

Standard Limited Warranty

1. Definitions

Installation Date shall mean the date upon which Encelium Hardware or Encelium Software, as the case may be, is installed in a building.

Encelium Hardware shall mean system hardware components produced and supplied by Encelium, excluding Third Party Hardware.

Encelium Software shall mean all Encelium control software, including but not limited to Polaris, PCS, PCW, and all other software applications developed and sold by Encelium..

Third Party Hardware shall mean any third party hardware components supplied (but not manufactured by) Encelium including but not limited to ballasts, lamps, sockets, occupancy sensors, photo sensors, power relays, energy meters, current transformers and related third party accessories.

2. Encelium Hardware Warranty

Scope of Limited Hardware Warranty. Encelium warrants that the Encelium Hardware is free from defects in materials and workmanship on the Installation Date. If a defect in materials or workmanship that was present in the Encelium Hardware on the Installation Date manifests within forty-eight (48) months from the Installation Date, Encelium will repair any such defect, or in lieu of repair, and at its sole option, replace the Encelium Hardware. This Limited Hardware Warranty is not a warranty of future performance within the meaning of UCC §2-725(2). Where Encelium elects to repair the Encelium Hardware pursuant to this warranty, that repair may, in the discretion of Encelium, be performed at the customer's premises. Where Encelium elects to replace the Encelium Hardware pursuant to this warranty, the cost of shipping of replacement products is the sole responsibility of Encelium. Encelium shall not be responsible in any manner whatsoever for labor or other ancillary costs associated with the installation of replacement products.

Limitations on Limited Hardware Warranty. This warranty is not applicable to any Encelium Hardware that is not installed or operated in accordance with applicable federal, state, provincial or local electrical codes, the standards for safety of Underwriter's Laboratories, Inc. (UL), Canadian Standards Association (CSA) or equivalent standards body, and all Encelium system and equipment specifications, instructions and connection diagrams. This warranty is void if the customer fails to maintain electrical power and environmental conditions prescribed in any Encelium specifications or instructions, or if the system, or any part thereof, has been subject to any unauthorized modification, use with any unauthorized device or feature, accident, neglect, misuse, use of unauthorized software or media, tampering, or any event other than ordinary use. Encelium does not warrant defects caused by failure to provide a suitable operating environment for the product as prescribed by Encelium's published technical specifications, damage to the product caused by disasters such as fire, flood, wind, and lightning, or damage by other external causes.

Disclaimer of Other Warranties. Encelium does not warrant any Third Party Hardware which may be supplied with the system, and Customer agrees to look only to such third party vendors for any warranty claim relating thereto. ENCELIUM'S LIMITED HARDWARE WARRANTY HEREIN IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE DISCLAIMED.

3. Software Warranty

Scope of Limited Software Warranty. Encelium warrants to the customer that for a period of ninety (90) days commencing upon the Installation Date, the Encelium Software will operate substantially in compliance with Encelium software specifications as published from time to time (the "Software Specification").

Limitations on Limited Software Warranty. This warranty is not applicable to any Encelium Software used in a computer operating system that is not in compliance with the Software Specification, or where the operation of the Encelium Software is adversely affected by external technical factors beyond its control (including but not limited to conflicting software applications, network settings or other network capability issues) which prevent the Software from operating under normal conditions.

Disclaimer of Other Warranties. Encelium does not warrant any software not produced or supplied by Encelium, and Customer agrees to look only to other third party vendors for any warranty claim relating thereto. THE LIMITED SOFTWARE WARRANTY SET FORTH IN THIS SECTION IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, AND ALL OTHER WARRANTIES, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE DISCLAIMED.

4. Warranty Claims And Exclusive Remedy

Encelium's sole obligation and the customer's sole and exclusive remedy for any warranty claim is limited to the adjustment, repair or replacement of such defective hardware or software, as the case may be. THE ABOVE ARE THE BUYER'S EXCLUSIVE REMEDIES FOR BREACH OF WARRANTY. IN NO EVENT SHALL ENCELIUM BE LIABLE FOR ANY DAMAGES IN EXCESS OF THE PURCHASE PRICE OF THE SYSTEM. ENCELIUM SHALL NOT IN ANY EVENT BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR LIQUIDATED DAMAGES OR PENALTIES BASED UPON ANY LEGAL THEORY. SUCH DAMAGES INCLUDE, BUT ARE NOT LIMITED TO CLAIMS FOR LOST REVENUE, PROFITS, SALES, OR BUSINESS OPPORTUNITIES, LOSS OF USE OF THE PRODUCT OR ANY ASSOCIATED EQUIPMENT, COST OF CAPITAL, COST OF ANY SUBSTITUTE EQUIPMENT, FACILITIES OR SERVICES, DOWNTIME, LABOR, THE CLAIMS OF THIRD PARTIES INCLUDING CUSTOMERS, INJURY TO PROPERTY AND, UNLESS PRECLUDED UNDER APPLICABLE STATE OR PROVINCIAL LAW, BODILY INJURY AND PERSONAL INJURY, EVEN IF ENCELIUM HAD OR SHOULD HAVE HAD ANY KNOWLEDGE, ACTUAL OR CONSTRUCTIVE, OF THE POSSIBILITY OF SUCH DAMAGES.

5. Notice

Warranty claims must be submitted to Encelium in writing within the prescribed warranty period, and within thirty (30) days of the alleged failure, c/o Encelium Technologies, ULC., 68 Leek Crescent, Richmond Hill, Ontario Canada L4B 1H1 or by fax at (905) 731-1401. Performance under the Standard Limited Warranty is expressly conditioned upon strict compliance with this notice provision.