

## VIVE ENTERPRISE SOLUTION AGREEMENT

This Vive Enterprise Solution Agreement (“Agreement”) contains the terms and conditions that govern Your access to and use of the Enterprise Solution (defined below) and is a legally binding contract between the entity or company you represent (“You” or “Your”) and HTC Corporation and/or one or more of its affiliates (“HTC”). This Agreement is effective on the date You click to accept or when You begin use of the Enterprise Solution, whichever event occurs first (the “Effective Date”). You represent that You are lawfully able and have full legal authority to enter into this Agreement (e.g. are competent and of legal age and have full legal authority to bind the entity or company you represent). Capitalized terms used herein shall have the meanings assigned to them in the body of this Agreement or in Section 11.

### 1. ENTERPRISE SOLUTION AND SERVICES

- a) You may access and use the Enterprise Solution in accordance with this Agreement. The “Enterprise Solution” is a Vive software management and distribution platform for enterprises and includes the Software and related services made available by HTC in connection with this Agreement.
- b) For proper functioning of the Enterprise Solution, You will need additional equipment (e.g. computers, internet access, virtual reality headsets, and software) that meets system and compatibility requirements. These system and compatibility requirements may change from time to time. Your ability to access and use the Enterprise Solution, as well as the performance of the Enterprise Solution may be affected by these factors. These system requirements and the associated costs are Your responsibility.
- c) To access and use the Enterprise Solution, You must have one or more Vive Devices and You will be required to establish an enterprise account. You agree to provide HTC with current, complete and accurate information in the creation of Your enterprise account. Your enterprise account may be limited to Your Territory. In the event You operate in more than one Territory, You may be required to set up additional enterprise accounts. You must keep Your enterprise account information confidential and not authorize any third party to use Your enterprise account. You are responsible for all activities that occur under Your enterprise account. You will promptly notify HTC about any possible misuse of Your enterprise account or other security incident related to the Enterprise Solution at the following e-mail address: [security@htc.com](mailto:security@htc.com), and will mention ‘Enterprise Solution’ in the subject line.
- d) You agree to comply with all laws, rules, and regulations applicable to Your use of the Enterprise Solution and agree to comply with the usage guidelines provided by HTC.

### 2. DATA PRIVACY

- a) To create Your enterprise account, You may be required to provide information about Yourself (e.g. entity name, account ID, VAT number/Tax ID, address, contact information, etc.). In addition, the Enterprise Solution may collect the following types of data to help ensure the proper functioning of the Enterprise Solution and Your Vive Device: (i) Your computer hardware and software specifications and serial number or other identifier, (ii) Your Vive Device hardware and software specifications and serial number or other identifier, (iii) Your Vive Device performance data and frequency of use data, (iv) Your IP address and related network information, and (v) Your click counts on downloaded applications managed by the Enterprise Solution, web visit frequency to the Enterprise Solution website(s), and related usage data. HTC’s collection and use of this data will be in accordance with the HTC Privacy Policy.
- b) The Enterprise Solution will not collect Your proprietary business data unless You have provided written consent. HTC’s privacy policy explains how HTC treats Your data and protects Your privacy when using the Enterprise Solution.
- c) If You receive Steam VR runtime software directly from Valve Corporation (“Valve”) as described in Section 4(c) hereinbelow, or if You elect to use the online marketplace described in Section 10(b)

hereinbelow to obtain other products and services, then any resulting data access, collection, use, or disclosure by Valve or the provider of those products and services will be governed by Your own separate agreement with Valve or that other provider and their privacy policies. HTC is not responsible for the conduct of these third parties.

- d) You will provide all necessary disclosures to Your Administrator and Users with respect to the privacy and security of any data collected, used, stored, transferred, or processed in connection with use of the Enterprise Solution (including, if necessary, the HTC Privacy Policy). You will be responsible for complying with Your privacy policies and all applicable laws in Your collection, usage, storage, and transfer of Administrator and User data.

### **3. TERM, TERMINATION, AND SUSPENSION**

- a) The term of this Agreement will commence on the Effective Date and remain effective until terminated.
- b) You may terminate this Agreement at any time for any reason by providing us with thirty (30) days' written notice, cancelling Your Enterprise account and terminating all access to the Enterprise Solution.
- c) HTC may suspend or terminate Your access to the Enterprise Solution (in part or in whole) immediately if we determine: (i) Your use of the Enterprise Solution poses a security risk or otherwise adversely impacts the Enterprise Solution; (ii) Your use of the Enterprise Solution is fraudulent or subjects HTC to infringement liability; (iii) You are in breach of this Agreement; or (iv) in order to comply with the law or a government request.
- d) If Your access to the Enterprise Solution is suspended or terminated, then any licenses granted pursuant to this Agreement will be suspended or terminated.

