



BAXTER HEALTHCARE CORPORATION
Q-NRG+ TERMS AND CONDITIONS OF PURCHASE
HARDWARE, ACCESSORIES AND RELATED SERVICES

All procurement of Q-NRG+ hardware (“**Hardware**”) and related accessories and/or services (collectively, “**Products**”) from Baxter are expressly conditioned upon full execution of a Q-NRG+ quote provided by Baxter (“**Quote**”) and these terms and conditions of purchase (these “**Terms and Conditions**”), which are accepted by, and shall be deemed binding on, the Customer upon placing an order for Product(s) (as hereinafter defined). These Terms and Conditions, as amended from time to time, are available on Baxter’s website, <https://www.baxter.com/partners-suppliers/terms-conditions-sale>, which is accessible by Customer. All disposables and consumables sold by Baxter to Customer in connection with the Products are subject to the Terms and Conditions of Sale, as amended from time to time, available on Baxter’s website, <https://www.baxter.com/partners-suppliers/terms-conditions-sale>. Baxter reserves the right at any time to change these Terms and Conditions without notice. Baxter will update its website as these Terms and Conditions are changed; such changes shall become effective immediately upon posting of the modified Terms and Conditions. It is Customer’s responsibility to review the latest version of these Terms and Conditions prior to submitting an order. Any orders placed after these Terms and Conditions are changed shall be subject to such amended Terms and Conditions.

1. SOFTWARE LICENSE.

1.1 LICENSE GRANT. Customer acknowledges that (i) the Hardware includes certain embedded software, all such software, together with any updates, upgrades, enhancements or modifications provided by Baxter or its licensors to Customer from time to time, being collectively, the “**Software**”. The Software and all documentation related thereto, whether on disk, in read only memory, on any other media or in any other form, is licensed, and not sold, to Customer by Baxter for use only under these Terms and Conditions, and Baxter reserves all rights not expressly granted to Customer. The rights granted herein are limited to the use of Baxter’s or its licensors’ intellectual property rights in the Software and does not include any other patents or intellectual property rights. The license granted herein allows Customer to use the Software only in connection with the Hardware, and not for any other purpose, and is non-exclusive and non-transferable.

1.2 RESTRICTIONS ON USE. Customer shall not: (i) use the Software other than as permitted by these Terms and Conditions; (ii) copy, decompile, reverse engineer, disassemble, attempt to derive the source code of, modify, translate, adapt or create derivative works of the Software, or any part thereof and any attempt to do so is a violation of the rights of Baxter and its licensors, (iii) rent, lease, share, lend, or sublicense the Software or any of the rights granted to Customer with respect thereto, provide it on a subscription basis or use the Software in connection with a service bureau or other configuration whereby any third party may use the Software, except as expressly provided herein, and any such attempted rental, lease, lending or sublicense is null and void; or (iv) remove, relocate, alter or obscure any trademark, copyright or other proprietary or restrictive marking or legend on the Software. Customer’s rights hereunder will terminate automatically without notice from Baxter if Customer fails to comply with any term(s) of this license and upon any such termination Customer shall cease all use of the Software.

2. PRICING/PAYMENT TERMS. Pricing is set forth on the Quote. Customer shall send payment to the “remit to” address indicated on Baxter’s invoice. The full purchase price of any Product purchase is due within 30 days from the invoice date. A service charge of 1 ½% per month (or the highest amount allowed by applicable law, if lower) will be added to all undisputed amounts past due. Baxter reserves the right in its sole discretion to require prepayment from Customer at any time and may refuse to sell and/or withhold further shipment until all overdue balances are made current. Customer shall be liable for, and shall reimburse Baxter for, all costs and expenses Baxter may incur in connection with collection of any amounts owed to Baxter or enforcement of its rights, including without limitation, reasonable attorneys’ fees and expenses, court costs, and cost of collection agencies.

