



Mechanical Solutions

Test ▪ Analyze ▪ Solve ▪ Design ▪ Products

END-USER ACCEPTANCE CERTIFICATE

The Undersigned purchaser/end user of the VibVue® high-speed vibration analysis system acknowledges acceptance of the VibVue® Terms of Use and Limited Warranty and VibVue® software End User License Agreement. A copy of such documentation is provided with each VibVue® system and also located at <https://www.mechsol.com/products/vibvue/legal>.

Company Name: _____

Address: _____

Signatory Name: _____

Title:

Date:

VIBVUE[®] TERMS OF USE AND LIMITED WARRANTY

1. Acceptance of Terms

These Terms of Use govern the use of the Mechanical Solutions (“MSI”) VibVue[®] high-speed vibration analysis system by the end-user (“User”) of the VibVue[®] system, and supersede any inconsistent terms that may be contained in any agreement, purchase order or acceptance form. The terms governing the companion VibVue[®] software licensed by MSI are set forth in the VibVue[®] software End User License Agreement (“EULA”). **THESE MSI TERMS OF USE AND THE EULA SHALL BE THE COMPLETE AND EXCLUSIVE STATEMENT OF THE TERMS OF USE FOR THE VIBVUE[®] SYSTEM.** User’s use of the VibVue[®] system constitutes acceptance of these Terms of Use and EULA.

2. Hardware Limited Warranty

- A. User acknowledges that MSI is not the manufacturer of the individual components that are assembled by MSI into the VibVue[®] system hardware. As to the hardware components of the VibVue[®] system manufactured by a third party (“OEM”), MSI will transfer to the User MSI’s rights under the OEM warranty (to the full extent transferable). In addition, upon request MSI will provide reasonable assistance to User in processing any warranty claim with the OEM. MSI shall have no other responsibility or liability for OEM components or parts.

MSI warrants to the User that the VibVue[®] hardware, upon proper installation and functioning of the OEM components, will be sufficient to enable the VibVue[®] system software to function as warranted by MSI in the VibVue[®] EULA.

- B. This Limited Warranty does not apply to software supplied or made available by MSI for use in connection with the VibVue[®] system. User’s rights with respect to such software are solely as set forth in the applicable VibVue[®] EULA.
- C. MSI makes no warranty, express or implied, that the VibVue[®] system as designed or, when installed and placed in operation and used by the User, will comply with any law, rule, regulation or precept that may be applicable to User and/or User’s equipment or site.
- D. **EXCEPT FOR THE LIMITED WARRANTY SET FORTH ABOVE, MSI MAKES NO WARRANTIES EXPRESS OR IMPLIED WITH RESPECT TO THE VIBVUE[®] SYSTEM HARDWARE AND EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
- E. MSI shall have no obligation under the Limited Warranty or otherwise, and this Limited Warranty does not apply to any hardware components which are (a) identified by MSI as pre-production product, alpha, beta or similar product or a prototype, (b) specials, modifications, or customized items meeting the specifications provided by User; (c) repaired, modified or altered by any party other than MSI; (d) used in conjunction with equipment not provided by, or acknowledged as compatible by, MSI; (e) subjected to unusual physical, thermal, or

electrical stress; (f) damaged due to improper installation, misuse, abuse, or storage; or (g) damaged due to accident or negligence in use, storage, transportation or handling.

3. **Limitation on Liability**

IN NO CASE SHALL MSI BE LIABLE TO ANYONE FOR ANY CONSEQUENTIAL OR INCIDENTAL DAMAGES FOR BREACH OF THE LIMITED WARRANTY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED, OR UPON ANY OTHER BASIS OF LIABILITY WHATSOEVER, EVEN IF THE LOSS OR DAMAGE IS CAUSED BY MSI'S OWN NEGLIGENCE OR FAULT.

MSI SHALL HAVE NO LIABILITY FOR ANY PERSONAL INJURY, PROPERTY DAMAGE OR OTHER LOSS BASED ON THE USE OF THE VIBVUE® HARDWARE IN COMBINATION WITH OR INTEGRATED INTO ANY OTHER INSTRUMENT OR DEVICE. HOWEVER, IF MSI IS HELD LIABLE, WHETHER DIRECTLY OR INDIRECTLY, FOR ANY LOSS OR DAMAGE ARISING UNDER THE LIMITED WARRANTY OR OTHERWISE, REGARDLESS OF CAUSE OR ORIGIN, MSI'S MAXIMUM LIABILITY SHALL NOT IN ANY CASE EXCEED THE PURCHASE PRICE OF THE VIBVUE® HARDWARE WHICH SHALL BE THE COMPLETE AND EXCLUSIVE REMEDY AGAINST MSI.

4. **Indemnification**

In the event User uses the VibVue® system to provide a service to customers, User agrees to defend, indemnify and hold harmless MSI from and against any claim, loss, expense, damage or action asserted against MSI by any customer of User arising from User's use of the VibVue® system on such customer's equipment, regardless of whether such claim asserts negligence or fault on the part of MSI or defect in the VibVue® system.

5. **Dispute Resolution**

Any dispute arising out of or relating to these Terms of Use shall be litigated in a New Jersey state court in Morristown, Morris County, New Jersey, USA or Federal Court in Newark, New Jersey USA, and both MSI and User expressly submit to the personal jurisdiction and venue of such courts.

6. **Invalidity**

If any provision of these Terms and Conditions of Sale is held invalid by any governing law or regulation or by any court having valid jurisdiction, such invalidity will not affect the enforceability of other provisions.

7. **Governing Law**

These Terms of Use and Limited Warranty shall be construed under and governed in all respects by the laws of the State of New Jersey USA without regard to the conflicts of law principles thereof.