### **4. PROPRIETARY RIGHTS**

- a) HTC and its affiliates and licensors own the title, copyright, and other intellectual property rights in the Enterprise Solution (and all rights embodied therein) and reserve all rights not expressly granted to You in this Agreement. HTC and Vive, the HTC and Vive logo, and other HTC and Vive product and service names referenced in the Enterprise Solution are the trademarks of HTC Corporation and its affiliates. Any other company names, product names, service names and logos referenced in connection with the Enterprise Solution may be the trademarks of their respective owners.
- b) During the term of this Agreement (for so long as HTC itself has the requisite rights) and conditioned upon Your full compliance with all the terms and conditions herein, HTC grants to You a limited, non-sublicensable, non-transferable (except as authorized pursuant to Section 10(g)), non-exclusive, license in the Territory to (i) use the preinstalled Software only as pre-installed on Your Vive Device(s), (ii) install and use downloaded Software only in object code form on Your computer(s) or Vive Device(s) (as applicable), (iii) access and use the other components of the Enterprise Solution; in each case, only for the Permitted Uses. "Permitted Uses" means access and use of the Enterprise Solution in accordance with the terms herein to help setup, manage, control, and/or operate Your Vive Devices. You do not obtain any rights other than those explicitly provided herein, including intellectual property rights.
- c) Software available under this Agreement may include Steam VR runtime software created by Valve. If You download Steam VR runtime software from HTC through the Enterprise Solution, HTC may notify Valve of such event. The following sentences in this Section apply to use of Steam VR runtime software outside of China. If Your standard corporate security policy prohibits use of software that receives automatic updates through the internet, then HTC may provide You with Steam VR runtime software and updates thereto under this Agreement pursuant to Your request. If Your standard corporate security policy allows use of such automatically updated software, then HTC may provide You with the initial distribution of Steam VR runtime software under this Agreement pursuant to Your request but any updates thereto must be obtained directly from Valve under Your own separate agreement with Valve (unless otherwise approved by HTC and Valve). In such event, Your separate agreement with Valve will govern Your use of all Steam VR runtime software.

- d) The Enterprise Solution may contain other third-party software that is subject to open source or third-party license terms. Open source materials and third party terms, if applicable, are listed at Vive.com.
- e) The Enterprise Solution is licensed to You and not sold. Except for the licenses set forth herein nothing herein creates any right of ownership or license in or to HTC's or its licensors' intellectual property. You must not remove or destroy any proprietary or intellectual property markings or notices placed upon or contained within the Enterprise Solution.

## **5. LIMITATIONS ON USE**

You may not (i) decompile, decipher, disassemble, reverse engineer, disable, tamper with or otherwise work around technical limitations of the Enterprise Solution, except as expressly permitted by applicable law notwithstanding this limitation; (ii) modify or make any derivative works of the Enterprise Solution in whole or in part; (iii) remove any proprietary notices or labels on the Enterprise Solution, or any copy thereof; (iv) use the Enterprise Solution, to infringe the rights of HTC, its affiliates, or any third party; (v) sell, resell, rent, lease, lend, or sublicense the Enterprise Solution; or (vi) make use of the Enterprise Solution in any manner not permitted by this Agreement.