3. SHIPPING TERMS AND RETURNS. Product will be shipped FOB from Baxter’s shipping point. Shipping charges shall be borne by Customer. Customer agrees, at Customer’s own cost and expense, to keep the Product fully insured against destruction and loss from the date of shipment of the Product until the amounts owed are paid in full. Upon request, Customer shall provide Baxter with proof of such insurance. Rejection of Product by Customer shall be in accordance with Baxter’s Return Q-NRG+ Policy below.

4. REPRESENTATIONS AND WARRANTIES. Customer represents and warrants to Baxter that Customer will only use the Product for its own account and will not transfer its interest in the Product or Software or any interest therein, and has no contract, undertaking, agreement or arrangement with any person to do so. Customer represents and warrants to Baxter that Customer will use and handle Product and Software in accordance with all applicable laws, rules, and regulations.

5. TAXES. If Customer is a tax-exempt entity, Customer shall provide Baxter with copies of any certificates or other such documentation that verifies Customer’s status as a tax-exempt entity, upon Baxter’s request. If Customer is not a tax-exempt entity, Customer shall be responsible for all sales, use, personal property, and other taxes and changes imposed by any foreign, federal, state, or local government or taxing authority relating to the ownership, leasing, or use of the Product.

6. WARRANTY. Customer’s Hardware warranty is set forth below. Customer must contact Baxter Technical Services at 1-800-678-2292 to coordinate warranty service.

7. UPDATES AND UPGRADES. Updates for the Software, including Software error corrections which are necessary to maintain compliance with Baxter's published Hardware specifications and certain incidental software enhancements are included in the cost of the Software license(s) ("Update"). If and when available, Baxter may offer significant software upgrades and hardware enhancements that add new functionality to the Hardware at an additional charge to Customer ("Upgrade").

8. EDUCATION / TRAINING. Education and training for Hardware will, at Customer's request, be performed by Baxter-trained representatives at Customer's facilities, based on agreed to time and manpower requirements in accordance with applicable federal or state laws or regulations. Training will only be provided for up to 30 days after receipt of Hardware.

9. PROPRIETARY RIGHTS. In all cases, all intellectual property rights in and to, and all technology relating to, the Hardware and Software supplied to Customer, their design and all improvements thereto or thereof, shall be and remain the exclusive property of Baxter or its licensors.

10. SAFE OPERATION. Customer shall comply with, and require its employees to comply with, all directions set forth in all instructions and manuals furnished by Baxter or its representatives and shall require its employees to follow such instructions and manuals and to use reasonable care in the use and maintenance of the Hardware. Customer shall not remove or permit anyone to remove any warning or instruction signs on the Hardware or change, adulterate, obscure, remove or deface the Hardware or any trademarks, tradenames or other appearing on the Hardware. Customer represents and warrants that it will not use the Hardware or Software as part of capital punishment.

11. INDEMNIFICATION. Customer hereby agrees to indemnify, defend, and hold harmless Baxter, its affiliates and subsidiaries, and the officers, directors, employees, agents and insurers of each of them (individually and/or collectively, "Baxter Indemnitees"), from and against any and all third party claims, demands, actions, damages, expenses, costs, claims, judgments and liabilities (including, without limitation, interest, penalties and reasonable attorneys' fees and investigative costs) which may be sustained or incurred by Baxter Indemnitees, arising from, in connection with or as a consequence of (i) any negligent or wrongful act or omission by Customer; (ii) Customer's use or sale of the Products, except to the extent that such suit or demand arises out of the failure of the Products to meet Baxter's Warranty; and/or (iii) Customer's improper handling or storage of Product(s). Customer will provide Baxter with the opportunity to participate in the defense and settlement of such claim. No settlement of such claim shall be made unless such settlement provides a complete and unconditional release of Baxter. Baxter has the right to approve counsel or be represented by independent counsel of its own selection.

