

# **VIVE Enterprise Business Services Terms & Conditions And VIVE Enterprise Business Limited Warranty**

(For VIVE Cosmos Series)

## **New Zealand**

### **Business Services Terms & Conditions**

These Terms and Conditions (“Terms and Conditions”) for HTC VIVE Enterprise Business Services are an agreement between you and HTC Corporation and its Affiliates (“HTC”) and contain important terms and information relating to your access and use of the VIVE Enterprise Business Services described in these Terms and Conditions or otherwise made available by HTC in its sole discretion (“**Business Services**”). Please review these Terms and Conditions carefully. **BY ACTIVATING YOUR BUSINESS SERVICES, YOU ACCEPT THESE TERMS AND CONDITIONS. If you do not agree to these Terms and Conditions, do not activate your Business Services.**

**OUR GOODS COME WITH GUARANTEES THAT CANNOT BE EXCLUDED UNDER THE AUSTRALIAN CONSUMER LAW. YOU ARE ENTITLED TO A REPLACEMENT OR REFUND FOR A MAJOR FAILURE AND COMPENSATION FOR ANY OTHER REASONABLY FORESEEABLE LOSS OR DAMAGE. YOU ARE ALSO ENTITLED TO HAVE THE GOODS REPAIRED OR REPLACED IF THE GOODS FAIL TO BE OF ACCEPTABLE QUALITY AND THE FAILURE DOES NOT AMOUNT TO A MAJOR FAILURE.**

#### **1. Service Scope:**

Business Services apply to a single corresponding registered Covered Product. Purchasers of Business Services receive a 2 year limited business warranty (see VIVE Enterprise Business Limited Warranty here for details), starting from the original purchase date of your Covered Product. Business Services include expedited usage technical support, expedited customer care services and VIVE online resources as set forth in these Terms and Conditions and ([www.vive.com/support](http://www.vive.com/support)).

#### **2. Covered Product:**

Business Services apply only to the following VIVE hardware product: VIVE Cosmos Series (each a “Product”). The Product includes a VIVE branded head mounted display (“Headset”) and may also include the following devices: Linkbox, Converter, Controller(s), Base Station(s) and VIVE Cosmos External Tracking Faceplate depending on your Product model and along with accompanying in-box accessories (e.g. Cables and Power adapters) contained in the same original package and purchased from an HTC authorized retailer or directly from HTC. Your VIVE hardware Product(s) must be registered as set forth below, subject to HTC’s confirmation, within three (3) months of Product purchase (once registered, a “Covered Product”).

You may not change, transfer, or remove a Covered Product once it has been registered for Business Services. Devices that are purchased separately or not included in the original package with the VIVE Headset are not Covered Products and are not eligible for Business Services.

#### **3. Web Registration and Activation:**

In order to activate your Business Services, you must first apply for an HTC account or login with your existing HTC account online at <https://enterprise.vive.com/portal> and register your VIVE Product along with your Business Services Activation Key, follow the web online guidance to complete the registration and activation. Once activated, your Business Services may not be disassociated from your HTC account or otherwise transferred, except if your purchase of Business Services is returned pursuant to a valid return policy. Please retain proof of purchase for this Business Services and your VIVE hardware product. Proof of purchase may be required to confirm eligibility for your Business Services programs.

**4. Limitations:**

Business Services may only be purchased by business/enterprise customers for lawful commercial use and are not intended for personal consumer use or purchase. HTC reserves the right to cancel your Business Services if purchased for personal consumer use or any unlawful purpose. Your Business Services may only be utilized by the original purchaser or acquirer in connection with the Covered Product, and may not be resold, distributed, or otherwise transferred. Purchase of one Covered Product is required for the activation of your Business Services.

**5. Dedicated Support:**

Business Services includes online chat support and dedicated email support for your Covered Product. Email responses may be expected within one (1) business day of receipt. Please visit <https://www.vive.com/au/support/contactus/> for details.