## **6. REPRESENTATIONS AND DISCLAIMERS**

- A) THERE ARE IMPORTANT HEALTH AND SAFETY WARNINGS AND INSTRUCTIONS FOR USE OF THE VIRTUAL REALITY SYSTEMS USED WITH THE ENTERPRISE SOLUTION WHICH ARE AVAILABLE AT VIVE.COM. YOU REPRESENT THAT YOU HAVE READ AND UNDERSTAND THESE WARNINGS AND INSTRUCTIONS. HTC MAY UPDATE OR REVISE THESE WARNINGS AND INSTRUCTIONS, SO PLEASE REVIEW THEM PERIODICALLY. ADDITIONAL HEALTH AND SAFETY WARNINGS AND INSTRUCTIONS MAY BE PROVIDED BY THIRD PARTY LICENSORS IN RELATION TO THEIR PRODUCTS AND SERVICES. YOU ARE SOLELY RESPONSIBLE FOR PROVIDING ADEQUATE WARNINGS AND INSTRUCTIONS TO YOUR ADMINISTRATORS AND USERS AND COMPLYING WITH ALL APPLICABLE LAWS IN THE OPERATION OF YOUR BUSINESS.
- B) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE ENTERPRISE SOLUTION IS PROVIDED "AS IS" AND "AS AVAILABLE" AND THE ENTIRE RISK OF USE REMAINS WITH YOU. HTC AND ITS SUPPLIERS AND LICENSORS DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND HEREBY DISCLAIM ANY IMPLIED WARRANTIES OF MERCHANTABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT. IN PARTICULAR, HTC, ITS SUPPLIERS AND LICENSORS MAKE NO WARRANTY THAT THE ENTERPRISE SOLUTION: (I) WILL MEET YOUR REQUIREMENTS OR WILL WORK WITH ANY THIRD-PARTY HARDWARE, SOFTWARE, APPLICATIONS OR THIRD-PARTY SERVICES; (II) WILL BE AVAILABLE OR PROVIDED ON AN UNINTERRUPTED, TIMELY, SECURE OR ERROR-FREE BASIS; (III) OR ANY INFORMATION OR CONTENT OBTAINED THROUGH IT WILL BE ACCURATE, COMPLETE, OR RELIABLE; OR (IV) OR THAT ANY DEFECTS OR ERRORS THEREIN WILL BE CORRECTED.
- C) DURING ANY FIRMWARE UPDATE, DO NOT UNPLUG ANY CABLES FROM YOUR VIVE DEVICE (OR OTHERWISE POWER OFF THESE DEVICES) UNTIL THE UPDATE IS FULLY COMPLETE. FAILURE TO COMPLY COULD DAMAGE YOUR VIVE DEVICE AND ANY RESULTING DAMAGE MAY NOT BE COVERED BY YOUR WARRANTY.

## **7. INDEMNIFICATION**

You will defend, indemnify, and hold harmless HTC, its directors, officers, employees, agents, partners, suppliers, and licensors from any third party claim or demand, including reasonable attorneys' fees, relating to or arising from (i) Your violation of the terms and conditions of this Agreement, (ii) Your unauthorized use of the Enterprise Solution, and (iii) Your violation of applicable law.

## **8. LIMITATIONS OF LIABILITY**

IN NO EVENT WILL HTC OR ANY HTC SUPPLIER OR LICENSOR BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING WITHOUT LIMITATION LOSS OF PROFITS, GOODWILL, ANTICIPATED SAVINGS, LOSS OR CORRUPTION OF DATA OR BUSINESS INTERRUPTION) ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR THE ENTERPRISE SOLUTION, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE AGGREGATE LIABILITY OF HTC AND ITS SUPPLIERS AND LICENSORS UNDER THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT YOU PAID FOR YOUR AFFECTED VIVE DEVICE.

THE ENTERPRISE SOLUTION WAS DESIGNED FOR SYSTEMS THAT DO NOT REQUIRE FAIL-SAFE PERFORMANCE. HTC IS NOT LIABLE FOR USE OF THE ENTERPRISE SOLUTION IN ANY DEVICE OR SYSTEM IN WHICH A MALFUNCTION OF THE ENTERPRISE SOLUTION WOULD RESULT IN FORESEEABLE RISK OF INJURY OR DEATH TO ANY PERSON.

UNLESS THE FOLLOWING LIMITATION IS PROHIBITED BY APPLICABLE LAW, YOU AGREE THAT ANY DISPUTE MUST BE COMMENCED OR FILED WITHIN ONE (1) YEAR OF THE DATE THE DISPUTE AROSE, OTHERWISE THE UNDERLYING CLAIM IS PERMANENTLY BARRED (WHICH MEANS THAT YOU WILL NO LONGER HAVE THE RIGHT TO ASSERT SUCH CLAIM REGARDING THE DISPUTE).

## **9. GOVERNING LAW AND VENUE**

This Agreement shall be construed and enforced in accordance with and shall be governed by the laws of the State of Washington, without regard to conflict of law or choice of law principles or the UN Convention on contracts for the international sale of goods, and notwithstanding the location of the parties. Venue and jurisdiction for any dispute arising under this Agreement shall lie in the state and/or federal courts located in King County, Washington.

