

HEALTH MONITOR TERMS OF USE

Use of FEI Company's Health Monitor software (the "Software") with respect to an instrument or other equipment manufactured or sold by FEI Company or its affiliates ("Equipment") is subject to the terms of your current sales or service agreement and the following terms (these "Terms"). "You" (or similar terms such as "your") or "Customer" refer to the customer using, owning or controlling the Software or Equipment in connection with services provided by Company. "Company" means FEI Company. "Installed Application" means the software component of the Software installed on your Equipment.

Subject to the payment of all fees due for use of the Software, Company grants Customer a non-exclusive, nontransferable license, without power to sublicense, to use the software component of the Software installed on your Equipment ("Installed Application") in connection with the Equipment. The Installed Application is either preinstalled on the Equipment or installed on the Equipment by Company's authorized service representative. This license does not include the right to make the Software available to third parties or use the Software to provide services for, or to render services to, any business entities or organizations, such as is done by service bureaus, data processing organizations or similar organizations. The Software and any documentation are provided with Restricted Rights. Use, duplication, or disclosure by the Government is subject to restrictions as set forth in this License and in DFARS 227.7202-3 or FAR 52.227-19, as applicable. Manufacturer is FEI Company, 5350 NE Dawson Creek Drive, Hillsboro OR 97124.

Company (or Company's licensors) owns all legal right, title and interest in and to the Software, including any intellectual property rights which subsist in the Software (whether those rights happen to be registered or not, and wherever in the world those rights may exist). The Software may contain information which is designated confidential by Company and Customer shall not disclose such information without Company's prior written consent. In using the Software, Customer will not use any trademark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names or logos. Nothing in this Agreement gives Customer a right to use any of Company's trade names, trademarks, service marks, logos, domain names, and other distinctive brand features without obtaining, in each instance, Company's prior written consent. Customer may not (and Customer may not permit anyone else, on Customer's behalf or otherwise, to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof, unless this is expressly permitted or required by law or expressly permitted hereunder.

Customer understands the Installed Application communicates with the Company either by means of email transmission or through a cloud-based data access service related to the Software (the latter referred to as the "**Cloud Service**"). Software used by Company to operate the Cloud Service is not made available to the Customer in object code form or otherwise. Customer agrees that Company may collect system data and related information, including but not limited to, information about the associated equipment, computing device, system and application software, and peripherals, ("**Collected Data**"), and may store Collected Data on the Cloud Service, where it is accessible to Company. In accordance with applicable laws, Company may use Collected Data for purposes of monitoring and maintaining the Equipment, providing remote support for the Equipment and improving Company products and services. You hereby grant to us, our affiliates and our service providers a worldwide, royalty-free, fully paid, non-exclusive, transferable, sublicensable, perpetual license to use, copy, modify, and distribute Collected Data in furtherance of the purposes stated in these Terms.

COMPANY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT AND FITNESS FOR ANY PARTICULAR PURPOSE.

IN NO EVENT SHALL COMPANY BE LIABLE FOR SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OR LOSSES ALTHOUGH COMPANY MAY BE INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE. EXCEPT AS EXPRESSLY PROVIDED HEREIN, COMPANY DISCLAIMS ALL OTHER LIABILITY TO YOU OR ANY OTHER PERSON IN CONNECTION WITH THIS AGREEMENT OR THE DELIVERY OR NON-DELIVERY, SALE, MAINTENANCE, USE OR PERFORMANCE OF THE GOODS AND SERVICES, INCLUDING SPECIFICALLY, BUT WITHOUT LIMITATION, LIABILITY FOR NEGLIGENCE OR STRICT LIABILITY IN TORT. IN NO EVENT SHALL COMPANY'S LIABILITY UNDER THIS AGREEMENT EXCEED THE PURCHASE PRICE PAID FOR THE GOODS AND SERVICES BY YOU AND YOU ACKNOWLEDGE THAT THE PRICING OF THE PRODUCT AND THE OTHER TERMS AND CONDITIONS OF THIS AGREEMENT REFLECT THE ALLOCATION OF RISK SET FORTH IN THIS AGREEMENT AND THAT COMPANY WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS OF ITS LIABILITY. NOTWITHSTANDING THE FOREGOING NOTHING CONTAINED IN

THESE TERMS AND CONDITIONS LIMITS COMPANY'S LIABILITY FOR COMPANY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

Company may, at any time, modify the Software, or deactivate (permanently or temporarily) the Software (or any features within the Software) at Company's sole discretion and for any reason, and without notice, without liability to you or any person, including without limitation if Company believes you have breached or may breach any provision of these Terms; or if the provision of the Software to you is, in our opinion, no longer commercially viable. If Company deactivates the Software, the provisions of these terms shall continue in effect, except you are no longer authorized to use the Software. deactivation shall not relieve you of liability for breach occurring prior to such deactivation.