**6. Business Services Program:**

This Business Services Program shall only be utilized for Covered Product. Product eligibility is determined at the sole discretion of HTC and is limited to the Limited Warranty Period for your Covered Product. HTC reserves the right not to provide the Business Services Program for out of warranty or otherwise ineligible Products. The Business Services Program is only available to physical addresses in Australia (no P.O. boxes are eligible). All repair instructions that you received upon issuance of your repair ticket must be followed. Your Covered Product will be reviewed for damages through an expedited diagnostic process following receipt of the returned Covered Product. If damages found are covered under your Limited Warranty, at HTC's sole discretion, a repaired or replacement device or accessory will be shipped to you at no cost on a prioritized basis. If damages found are not covered under your Limited Warranty, and out of warranty repair for the Product is available, HTC will contact you with a quote to obtain your authorization to proceed with any recommended repairs, and at HTC's sole discretion, a repaired or replacement device or accessory will be shipped to you once a quotation is approved and paid in full. If you do not authorize the repairs, or if out of warranty repair is not available, or if you do not respond to the repair quotation within ten (10) calendar days, HTC may charge you a service fee and will ship your unrepaired Covered Product back to the address you provided.

**7. Limitation of Liability:**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE BUSINESS SERVICES ARE PROVIDED WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. HTC'S ENTIRE LIABILITY IN CONNECTION WITH THE BUSINESS SERVICES, INCLUDING RELATING TO THE EXPEDITED SUPPORT PROGRAM, SHALL NOT EXCEED THE PRICE PAID TO PURCHASE THE BUSINESS SERVICES. IN NO EVENT SHALL HTC BE LIABLE FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS, BUSINESS, OR GOODWILL, OR USE, LOSS, OR CORRUPTION OF DATA, BUSINESS INTERRUPTION, OR PROPERTY DAMAGE, ARISING OUT OF OR IN ANY WAY RELATED TO BUSINESS SERVICES, EVEN IF HTC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THESE LIMITATIONS, SO THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

**8. Applicable Law and Venue:**

Except as preempted by legislation, the law of the State of Victoria Australia, without reference to their respective choice of laws principles, shall govern these terms and conditions. Notwithstanding the foregoing, the laws of your jurisdiction will apply to any tort claims and/or any claims under any consumer protection statutes and, without limitation, may entitle you to bring proceedings in your jurisdiction.

**9. Entire Agreement; Severability:**

These Terms and Conditions set forth the entire agreement and supersede all prior agreements, representations or understandings regarding the subject matter hereof. HTC reserves the right to amend these Terms and Conditions from time to time, provided that any amendments will not apply to the Terms and Conditions to which you have already agreed with respect to prior program participation for Covered Product. If any provision of these Terms and Conditions is found to be unenforceable, then the unenforceable provision shall not affect the enforceability of the remaining provisions. HTC's failure to respond or act will not be considered a waiver of any of its rights hereunder.



# VIVE ENTERPRISE BUSINESS LIMITED WARRANTY

## (For VIVE Cosmos Series)

### New Zealand

THE LIMITED WARRANTY SET FORTH BELOW SUPERSEDES AND REPLACES THE LIMITED WARRANTY FOUND WITHIN THE ORIGINAL PRODUCT PACKAGING FOR THE COVERED PRODUCT.

PLEASE READ THIS LIMITED WARRANTY CAREFULLY TO UNDERSTAND YOUR RIGHTS AND OBLIGATIONS. THIS LIMITED WARRANTY CONTAINS A MANDATORY ARBITRATION CLAUSE WITH A CLASS ACTION WAIVER.

BY USING YOUR HTC PRODUCT OR ACCESSORY, YOU AGREE TO THIS LIMITED WARRANTY, INCLUDING THE MANDATORY ARBITRATION CLAUSE AND CLASS ACTION WAIVER BELOW.

OUR GOODS COME WITH GUARANTEES THAT CANNOT BE EXCLUDED UNDER THE AUSTRALIAN CONSUMER LAW. YOU ARE ENTITLED TO A REPLACEMENT OR REFUND FOR A MAJOR FAILURE AND FOR COMPENSATION FOR ANY OTHER LOSS OR DAMAGE. YOU ARE ALSO ENTITLED TO HAVE THE GOODS REPAIRED OR REPLACED IF THE GOODS FAIL TO BE OF ACCEPTABLE QUALITY AND THE FAILURE DOES NOT AMOUNT TO A MAJOR FAILURE.

THE BENEFITS OF THIS WARRANTY ARE IN ADDITION TO ANY OTHER RIGHTS AND REMEDIES OF THE CONSUMER UNDER A LAW IN RELATION TO THE GOODS OR SERVICES TO WHICH THE WARRANTY RELATES.