## **10. MISCELLANEOUS**

- a) HTC may amend the terms of this Agreement from time to time as it relates to downloaded software provided to You at no charge under this Agreement. HTC will provide You notices of these modifications through the Enterprise Solution. Modifications will become effective, and will be deemed accepted on the date specified in the notice, which will be no sooner than one (1) year after the modifications are posted (except modifications required by law or that do not materially restrict Your license rights to use such software, which will be effective immediately). Your continued access to or use of the Enterprise Solution following the effective date of the revised terms means that You accept and agree to the revised terms. If You do not agree with the modifications, You must terminate Your use of the Enterprise Solution and this Agreement, which will be Your sole and exclusive remedy.
- b) HTC may provide You with access to an online marketplace created and operated by HTC which may allow You to access, purchase, or use other products and services. If You choose to use that online marketplace separate terms of use, terms of sale, and/or end user license agreements will apply.
- c) If You provide oral or written comments, suggestions, ideas, plans, notes, and drawings, or other information about the Enterprise Solution or related services ("Feedback"), HTC is free to use, disclose, reproduce, license, or otherwise distribute that Feedback, without any obligations to You.

- d) HTC is not liable for any delay for failure to perform any obligation under the Agreement where the delay or failure results from any cause beyond our reasonable control, including acts of God, civil disorder, labor disputes or other industrial disturbances, forces of nature, acts of terrorism or war, and orders of government.
- e) The parties are independent contractors and are not employees, agents or legal representatives of the other party. Neither is authorized to bind the other, act as an agent for the other or otherwise act in the name of or on behalf of the other party.
- f) As applicable, each party will comply with all relevant export laws and regulations in connection with this Agreement.
- g) Either party may assign its rights or obligations under this Agreement if the assuming party agrees in writing to be bound by the terms of this Agreement. This Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.
- h) The parties hereto acknowledge that this Agreement is not intended to and shall not create any third party beneficiaries, unless otherwise explicitly set forth herein.
- i) If a court of competent jurisdiction holds any term, covenant or restriction of this Agreement to be illegal, invalid or unenforceable, the remaining terms, covenants and restrictions will remain in full force and effect and will in no way be affected, impaired or invalidated.
- j) This Agreement constitutes the entire, final, complete and exclusive agreement between You and HTC and supersede all previous agreements or representations, written or oral, with respect to the subject matter of this Agreement. You and HTC expressly agree that the terms of this Agreement shall control over any additional, different, or conflicting terms. Notwithstanding the foregoing, if there is any conflict between this Agreement and any other agreement between You and HTC which pertains to the same subject matter and which was duly signed by authorized signatories of both parties, then such duly signed agreement shall control to the extent of any conflict.
- k) This Agreement was originally written in English. If this Agreement is translated into other languages, the English versions will control to the extent of any conflict.
- l) Sections 4(a), (d), and (e) and 5-11 will survive any expiration or termination of this Agreement.
- m) HTC may provide any notice to You under this Agreement by posting such notice on the Enterprise Solution site or sending an email to any address associated with your enterprise account. All notices to HTC must be by personal delivery or overnight courier (effective when received) to:

HTC Corporation  
Attn: General Counsel  
No. 88, Section 3, Zhongxing Road  
Xindian Dist., New Taipei City 231  
Taiwan

With a copy to:

HTC America Inc,  
Attn: Legal Department  
308 Occidental Avenue South, Suite 300  
Seattle, Washington 98104  
United States

## 11. DEFINITIONS

“**Administrator**” means Yourself or Your employees, representative or agent who oversees the control and management of Your Vive Devices connected to the Enterprise Solution.

“**Effective Date**” shall have the meaning set forth in the preamble of this Agreement.

“**Enterprise Solution**” shall have the meaning set forth in Section 1 of the Agreement.

“**Software**” means, as applicable, (i) the firmware and other software provided by HTC that is preinstalled on Your Vive Devices, (ii) the PC host software and PC client software provided by HTC in connection with this Agreement that can be installed on Your computers and acts as a control and management center for Your Vive Devices connected to the Enterprise Solution, and/or (iii) other software provided by HTC in connection with this Agreement that can be installed on Your computers or Your Vive Devices to help Your Administrators and Users setup, manage, control, and/or operate Your Vive Devices.

“**Territory**” means the country or geographic region in which You are located and operating.

“**User(s)**” means users of Your Vive Devices connected to the Enterprise Solution.

“**Vive Device**” means a (i) compatible Vive business edition device, (ii) compatible Vive consumer edition device if You have purchased the requisite commercial license(s), or (iii) any other compatible device if approved by HTC.