12. NO OTHER WARRANTIES. EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS, BAXTER AND ITS LICENSORS DISCLAIM ANY AND ALL OTHER WARRANTIES WITH RESPECT TO THE PRODUCTS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, QUALITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NONINFRINGEMENT. The Hardware is not intended to replace the knowledge, judgment, or expertise of customer's healthcare personnel (collectively "Personnel") in the determination of caloric intake. While the Hardware can provide guidance that assists personnel in determining proper patient caloric intake, it cannot, and does not, make any decision regarding caloric intake or assure that personnel use correct technique or prepare nutrition in the proper order. Personnel are expected to use the Hardware in combination with proper training, supplies, and techniques and to assume responsibility for the nutritional products they prepare and provide. Baxter and its suppliers disclaim all liability to the extent arising from the failure of personnel in the preparation and administration of nutritional products.

The Hardware may incorporate multiple layers of encryption and authentication technologies and/or other security controls (e.g., passwords, security logging, and/or certificates). These technologies and/or controls may be able to be configured (or reconfigured) by Customer to provide the level of security Customer deems appropriate. For example, Customer may be able to configure such security technologies and/or controls by choosing not to use some or all such security technologies and/or controls, to leave such security technologies and/or controls in their default settings, to leave ports open unnecessarily, or to apply or not apply available updates and upgrades to the Hardware or Software that affect its security. Customer acknowledges that how Customer configures (including any configuration that fails to use) such security technologies and controls could impact the operation of the Hardware and/or Software, or the security, confidentiality, integrity, or availability of the Hardware, Software, and/or data. Customer assumes all risks associated with, and liability resulting from, Customer's configuration of such security technologies and/or security controls. Further, to the maximum extent permitted by law, Customer bears all responsibility associated with, and liability resulting from, security incidents arising from Customer's use of the Hardware and/or Software, except solely to the extent such security incident arises from the failure of the security technologies and/or security controls implemented by Customer to perform in accordance with their specifications.

Further, Customer assumes all risks and full responsibility for maintaining the physical security of the Hardware and/or Software, including with respect to preventing physical tampering that would enable the compromise of security technologies and/or controls, ensuring that only authorized personnel of Customer have access to the Hardware and/or Software.

13. LIMITATION OF LIABILITY.

13.1 BAXTER'S AND ITS LICENSORS SOLE LIABILITY WITH RESPECT TO ANY CLAIM, REGARDLESS OF THE FORM OF ACTION, SHALL BE LIMITED TO REIMBURSEMENT OF THE ACTUAL COST OF ANY DEFECTIVE PRODUCT.

13.2 IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ITS AFFILIATES FOR DAMAGES THAT ARE OR INCLUDE LOST REVENUES, LOST PROFITS, OR SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES, LOSSES, OR EXPENSES, EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

14. CONFIDENTIALITY. Each Party shall not, during the Term and for 3 years after the termination of these Terms and Conditions, use or disclose any confidential or proprietary information disclosed by one Party to another in connection with these Terms and Conditions (“**Confidential Information**”). Notwithstanding the foregoing, the Customer and Baxter may use or disclose Confidential Information as reasonably required to conduct their business provided that the Party receiving the Confidential Information is bound by confidentiality provisions as least as strong as those in these Terms and Conditions. The foregoing confidentiality obligations shall not apply to any information which (i) is generally available to the public; (ii) was made available to other third persons on a non-confidential basis prior to the execution of the Quote; (iii) is available on a non-confidential basis from a third person, which third person was not itself under an obligation to maintain the confidentiality of such information or (iv) is required by law, subpoena or court order to be disclosed. A Party disclosing Confidential Information pursuant to subsection (iv) must notify the other Party as soon as reasonably practicable of such requirement to disclose and cooperate with the other Party in protecting against disclosure or obtaining a protective order.