### DEFINITIONS

The following definitions apply to this VIVE Enterprise Business Limited Warranty ("Limited Warranty"):

- "**Accessory**" or "**Accessories**" means a secondary or auxiliary element included in the box with the "Covered Product" at the time of sale, and may include: headset cable, USB 3.0 cable, DisplayPort cable and Power adapters; provided that the component was manufactured by or for HTC and can be identified by the "HTC" or "VIVE" trademark, trade name, or logo affixed to the component as originally supplied.
- "**Covered Product**" has the meaning set forth below in the section titled "What is Covered by this Limited Warranty".
- "**Normal Use Conditions**" means common use that is in accordance with the User Manual(s) and instructions provided with the Product(s) or Accessory(ies) or posted online ([www.vive.com/support](http://www.vive.com/support)).
- "**Product(s)**" means the VIVE branded head mounted display (Headset) purchased from an authorized Retailer or directly from HTC for the following models: VIVE Cosmos Series, and the other serialized item(s), if any, packaged in the same box with Headset, which may include: Link box, Converter, Controller(s), Base station(s), VIVE Cosmos External Tracking Faceplate. Items that are purchased separately or not included in the original package with the Headset are not "Products" as defined herein.
- "**Retailer**" means a business that sells goods directly to commercial entities, including those with a physical and/or online presence.
- "**User Manual(s)**" means the user instruction materials (e.g. user guide, quick start guide and safety guide documents) packaged with the Product or Accessory(ies) or posted online ([www.vive.com/support](http://www.vive.com/support)).
- "**Warranty Period**" for Covered Product means twenty-four (24) months from the date You purchased the VIVE hardware Product(s) from an authorized Retailer or directly from HTC.
- "**You**" or "**Your**" means the original purchaser and/or original business entity utilizing the Product.

### WHO IS OFFERING THIS LIMITED WARRANTY?

This Limited Warranty is granted to You by HTC Corporation of No. 23, Xinghua Road, Taoyuan District, Taoyuan City 330, Taiwan ("HTC").

### WHAT IS COVERED BY THIS LIMITED WARRANTY?

This Limited Warranty shall apply to Products, along with accompanying Accessories, that are registered to Your HTC Enterprise account within three (3) months of VIVE hardware Product purchase, subject to HTC's confirmation (once registered, the "Covered Product"). You can not change, transfer or remove Covered Product once it has been registered to your Business Services.

This Limited Warranty supersedes and replaces any Limited Warranty found within the original Product packaging for the Covered Product.

During the Warranty Period, HTC warrants that the Covered Product will be free from defects in material and workmanship if used under Normal Use Conditions.

This Limited Warranty is given only to You, and may not be sold, assigned, transferred, or given in full or in part to any subsequent purchaser or acquirer of the Covered Product or any other person.

### **TERRITORY**

This Limited Warranty is valid and enforceable only in Australia where the Product(s) are intended to be sold and had been purchased. A Covered Product can only be returned for repair or replacement, at HTC's sole discretion, under this Limited Warranty in Australia. Warranty service availability and response time may vary from country to country.

### **WHAT IS NOT COVERED BY THIS LIMITED WARRANTY?**

This Limited Warranty does not apply other than to the Covered Product. It therefore does not apply to any non-HTC equipment or any software (e.g. software development kit (SDK) and android application package (APK) support) whatsoever, whether developed by HTC or a third party, even if intended or labelled as for use with the Product(s). Third party manufacturers, suppliers, or publishers may provide warranties for their own products and You may contact them directly for service.

EVEN WITH RESPECT TO THE COVERED PRODUCT, THIS LIMITED WARRANTY SHALL NOT APPLY:

