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LIMITED WARRANTY. Aclara Technologies LLC (“Aclara”) warrants that meters shall be delivered free from defects in material, workmanship and title and that services shall be performed in a competent, diligent manner in accordance with any mutually agreed specifications. The warranty for Products shall expire one (1) year from first use or eighteen (18) months from delivery, whichever occurs first, except that software is warranted for ninety (90) days from delivery. The warranty for Services shall expire one (1) year after performance of the service, except that software-related services are warranted for ninety (90) days.

The warranties and remedies are conditioned upon (a) proper storage, installation, use, operation, and maintenance of Products, (b) Buyer keeping accurate and complete records of operation and maintenance during the warranty period and providing Aclara access to those records, and (c) modification or repair of Products or Services only as authorized by Aclara in writing. Failure to meet any such conditions renders the warranty null and void. Aclara is not responsible for normal wear and tear.

If Products or Services do not meet the above warranties, Buyer shall promptly notify Aclara in writing prior to expiration of the warranty period. Aclara shall (i) at its option, repair or replace defective Products and (ii) re-perform defective Services. If despite Aclara’s reasonable efforts, a non-conforming Product cannot be repaired or replaced, or non-conforming Services cannot be re-performed, Aclara shall refund or credit monies paid by Buyer for such non-conforming Products and Services. Warranty repair, replacement or re-performance by Aclara shall not extend or renew the applicable warranty period. Buyer shall obtain Aclara’s agreement on the specifications of any tests it plans to conduct to determine whether a non-conformance exists.

REMEDIAL WARRANTY EFFORTS. Buyer shall bear the costs of access for Aclara’s remedial warranty efforts (including removal and replacement of systems, structures or other parts of Buyer’s facility), de-installation, decontamination, re-installation and transportation of defective Products to Aclara and back to Buyer.

NO IMPLIED WARRANTIES. THE WARRANTIES CONTAINED HEREIN ARE IN LIEU OF ALL WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING WARRANTIES FOR MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE LIABILITY OF ACLARA SHALL BE LIMITED TO REPAIR OR REPLACEMENT OF ANY DEFECTIVE PRODUCT.

EXCLUSIVE REMEDY: This Statement of Limited Warranty provides the exclusive remedies for all claims based on failure of or defect in Products or Services, regardless of when the failure or defect arises, and whether a claim, however described, is based on contract, warranty, indemnity, tort/extra-contractual liability (including negligence), strict liability or otherwise. The warranties provided in this Statement of Limited Warranty are exclusive and are in lieu of all other warranties, conditions and guarantees whether written, oral, implied or statutory.

LIMITATION OF LIABILITY

IN NO EVENT SHALL ACLARA BE LIABLE FOR ANY DAMAGES, INCLUDING BUT NOT LIMITED TO SPECIAL, DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, RESULTING FROM PRODUCT INSTALLATION, USE, REMOVAL OR REINSTALLATION. IN NO EVENT SHALL ACLARA BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL,



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EXEMPLARY, MULTIPLE OR PUNITIVE DAMAGES, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER AS THE RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR ANY OTHER THEORY, INCLUDING WITHOUT LIMITATION LABOR OR EQUIPMENT REQUIRED TO REMOVE AND/OR REINSTALL ORIGINAL OR REPLACEMENT PARTS, LOSS OF TIME, PROFITS OR REVENUES, LACK OR LOSS OF PRODUCTIVITY, LOSS OF USE OF THE PRODUCTS OR ANY ASSOCIATED EQUIPMENT INTEREST CHARGES OR COST OF CAPITAL, COST OF SUBSTITUTE EQUIPMENT, FACILITIES, SYSTEMS, SERVICES OR DOWNTIME COSTS, DAMAGE TO OR LOSS OF PROPERTY OR EQUIPMENT, ANY INCONVENIENCE, COST OR DAMAGE ARISING OUT OF ANY DELAY IN PERFORMING, FAILURE TO PERFORM OR OTHER BREACH OF THE WARRANTY SET FORTH IN HEREIN OR OBLIGATIONS UNDER SUCH WARRANTY, OR CLAIMS OF THIRD PARTIES AGAINST BUYER, ARISING OUT OF OR IN CONNECTION WITH THE SALE, INSTALLATION, USE OF, INABILITY TO USE, OR THE REPAIR OR REPLACEMENT OF THE PRODUCTS SOLD PURSUANT TO THESE TERMS. IN NO EVENT SHALL ACLARA'S TOTAL LIABILITY IN RESPECT OF ANY AND ALL CLAIMS OF ANY KIND WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE ARISING OUT OF OR IN CONNECTION WITH, OR RESULTING FROM ACLARA'S SALE, DELIVERY, RESALE, REPAIR, REPLACEMENT OR FURNISHING OF ANY PRODUCTS, INCLUDING PERFORMANCE OR BREACH OF THE WARRANTY SET FORTH HEREIN OF THESE TERMS, EXCEED THE PURCHASE PRICE ALLOCABLE TO THE GOOD(S) THAT GIVE RISE TO THE CLAIM, AND ANY AND ALL SUCH LIABILITY SHALL TERMINATE UPON THE EXPIRATION OF THE APPLICABLE WARRANTY PERIOD FOR SUCH GOOD(S).

MODIFICATION OF WARRANTY. Aclara reserves the right to modify or discontinue this Limited Warranty without notice, provided that any such modification or discontinuance will only be effective with respect to any Products purchased after such modification or discontinuance.

GOVERNING LAW. This Limited Warranty shall be construed and enforced in accordance with the laws of the State of New York and the applicable laws of the United States.