15. MISCELLANEOUS.

15.1 MEDICAL DECISION-MAKING. THE PRODUCTS MAY PROVIDE INFORMATION AND DATA TO CUSTOMER’S AUTHORIZED PERSONNEL TO ASSIST AUTHORIZED PERSONNEL IN THEIR ASSESSMENT AND MANAGEMENT OF CARE OF THEIR PATIENTS. CUSTOMER HEREBY ACKNOWLEDGES AND AGREES THAT BAXTER IS NOT A HEALTHCARE PROVIDER, DOES NOT ENGAGE IN THE PRACTICE OF MEDICINE, AND DOES NOT RENDER MEDICAL OR SIMILAR PROFESSIONAL SERVICES OR ADVICE VIA THE PRODUCTS OR OTHERWISE. THE USE OF ANY SUCH PRODUCTS, INCLUDING ANY DATA READ-OUTS OR ANY ANALYSIS THEREFROM, FOR THE DIAGNOSIS OR TREATMENT OF ANY PATIENT MUST BE PERFORMED UNDER THE SUPERVISION OF AN APPROPRIATELY QUALIFIED HEALTHCARE PROFESSIONAL. IF CUSTOMER RELIES ON ANY INFORMATION CUSTOMER RECEIVES OR LEARNS ABOUT THROUGH THE PRODUCTS, CUSTOMER AGREES THAT IT DOES SO AT ITS OWN RISK. ANY ANALYSIS, ORGANIZATION, OR PRESENTATION OF DATA OBTAINED FROM THE PRODUCTS, IS DELIVERED TO CUSTOMER “AS-IS” AND IS NOT MEANT TO BE A SUBSTITUTE FOR THE KNOWLEDGE, EXPERIENCE AND DECISION-MAKING PROVIDED BY A QUALIFIED HEALTHCARE PROFESSIONAL.

15.2 No Reverse Engineering. Customer represents and warrants that it shall not allow its employees, agents, or contractors to reverse engineer, re-manufacture, re-configure, reengineer, disassemble, decompile, reproduce, or otherwise attempt to discover information about the internal structure or operation of the Hardware.

15.3 Adverse Event Reporting. Customer agrees that if Customer becomes aware of any adverse event related to the use of Product, including without limitation any event that causes an unintentional affect to a patient or any event requiring Customer and/or Baxter to submit certain device-related adverse events and product problems to the U.S. Food and Drug Administration in accordance with the Medical Device Reporting regulation (21 CFR Part 803) (“**Event**”), Customer shall: (i) notify Baxter within twenty four (24) hours of Customer becoming aware of such Event, (ii) provide Baxter with immediate access to the Product for inspection purposes, (iii) allow Baxter access to the Product to retrieve copies of the database(s), SQL event log, and black box data file(s)(as applicable), (iv) allow Baxter to take physical custody of the Product in exchange for like Product, and (v) otherwise reasonably cooperate with Baxter’s investigation relating to such Event. Customer acknowledges that it is familiar with the Safe Medical Devices Act of 1990 (the “**Devices Act**”) and the reporting obligations imposed on device users thereunder. In this regard, Customer agrees to notify Baxter as soon as practicable, but in no event later than 10 days after its first day of awareness of the occurrence of any event identified in the Devices Act imposing a reporting obligation on Customer and/or Baxter (except for events that require notification to the United States Food and Drug Administration (the “**FDA**”) within a shorter period of time, in which case, such notice will be delivered to Baxter immediately). Customer shall maintain adequate tracking for the Product to enable Baxter to meet the FDA requirements applicable to the tracking of medical devices.

15.4 Cost Reporting. Customer and Baxter intend that these Terms and Conditions shall be administered in accordance with the provisions of the federal Anti-Kickback Statute, 42 U.S.C. § 1320a-7b(b) (“**AKS**”). To the extent that any discounts and/or rebates are issued by Baxter and received by Customer with respect to Products under these Terms and Conditions, such discounts, rebates or other price reductions may be considered “discounts or other reductions in price” under 42 U.S.C. § 1320a-7b(b)(3)(A) of the AKS. Customer shall fully and accurately disclose such discounts, rebates and other reductions in price in accordance with the applicable state or federal cost reporting requirements including, without limitation, disclosing and accurately reflecting where and as appropriate, the applicable reimbursement methodology. Baxter will provide Customer with sales and discount information to allow Customer to accurately report its actual costs for all purchases of Baxter products and services made pursuant to these Terms and Conditions. Customer shall retain a copy of these Terms and Conditions and all other relevant communications together with the invoices for purchase and permit agents of the U.S. Department of Health and Human Services or any state agency access to such records upon request.