- (1). if a Product or Accessory serial number, date code, liquid indicator, or warranty seal (void label) has been removed, erased, defaced, or altered, or is illegible;
- (2). to any deterioration of the cosmetic appearance of a Product or Accessory due to normal wear and tear;
- (3). to consumable parts, such as Face cushion, AA/AAA alkaline batteries ,Extension Package for 20m, Lanyard, Wrist strap, Mounting kit, Earphone hole cap, Clean cloth or protective coatings that are reasonably expected to diminish over time, unless failure has occurred due to a malfunction;
- (4). to malfunctions caused by the battery if improperly installed by You or another person, or if the seals of the battery enclosure or the cells are broken or show evidence of tampering, or if used in equipment other than that for which it has been specified;
- (5). to malfunctions caused by electrical surges or other electrical current problems that are not the fault of the Product or Accessory;
- (6). to use not in accordance with the user manual or not under Normal Use Conditions;
- (7). to rough handling; use outdoors; exposure to liquids, dampness or extreme thermal or environmental conditions or a rapid change in such conditions; corrosion; or oxidation;
- (8). to damage caused by or resulting from modifications or non-warranty repairs;
- (9). to accidents, forces of nature, or other actions beyond the reasonable control of HTC (including but not limited to deficiencies in consumable parts) unless the defect was caused directly by a malfunction;
- (10). to physical damage to the surface of a Product or Accessory, including but not limited to cracks or scratches on the surfaces of the Product or Accessory, including any screen or lens;
- (11). to any computer or other product to which a Product or Accessory may connect. HTC does not warrant that the operation of a Product or Accessory will be uninterrupted or error-free;
- (12). where the software loaded on a Product, including but not limited to the operating system and/or firmware, needs to be upgraded, if such updates can be loaded by You;
- (13). to any Product in which the operating system and/or firmware has been altered, including any failed attempts to alter the operating system, regardless of whether such modifications are authorized, approved, or otherwise sanctioned by HTC;
- (14). to malfunctions caused by unplugging any cable from or otherwise powering off a Product, or your computer during any firmware update;
- (15). to malfunctions caused by the use of a Product or Accessory with or connection of a Product to an accessory not approved or provided by HTC, or used in any way other than its intended use and where such defect is not the fault of the Product itself.

## **HOW DO I OBTAIN WARRANTY SERVICE?**

In the event of a perceived malfunction in a Covered Product, You should take the following actions:

- (1). Refer to the user manual and/or resources available at [www.vive.com/support](http://www.vive.com/support) in order to identify and correct the problem.
- (2). If the problem cannot be resolved by reference to the user manual and/or resources available at [www.vive.com](http://www.vive.com), You should login to your HTC enterprise account at <https://enterprise.vive.com/portal> for further instructions on contacting HTC customer care for assistance.
- (3). When You contact the Retailer or HTC, please be sure to have the following information available:
  - a. The model and serial number of the Product.
  - b. Your full address and contact information.
  - c. A copy of the original invoice, receipt or bill of sale for the purchase of the Product. You must present a valid proof of purchase upon making any claims pursuant to this Limited Warranty.

Upon completion of these steps, HTC will provide You with instructions regarding how and when a Covered Product should be returned. Before returning the Covered Product to HTC for warranty service, You must backup and delete your personal digital data stored on the product storage media. HTC and HTC authorized service centers are not responsible for any loss of any kind of digital data stored on the product storage media.

If You return a Product or Accessory during the Warranty Period and it satisfies the terms of this Limited Warranty, HTC or its authorized agent will, at its sole discretion, repair or replace it. Repair or replacement may involve the use of a functionally equivalent reconditioned Product or Accessory and/or parts. HTC or HTC authorized service partner will return the repaired or replacement Product or Accessory to You in good working condition. Any Product, Accessory, or parts or components thereof that are replaced under the terms of this Limited Warranty become the property of HTC.

If HTC repairs or replaces a Product or Accessory, the repaired or replaced Product or Accessory shall continue to be warranted for the remaining time of the original Warranty Period or for three (3) months from the date of repair or replacement, whichever is longer.

Rather than ask You to return a Product or Accessory, HTC may instead elect to supply user-installable parts directly to You to fulfill its Limited Warranty obligations. If requested by HTC, You in turn agree to return the replaced parts at Your cost.

HTC reserves the right to restrict warranty service to the country where Product was intended to be sold. HTC must be notified of a perceived malfunction during the applicable Warranty Period in order for You to be eligible for any remedy under this Limited Warranty. Do not ship Your Product or Accessory directly to HTC unless You are asked to do so when following the steps above. If You need to return a Product or Accessory for warranty service, the steps above must be followed.

