

LIMITED WARRANTY FOR PATIENTS (U.S. Customers Only)

Bioness® provides the following Limited Warranty with respect to certain components of the Bioness® StimRouter™ system. The Bioness StimRouter system is comprised of the following patient components: (i) one implanted multi-electrode lead (“Lead”); (ii) one external pulse transmitter (“Transmitter”); (iii) one patient programmer for the Transmitter (“Patient Programmer”); and (iv) disposable integrated battery and surface electrodes (“User Patch”) (the Lead, Transmitter, Patient Programmer and User Patch are collectively referred to as the “Equipment”).

This Limited Warranty applies only to the patient who has had the Lead implanted in him/her (“Patient”) and no other person or entity. Subject to the conditions, limitations and exclusions below, Bioness warrants to the Patient that if there is a defect in workmanship or materials in the Lead, causing a failure to function within normal tolerances and Bioness receives written notification of such defect within five (5) years of the date of shipment of the Lead (“Shipment Date”), then Bioness will, as applicable: (a) replace the Lead with a functionally comparable replacement Lead at no charge (and pay for reasonable, unreimbursed medical expenses associated with the replacement of the Lead in the Patient up to an amount of \$300); Bioness warrants to the Patient that if there is a defect in workmanship or materials in the Transmitter or Patient Programmer Bioness at its option and in its sole discretion will repair or replace any part or parts of the Transmitter and/or Patient Programmer (as applicable) or provide a functionally comparable replacement, at no charge. No other relief whatsoever is available under this Limited Warranty. The Limited Warranty for a replacement Lead or a replacement or repaired Transmitter or Patient Programmer will last only for five (5) years from the Shipment Date of the original lead and one (1) year from the Shipment Date of the original Transmitter or Patient Programmer, respectively.

As part of the repair or replacement of the Transmitter and/or Patient Programmer, the Transmitter and/or Patient Programmer, as applicable, will be reset to the original manufacturer’s specifications. The Transmitter and/or Patient Programmer, as applicable, will need to be reconfigured for the Patient’s individual needs.

In addition to the other conditions, limitations and exclusions set forth herein, claims under this Limited Warranty are subject to the following conditions, limitations and exclusions:

1. The Patient must notify Bioness in writing of the defect within fifteen (15) days of the discovery of the defect and must return the defective Lead, Transmitter and/or Patient Programmer to Bioness within thirty (30) days of giving Bioness such notice, in each case at the following address: Bioness Inc, 25103 Rye Canyon Loop, Valencia, California 91355, Attn: StimRouter Customer Care Center. Any returned Transmitter or Patient Programmer (that is replaced instead of repaired) and any returned Lead will be Bioness’ property. Any alleged defect must be evaluated and confirmed by Bioness in its sole, reasonable discretion.
2. In addition, to qualify for the Limited Warranty set forth above with respect to the Lead, the Lead must have been implanted before (i) the “USE BY” date marked on the package for the Lead and (ii) the “USE BY” date marked on the package for the insertion tool kit used in implanting the Lead.

3. This Limited Warranty does not cover failures to function within normal ranges caused by (a) fire, floods, lightning, natural disasters, water damage and other calamities commonly defined as “Acts of God”; (b) accident, misuse, abuse, negligence, or the Patient’s failure to utilize or operate the Equipment in accordance with Bioness’ instructions; or (c) unauthorized attempts to repair, maintain, or modify the Equipment by the Patient or any unauthorized third party.

BIONESS MAKES NO WARRANTY REGARDING THE USER PATCH. DUE TO THE FACT THAT EACH USER PATCH IS DESIGNED TO BE USED BY THE PATIENT FOR A VERY LIMITED DURATION, AND IS IN FACT INTENDED TO BE DISPOSED OF AND REPLACED ON A REGULAR BASIS, BIONESS HEREBY DISCLAIMS, AND THE PATIENT HEREBY WAIVES, ANY AND ALL REPRESENTATIONS, WARRANTIES, COVENANTS AND CONDITIONS OF ANY KIND, EXPRESSED OR IMPLIED, ARISING OUT OF OR RELATED TO THE USER PATCH INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT WHETHER ARISING FROM STATUTE, COMMON LAW, CUSTOM OR OTHERWISE.

THIS LIMITED WARRANTY IS MADE ONLY TO THE PATIENT. THIS LIMITED WARRANTY IS LIMITED TO ITS EXPRESSED TERMS. THIS IS THE PATIENT’S SOLE AND EXCLUSIVE REMEDY, AND BIONESS’ SOLE AND EXCLUSIVE LIABILITY WITH REGARD TO DEFECTS IN THE EQUIPMENT. BIONESS HEREBY DISCLAIMS AND THE PATIENT HEREBY WAIVES ANY AND ALL OTHER REPRESENTATIONS, WARRANTIES, COVENANTS AND CONDITIONS OF ANY KIND, EXPRESSED OR IMPLIED, ARISING OUT OF OR RELATED TO THE EQUIPMENT, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF THE EQUIPMENT FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT WHETHER ARISING FROM STATUTE, COMMON LAW, CUSTOM OR OTHERWISE.

EXCEPT AS EXPRESSLY PROVIDED BY THIS LIMITED WARRANTY, BIONESS IS NOT RESPONSIBLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND ARISING OUT OF OR RELATED TO ANY DEFECT, FAILURE, MALFUNCTION, USE OR MISUSE OF THE EQUIPMENT, WHETHER THE CLAIM IS BASED ON WARRANTY, CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE.

The disclaimers of representations and warranties and limitations of liability set forth herein form an essential basis of the bargain between the parties and Bioness has set its price for, and other terms and conditions applicable to, the Equipment in reliance thereon. The parties expressly agree that such disclaimers and limitations shall apply in full force and effect even if all other remedies fail of their essential purpose. The exclusions and limitations set out above are not intended to, and should not be construed so as to, contravene mandatory provisions of applicable law. If any part or term of this Limited Warranty is held to be illegal, unenforceable or in conflict with applicable law by a court of competent jurisdiction, the validity of the remaining portions of the Limited Warranty shall not be affected, and all rights and obligations shall be construed and enforced as if this Limited Warranty did not contain the particular part or term held to be invalid. This Limited Warranty gives the Patient specific legal rights. Some states do not allow limitations on how long an implied warranty lasts or the exclusion of incidental or consequential damages, so certain of the limitations set forth in this Limited Warranty may not apply to you. The Patient may also have other rights which vary from state to state.

No person has any authority to bind Bioness to any representation, condition or warranty except those set forth in this Limited Warranty. This Bioness StimRouter Limited Warranty for Patients is provided by Bioness Inc, 25103 Rye Canyon Loop, Valencia, California 91355. It applies only in the United States.