Your sales or service agreement, together with these Terms constitutes the entire agreement of the parties concerning the subject matter herein. If there is a conflict between the terms and conditions in your sales or service agreement and these Terms, these Terms shall govern solely with respect to the Software and use thereof.

If you do not have a separate sales or service agreement applicable to service provided hereunder, the following additional terms apply:

CONFIDENTIALITY: Customer understands that in the course of Company performing its obligations hereunder, Company may disclose confidential information ("**Confidential Information**"), to Customer. Customer may use Confidential Information only to assist Company in performing its obligations hereunder. Customer agrees not to disclose Confidential Information, directly or indirectly, to any third party. Customer may, however, disclose Confidential Information to its employees who have a need to know and are bound by confidentiality obligations no less restrictive than those set forth herein. Customer will protect the Confidential Information using the same degree of care it uses to protect its own confidential information, but no less than a reasonable degree of care. Customer's obligations of confidentiality hereunder shall not apply to information which: (i) is now, or hereafter becomes, through no act or failure to act on the part of Customer, generally known or available; (ii) is independently known by Customer at the time of receiving such information; (iii) is hereafter furnished to Customer by a third party without a breach of any obligation to Company; (iv) is independently developed by Customer without using Company's Confidential Information or breaching this Agreement; or (v) is required by law to be disclosed in response to a valid order by a court or other governmental body, provided Customer gives Company prompt written notice of such requirement prior to disclosure so that Company may attempt to obtain an order protecting such information from public disclosure. Customer's obligation under this Section shall survive the termination or expiration of this Agreement. Customer is prohibited from taking photos or video of Company representatives performing service without Company's prior written consent. If Customer begins to take photos or video of a Company representative during the course of a service visit, such representative shall have the right to discontinue service.

FORCE MAJEURE: Neither party shall be in breach of this Agreement if it fails to perform due to causes beyond its control, including but not limited to, acts of God, power outage, power surge, pandemics, fire, theft, war, riot, civil unrest, embargoes, strikes, labor disputes, communications failures, terrorism or acts of civil or military authorities.

EXPORT RESTRICTIONS: Customer acknowledges that the provision by Company of products (including components and spare parts), software, services (including warranty services), technology or intellectual property, including technical information supplied by Company or contained in documents (collectively "Items"), is subject to applicable export controls of the U.S. government and other jurisdictions, including but not limited to the European Union. These controls may require Company or Customer to first obtain a license (or similar requirement) from the relevant authority, or regulatory body. Company shall not be liable to Customer for any delay or failure to obtain the licenses or approvals that Company reasonably believes are necessary. Customer shall comply with all applicable export laws and regulations. Customer shall not, without first obtaining from the relevant authority or regulatory body any license required to do so lawfully, export or re-export any Item (either directly or indirectly), to: (i) any restricted or embargoed country or any person or organization whose privilege to participate in exports has been denied or restricted by the applicable authority; or (ii) any person or organization who is involved in improper development or use of nuclear weapons, or of chemical/biological weapons (CBW) or missiles, or in terrorist activities. Customer agrees not to use any supplied Item in restricted or prohibited activities such as nuclear explosives, unsafeguarded nuclear activities, chemical or biological weapons development, restricted rocket or missile systems, or restricted military purposes. Customer will, on request (i) promptly provide written information correctly identifying the end user and end use of any Items (including any information as it may relate to a subsequent transfer of such Items by Customer); and (ii) cooperate fully with Company in any official or unofficial audit or inspection arising in respect of the Items under applicable export or import control laws or regulations. Customer will ensure that the customers and end users to whom Customer re-sells or transfers the Items agree in writing to the provisions of this Section and Customer covenants to use its best efforts to enforce such provisions against customers and end users. Customer shall indemnify and hold Company harmless from, or in connection with, any violation of this Section by Customer or its employees, consultants, agents

and/or representatives. In addition, failure of Customer to comply with this Section shall be a material breach of this Agreement and shall entitle Company to immediately terminate this Agreement. Company shall be entitled to terminate this Agreement without prior notice if such termination is necessary in order to comply with applicable export laws and regulations.

ASSIGNMENT: Customer may not assign or transfer this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of Company.

GOVERNING LAWS: This Agreement shall be governed by the laws of the Commonwealth of Massachusetts, USA.