## **DISCLAIMER AND LIMITATION OF OTHER WARRANTIES AND RIGHTS**

TO THE EXTENT PERMITTED BY LAW, THIS LIMITED WARRANTY AND THE REMEDIES SET FORTH HEREIN ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES, AND CONDITIONS, INCLUDING IMPLIED WARRANTIES. TO THE EXTENT LEGISLATION PROHIBITS THE EXCLUSION OF IMPLIED WARRANTIES OR STATUTORY CONSUMER GUARANTEES, HTC LIMITS ITS LIABILITY FOR A FAILURE TO COMPLY WITH SUCH WARRANTY OR GUARANTEE TO ONE OR MORE OF THE FOLLOWING: THE REPLACEMENT OF DEFECTIVE GOODS OR THE SUPPLY OF EQUIVALENT GOODS; THE REPAIR OF THE GOODS; PAYMENT OF THE COST OF REPLACING THE GOODS OR OF ACQUIRING EQUIVALENT GOODS; PAYMENT OF THE COST OF HAVING THE GOODS REPAIRED.

## **LIMITATION OF LIABILITY**

EXCEPT AS PROVIDED IN THIS LIMITED WARRANTY AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, HTC SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL LOSSES OR DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR COMMERCIAL LOSS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF DATA, LOSS OF PRIVACY, OR LOSS OF CONFIDENTIALITY. NOTWITHSTANDING THE FOREGOING AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE, THE ENTIRE LIABILITY OF HTC AND ITS SUPPLIERS UNDER ANY PROVISION OF THIS LIMITED WARRANTY SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU FOR THE PRODUCT. THESE EXCLUSIONS APPLY EVEN IF HTC HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES.

## **AGREEMENT TO ARBITRATE DISPUTES**

**PLEASE READ THE FOLLOWING SECTION CAREFULLY BECAUSE IT REQUIRES YOU TO ARBITRATE CERTAIN DISPUTES AND CLAIMS WITH HTC AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM HTC.**

**THE DISPUTE RESOLUTION PROCESS DESCRIBED BELOW IS SUBJECT TO ANY RIGHT YOU MAY HAVE TO PURSUE A RIGHT OR REMEDY IN YOUR LOCAL JURISDICTION IN RESPECT OF AN ALLEGED BREACH OF CONSUMER PROTECTION LAWS.**

**Binding Arbitration.** Except for disputes in which either party seeks to bring an individual action in small claims court, and any claims in respect of which you are entitled to pursue a remedy before a court in respect of a consumer transaction, you and HTC agree (a) to waive your and HTC's respective rights to have any and all disputes or claims arising from or related to this Limited Warranty or the sale, condition, use, or performance of the Product (collectively, "Disputes") resolved in a court, and (b) to waive your and HTC's respective rights to a jury trial. Instead, you and HTC agree to arbitrate Disputes through binding arbitration (which is the referral of a Dispute to one or more persons charged with reviewing the Dispute and making a final and binding determination to resolve it instead of having the Dispute decided by a judge or jury in court).

**No Class Arbitrations, Class Actions or Representative Actions.** You and HTC agree that any Dispute arising out of or related to this Limited Warranty, is personal to you and HTC and that such Dispute will be resolved solely through individual arbitration and will not be brought as a class arbitration, class action, or any other type of representative proceeding. You and HTC agree that there will be no class arbitration or arbitration in which an individual attempt to resolve a Dispute as a representative of another individual or group of individuals. Further, you and HTC agree that a Dispute cannot be brought as a class or other type of representative action, whether within or outside of arbitration, or on behalf of any other individual or group of individuals.