15.5 Compliance with all Laws. Customer will comply with all applicable laws, rules, and regulations in its performance of these Terms and Conditions.

15.6 Exclusion from Federal Programs. To the best of each party's knowledge, neither party nor any of its respective officers, U.S. employees, or directors are (i) currently excluded, debarred or otherwise ineligible to participate in federal health care programs as defined in 42 USC § 1320a-7b(f) (the "Federal Healthcare Programs"); (ii) has been convicted of a criminal offense related to the provision of healthcare items or services during the last five (5) years; or (iii) has been excluded, debarred or otherwise declared ineligible to participate, during the last five (5) years, in the Federal Healthcare Programs. Each party will take prompt steps to correct any known non-compliance with any exclusion law or regulation and will notify the other party if it becomes aware of any such non-compliance.

15.7 Access to Books and Records. To the extent required by Section 1861(v)(I)(1) of the Social Security Act and the regulations promulgated thereunder, if the value or cost of equipment or services rendered to Customer by Baxter or by an organization related to Baxter is Ten Thousand Dollars (\$10,000) or more over any twelve (12) month period during the Term, Baxter and Customer agree that until the expiration of four (4) years after the furnishing of such equipment or services, Baxter and Customer shall, upon written request, make available to the Secretary of the Department of Health and Human Services of the United States (the "Secretary"), the Secretary's duly authorized representative, the Comptroller General, or the Comptroller General's duly authorized representative, such books, documents and records as may be necessary to certify the nature and extent of the costs of such equipment or service.

15.8 Necessary Acts; Further Assurances. Customer agrees to execute and deliver such further documents and instruments and shall take such other actions as may be reasonably required or appropriate to evidence or carry out the intent and purposes of these Terms and Conditions or to show the ability to carry out the intent and purposes of these Terms and Conditions.

15.9 Order of Precedence. In the event of any conflict, ambiguity or inconsistency between the terms of these Terms and Conditions and any other document, the parties acknowledge and agree that the terms of these Terms and Conditions shall govern. The order of precedence for documents shall be (i) these Terms and Conditions, and (ii) the Quote.

15.10 Waiver. No duty set forth in these Terms and Conditions may be waived except by written agreement signed by the Party to whom the duty is owed. Waiver of any term or provision shall not be construed as a waiver of any other term or provision or as a continuing waiver.

15.11 Force Majeure. Neither Party shall be liable for non-performance or delays to the extent such failure or delay is caused by or results from acts beyond the impacted Party's reasonable control, including, without limitation, the following force majeure events ("Force Majeure Events"): (a) strikes, lockouts, concerted acts of workers or other industrial disturbances; (b) fires, explosions, floods, or other natural catastrophes; (c) civil disturbances, riots, terrorist threats or acts, or armed conflict (whether war is declared or undeclared); (d) curtailment, shortages of power or materials, rationing, or allocation, of normal sources of supply, labor, materials, transportation, energy, or utilities; (e) acts of God; (f) sufferance of or voluntary compliance with acts of government or governmental regulation (whether or not valid); (g) embargoes or blockades; or (h) epidemics, pandemics or national emergencies. Notwithstanding the foregoing, this Section shall not apply to either Party's obligations to make payments to the other Party hereunder.

15.12 Assignment. Customer shall not (by operation of law or otherwise) assign or transfer its rights or delegate its performance under these Terms and Conditions without the prior written consent of Baxter, which shall not be unreasonably withheld, and any such assignment, transfer or delegation without such consent shall be void and of no force or effect. Subject to the preceding sentence, these Terms and Conditions shall be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

15.13 Governing Law. All matters arising out of or related to these Terms and Conditions, or the performance of the parties hereunder will be governed by the laws of the State of Delaware without regards to its conflicts of laws principles.

