

WARRANTY

LIMITED WARRANTY and LIMITATION OF MANUFACTURER'S LIABILITIES AND PURCHASER'S REMEDIES

THE LIMITED WARRANTY SET FORTH BELOW SHALL NOT VEST ANY RIGHTS IN NOR CREATE ANY WARRANTIES IN FAVOR IF ANY PERSON NOT IN PRIVACY OF CONTRACT WITH SECOND WIND INC. ("SWI"), IF THOSE RIGHTS OR WARRANTIES WOULD NOT EXIST IN THE ABSENCE OF THIS LIMITED WARRANTY; WHETHER EXPRESS OR IMPLIED, WHETHER BY OPERATION OF LAW OR OTHERWISE, THE FOLLOWING CONSTITUTES SECOND WIND INC.'S SOLE AND LIMITED WARRANTY AND THE WARRANTY AND LIMITATION ON REMEDIES SET FORTH BELOW IS HEREBY EXPRESSLY MADE APPLICABLE TO ANY PERSON PURCHASING THE EQUIPMENT DIRECTLY FROM SECOND WIND INC.

I. LIMITED WARRANTY:

Second Wind Inc. warrants that its products will be free from substantial defects in material and workmanship at the time of delivery from SWI of such products to the original purchaser thereof. This limited warranty shall apply for a period of one year from the date of delivery of the products from SWI to the original purchaser thereof. SWI will repair or replace, at its discretion, any defective components. This warranty includes only the cost of parts and labor, and return shipping to the purchaser. THE FOREGOING WARRANTY IS EXCLUSIVE AND SWI HEREBY EXCLUDES AND DISCLAIMS ANY AND ALL OTHER WARRANTIES WHETHER EXPRESS OR IMPLIED INCLUDING ANY WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. SWI shall not be responsible for failures due to vandalism, accidents, improper installation or use, alterations, unauthorized servicing, or acts of God, including but not limited to direct lightning strikes.

If any failure occurs, SWI must be notified immediately. In appropriate circumstances, SWI will issue a return authorization and shipping instructions. Customer should forward the products, shipping and handling prepaid, to the following address:

Second Wind Inc.
366 Summer Street
Somerville, MA 02143
Telephone: (617) 776-8520
Email: support@secondwind.com

SWI will not assume any liability or cost for unauthorized returns.

This warranty supersedes any warranty that may appear on any promotional material describing the products of Second Wind Inc.

II. LIMITATION ON SWI'S LIABILITIES AND PURCHASER'S REMEDIES

Any purchaser's sole and exclusive remedy and SWI's limit of liability for any and all losses or damage resulting from nonconforming goods or tender, the malfunction of goods, the breach of any warranty, or from any other cause shall be, at SWI's sole option, the repair or replacement of the Equipment, or refund of the price charged by SWI to the original purchase or the specific goods with respect to which claim is made.

In the case of the Second Wind ADMS Supervisor and Project Analyst licensed to purchaser, intellectual property indemnification shall be as provided for in the ADMS Software License Agreement.

IN ANY EVENT, THE PURCHASER SHALL HAVE NO REMEDY AND SWI SHALL HAVE NO LIABILITY (A) IN EXCESS OF THE PRICE CHARGED BY SWI TO THE ORIGINAL PURCHASER OF THE SPECIFIC GOODS WITH RESPECT TO WHICH SUCH CLAIM IS MADE, OR (B) FOR THE COST TO PURCHASER OF ANY LABOR OR MATERIAL EXPENDED ON ANY SUCH GOODS OR FOR ANY OTHER SPECIAL, DIRECT, INDIRECT, OR CONSEQUENTIAL DAMAGES.

Except as otherwise specifically provided by this Limited Warranty and Limitation on Liabilities and Remedies, purchaser shall assume any and all risks and liabilities whatsoever in connection with the use of the Equipment