**Notice; Informal Dispute Resolution.** You and HTC agree that each party will notify the other party in writing of any arbitrable or small claims Dispute not less than thirty (30) days of the date it arises, so that the parties can attempt in good faith to resolve the Dispute informally. Notice to HTC shall be sent to HTC Arbitration Program Administrator, 308 Occidental Avenue, Suite 300, Seattle, WA 98104. Your notice must include (a) your name, postal address, telephone number, the email address you use or used for your HTC account or, if different or if you have no HTC account, an email address at which you can be contacted, (b) a description in reasonable detail of the nature or basis of the Dispute, and (c) the specific relief that you are seeking. Our notice to you will be sent electronically to the email address you use or used for your HTC account, where available, and will include (a) our name, postal address, telephone number and an email address at which we can be contacted with respect to the Dispute, (b) a description in reasonable detail of the nature or basis of the Dispute, and (c) the specific relief that we are seeking. If you and HTC cannot agree how to resolve the Dispute within thirty (30) days after the date notice is received by the applicable party, then either you or HTC may, as appropriate and in accordance with this Limited Warranty, commence an arbitration proceeding or, to the extent specifically provided for above, file a claim in small claims court or pursue a remedy before a local court in respect of a consumer transaction. Process. Except for Disputes in which either party seeks to bring an individual action in small claims court or where a party seeks to pursue a remedy before a local court in respect of a consumer transaction, you and HTC agree that any Dispute must be commenced or filed by you or HTC within one (1) year of the date the Dispute arose, otherwise the underlying claim is permanently barred (which means that you and HTC will no longer have the right to assert such claim regarding the Dispute). You and HTC agree that the arbitration shall be: where the Product was purchased in Australia, according to the Australian Disputes Centre (ADC) Rules for Domestic Arbitration operating at the time the Dispute is referred to ADC except insofar as those rules would be inconsistent with any part of this Limited Warranty, including without limitation the agreement to arbitrate. For claims of \$5,000 or less, You may decide whether You would prefer to have the arbitration decided based only on documents submitted to the arbitrator, or by a hearing in person or by phone. The arbitration shall be held in Melbourne and the state courts located in Victoria, Australia, has exclusive jurisdiction over any appeals and the enforcement of an arbitration award. You may also have the right to litigate a Dispute in a small claims court located in your jurisdiction if the Dispute meets the requirements to be heard in small claims court, and no attempt is made to exclude any right which you have in relation to commencing court proceedings locally in respect of a consumer transaction;

**Authority of Arbitrator.** Subject to any provision to the contrary as set out in the International Arbitration Act 1974 (Cth) and uniform State and Territory commercial arbitration acts, the arbitrator will have the authority to grant any remedy that would otherwise be available in court, provided that the arbitrator's award may not exceed, in form or amount, the relief that a court in the same jurisdiction could order under the Limited Warranty; provided, however, that the arbitrator

does not have the authority to conduct a class arbitration or a representative action, which is prohibited by this Limited Warranty. Notwithstanding the foregoing, any decisions concerning arbitrability of a particular dispute, including but not limited to whether a class arbitration is permitted by this Limited Warranty, shall be resolved by a proper court in the jurisdiction of the Dispute, rather than an arbitrator. Any dispute concerning the enforceability of this agreement to arbitrate, or any part thereof, shall also be resolved by a proper court in Victoria, Australia, rather than an arbitrator.

**Rules of DADR bodies.** The rules of the Australian Disputes Centre (ADC) Rules for Domestic Arbitration is available on their respective websites. By not opting out of this agreement to arbitrate as specified below, you either (a) acknowledge and agree that you have read and understand these rules, or (b) waive your opportunity to read these rules and any claim that the rules are unfair or should not apply for any reason.

**Applicability of Agreement to Arbitrate.** IF THE PROHIBITION ON CLASS ARBITRATIONS SET FORTH ABOVE IS DEEMED TO BE UNENFORCEABLE, THEN THE AGREEMENT TO ARBITRATE WILL NOT APPLY.

**RIGHT TO OPT OUT:** This agreement to arbitrate disputes will apply unless You notify HTC in writing postmarked no later than 30 calendar days of purchasing the Product or Accessory that You reject the agreement to arbitrate. You must include in Your notice of opt-out (a) Your name and address; (b) the date on which You purchased the Product or Accessory; (c) the Product model name; and (d) Serial Number of the Product. These numbers can be found on the Product packaging and on the Product. You must send Your written notice to HTC Arbitration Program Administrator, 308 Occidental Avenue, Suite 300, Seattle, WA 98104. No other form of notice will be effective to opt out of this agreement to arbitrate. If You opt out of the agreement to arbitrate, the Limited Warranty will still apply to You.

#### **GENERAL PROVISIONS**

- (1). **Waiver of Jury Trial:** IF A DISPUTE BETWEEN YOU AND HTC PROCEEDS IN COURT RATHER THAN OR IN ADDITION TO IN ARBITRATION, YOU AND HTC UNCONDITIONALLY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS LIMITED WARRANTY.
- (2). **Governing Law:** Except as preempted by legislation, the law of the State of Victoria Australia, without reference to their respective choice of laws principles, shall govern this Limited Warranty. Notwithstanding the foregoing, the laws of Your jurisdiction will apply to any tort claims and/or any claims under any consumer protection statutes and, without limitation, may entitle you to bring proceedings in your jurisdiction.
- (3). **Severability:** Except as specifically provided above, if any provision of this Limited Warranty is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the enforceability of the remainder of the Limited Warranty.