15.14 Notices. Any notice hereunder shall be in writing and sent via recognized express delivery courier or certified or registered mail, prepaid and return receipt requested, addressed to the other Party at its address specified on the Quote, or at such other address designated in a subsequent written notice. Notices to Baxter shall be sent to the address set forth on the Quote and addressed to the "US Hospital Products, Attn: Contracts Manager," with copies to the "Legal Department, Attn: Associate General Counsel – Medical Products and Therapies," and "US Hospital Products, Attn: VP, Sales."

15.15 Survival/Severability. Notwithstanding anything herein to the contrary, the Sections of these Terms and Conditions entitled Representations and Warranties Proprietary Rights, Safe Operation, Indemnification, No Other Warranties, Limitation of Liability, Confidentiality, No Reverse Engineering, Adverse Event Reporting, Order of Precedence; Waiver, Force Majeure, Governing Law, Notices, Survival / Severability and Entire Agreement shall survive termination of these Terms and Conditions. In the event that one or more of the provisions of these Terms and Conditions shall be invalid, unenforceable or illegal in any respect, such provision will be changed and interpreted to comply with applicable law and the remaining provisions will continue in full force and effect.

15.16 Entire Agreement. These Terms and Conditions and the Quote constitute the entire agreement between the parties pertaining to the subject matter hereof. Any and all prior or contemporaneous written or oral agreements, proposals, or statements between the parties pertaining to the subject matter hereof shall be of no force and effect, and each Party expressly disclaims reliance on any representation, inducement or promise not set forth herein.

Baxter Return Q-NRG+ Policy

Hardware may be returned by Customer solely as set forth below:

- 1.0 **Hardware.** Purchased Hardware cannot be returned for credit unless shipped in error by Baxter or ordered in error by Customer, as provided below.
- 1.1 **Hardware Shipped in Error by Baxter.** In the event that Customer believes that Baxter shipped Hardware to Customer in error, Customer will follow Baxter's standard delivery, inspection and notification procedures for authorization and instructions regarding such returns. Notwithstanding the foregoing, in all cases, eligible Hardware must be properly returned to Baxter within 30 days of Customer's receipt thereof in order to qualify for 100% credit upon such return. Such Hardware may be returned freight collect payable by Baxter.
- 1.2 **Hardware Ordered in Error by Customer.** If Hardware is ordered in error, Customer may receive an eighty percent (80%) credit for new Hardware in its original unopened packaging and properly returned by Customer following Baxter's standard procedures. Notwithstanding the foregoing, in all cases, Hardware must be properly returned to and received by Baxter within 30 days after the shipping date of such Hardware in order to qualify for such credit. Customer will be responsible for all costs incurred by Baxter related to the return of such Hardware ordered in error by Customer. Customer will ensure that such Hardware is properly packed and will bear all risk of loss related to its return.
- 1.3 **Prompt Notice of Shipping Errors.** Customer will promptly notify Baxter's Customer Service department of any alleged shipment errors. **FOR ELIGIBILITY CONSIDERATION UNDER BAXTER'S RETURNED HARDWARE POLICY, BAXTER'S CUSTOMER SERVICE DEPARTMENT MUST BE NOTIFIED OF ANY ALLEGED SHIPPING ERRORS WITH RESPECT TO HARDWARE DELIVERED HEREUNDER WITHIN 2 BUSINESS DAYS AFTER CUSTOMER'S RECEIPT OF HARDWARE, REGARDLESS OF THE ALLEGED PROBLEM OR CAUSE FOR RETURN.**
- 1.4 **Returned Hardware Authorization Required.** In all cases, prior authorization (evidenced by a Returned Hardware Authorization number) to return Hardware is required from Baxter's Customer Service department. Credit will not be issued without prior authorization of the return. **BAXTER SHALL HAVE NO RESPONSIBILITY OR LIABILITY TO CUSTOMER FOR HARDWARE RETURNED WITHOUT BAXTER'S PRIOR WRITTEN AUTHORIZATION.**

Standard Warranty

1. **Duration.** Baxter warrants that the Q-NRG+ Metabolic Monitor and accessories shall perform in accordance with the specifications contained within the User Manual for the following Warranty Periods:

