apply.

(a) Service where MPS requires return of the replaced MPS Product or part. MPS may require a credit card authorisation as security for the retail price of the replacement MPS Product or part and applicable shipping costs. If you are unable to provide credit card authorisation, DIY parts service may not be available to you and MPS will offer alternative arrangements for service. MPS will ship a replacement MPS Product or part to you with installation instructions, if applicable, and any requirements for the return of the replaced MPS Product or part. If you follow the instructions, MPS will cancel the credit card authorisation, so you will not be charged for the MPS Product or part and shipping to and from your location. If you fail to return the replaced MPS Product or part as instructed or return a replaced product or part that is ineligible for service, MPS will charge your credit card for the authorised amount.

(b) Service where MPS does not require return of the replaced MPS Product or part. MPS will ship you free of charge a replacement MPS Product or part accompanied by instructions on installation, if applicable, and any requirements for the disposal of the replaced MPS Product or part.

(c) MPS is not responsible for any labor costs you incur relating to DIY parts service. Should you require further assistance, contact MPS at the telephone number listed below.

MPS reserves the right to change the method by which MPS may provide warranty service to you, and your MPS Product's eligibility to receive a particular method of service. Service will be limited to the options available in the country where service is requested. Service options, parts availability and response times may vary according to country. You may be responsible for shipping and handling charges if the MPS Product cannot be serviced in the country it is in. If you seek service in a country that is not the country of purchase, you will comply with all applicable import and export laws and regulations and be responsible for all custom duties, V.A.T. and other associated taxes and charges. For international service, MPS may repair or replace MPS Products and parts with comparable MPS Products and parts that comply with local standards.

#### **LIMITATION OF LIABILITY**

EXCEPT AS PROVIDED IN THIS WARRANTY AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, MPS IS NOT RESPONSIBLE FOR DIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM ANY BREACH OF WARRANTY OR CONDITION, OR UNDER ANY OTHER LEGAL THEORY, INCLUDING BUT NOT LIMITED TO LOSS OF USE; LOSS OF REVENUE; LOSS OF ACTUAL OR ANTICIPATED PROFITS (INCLUDING LOSS OF PROFITS ON CONTRACTS); LOSS OF THE USE OF MONEY; LOSS OF ANTICIPATED SAVINGS; LOSS OF BUSINESS; LOSS OF OPPORTUNITY; LOSS OF GOODWILL; LOSS OF REPUTATION; LOSS OF, DAMAGE TO, COMPROMISE OR CORRUPTION OF DATA; OR ANY INDIRECT OR CONSEQUENTIAL LOSS OR DAMAGE HOWSOEVER CAUSED INCLUDING THE REPLACEMENT OF EQUIPMENT AND PROPERTY, ANY COSTS OF RECOVERING, PROGRAMMING, OR REPRODUCING ANY PROGRAM OR DATA STORED IN OR USED WITH THE MPS PRODUCT OR ANY FAILURE TO MAINTAIN THE CONFIDENTIALITY OF INFORMATION STORED IN THE MPS PRODUCT.

THE FOREGOING LIMITATION SHALL NOT APPLY TO DEATH OR PERSONAL INJURY CLAIMS, OR ANY STATUTORY LIABILITY FOR INTENTIONAL AND GROSS NEGLIGENT ACTS AND/OR OMISSIONS. MPS DISCLAIMS ANY REPRESENTATION THAT IT WILL BE ABLE TO REPAIR ANY

MPS PRODUCT UNDER THIS WARRANTY OR REPLACE THE MPS PRODUCT WITHOUT RISK TO OR LOSS OF INFORMATION STORED ON THE MPS PRODUCT.

SOME STATES (COUNTRIES AND PROVINCES) DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

#### GENERAL

No MPS reseller, agent, or employee is authorised to make any modification, extension, or addition to this Warranty. If any term is held to be illegal or unenforceable, the legality or enforceability of the remaining terms shall not be affected or impaired. This Warranty is governed by and construed under the laws of the country in which the MPS Product purchase took place. MPS is identified at the end of this document according to the country or region in which the MPS Product purchase took place. MPS or its successor in title is the warrantor under this Warranty.