1.1. The QNRG+ device has a 12-month Warranty Period

1.2. The following accessories have a 6-month Warranty Period:

- 1.2.1. A410750006 QNRG/NRG+ / Li-Ion Smart Battery 15Vdc 3200mAh 48.0Wh
- 1.2.2. A558250005 - Gas Sensor, O2 GFC
- 1.2.3. A870155001 - Regulator MET Mix (with ISO5359 hose assembly)
- 1.2.4. C006000211 Calibration Syringe 3 liters for Resting/Low Flows
- 1.2.5. C036140110 - V2 Mask for RMR flowmeter (XSmall)
- 1.2.6. C036150110 - V2 Mask for RMR flowmeter (Petite)
- 1.2.7. C036170110 - V2 Mask for RMR flowmeter (Small)
- 1.2.8. C036180110 - V2 Mask for RMR flowmeter (Medium)
- 1.2.9. C036190110 - V2 Mask for RMR flowmeter (Large)
- 1.2.10. C046560211 - QNRG/NRG+ / Face Masks Kit (2 masks, 1 Head Cap, External Flowmeter)
- 1.2.11. C046800105 - QNRG/NRG+ / Pneumatic Cartridge (with Scrubber and permature)

1.3. The following accessories have a three (3) months Warranty Period:

- 1.3.1. C031790111 - Canopy Hood Kit, LARGE size
- 1.3.2. C031790311 - Canopy Hood Kit, SMALL size
- 1.3.3. C047700104 - QNRG/NRG+ / Flowmeter EXTERNAL (ID 18)

1.4. Third Party Products have the Warranty Period stated by the manufacturer.

1.5. Spare parts have a 6-month Warranty Period starting from the shipment date.

2. **Commencement.** The Warranty Period commences from the Installation Date.

3. **Extension.** The Warranty Period will not be renewed or extended after a warranty repair or replacement unless differently stated by local regulations or unless an extended warranty has been purchased. However, Baxter will warrant all parts repaired/replaced under warranty for the remaining original Warranty Period or for a period of 60 days from the date of repair or replacement, whichever period is greater.

4. **Exclusions.** This Warranty does not apply to/when:

- 4.1. wearing parts such as : junctions (in silicone, plastics or paper), extensions and holders, glassware, mouthpieces, antibacterial filters, gas calibration cylinders, CO2 and humidity scrubbers, head caps, sampling lines (permature), sterile sampling line extensions, single use devices, single patient devices, power cables, connection cables and all other similar items; provided that this exclusion shall not apply to the extent the malfunction has occurred due to a defect in materials or workmanship as identified on or before the Installation Date,
- 4.2. defects caused by normal wear and tear or otherwise due to the normal ageing of product;
- 4.3. cosmetic damage, to boxes, packaging or exterior surfaces;
- 4.4. Hardware installed, operated, maintained or used without complying with the directions given in the User Manual; or
- 4.5. the malfunction is caused by Customer's failure to comply with any of its obligation under these Terms and Conditions (including but not limited to improper handling, storage or abuse of product).

For Third Party Products, refer to the original manufacturer's warranty for exclusions.

5. **Returns.** To return Hardware for warranty service, Customer must request a Return Merchandise Authorization ("RMA") from Baxter for the Hardware to return. The RMA will include a label to be printed and placed on the box containing the Hardware. Boxes sent without the label will not be accepted and will be returned to Customer at its own expense.

6. **Definitions.**

- 6.1. **"Indirect Calorimetry Product"** means the indirect calorimetry products currently branded by COSMED srl as Q-NRG+ and all improvements, enhancements, modifications and substitutions thereto.
- 6.2. **"Installation Date"** means (i) in the case of Indirect Calorimetry Product, the date the Hardware is installed at Customer's site; and (ii) in the case of all other product, the date of delivery at Customer's site.
- 6.3. **"Third Party Product"** means Accessories manufactured by a third party other than COSMED srl.
- 6.4. **"User Manual"** means the technical communication document of COSMED srl intended to give assistance to people using the Hardware.
- 6.5. **"Warranty Period"** means the period in which Baxter warrants the correct use of the Hardware.