

# HTC VIVE FOCUS DEVELOPER EDITION LIMITED WARRANTY

## United States

**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 "VIVE FOCUS DEVELOPER EDITION" PRODUCT OR ACCESSORY, YOU AGREE TO THE LIMITED WARRANTY, INCLUDING THE MANDATORY ARBITRATION CLAUSE AND CLASS ACTION WAIVER BELOW. IF YOU DO NOT ACCEPT THIS LIMITED WARRANTY, DO NOT USE YOUR "VIVE FOCUS DEVELOPER EDITION" PRODUCT OR ACCESSORY. INSTEAD, PLEASE RETURN IT TO THE RETAILER FROM WHOM YOU PURCHASED IT.**

**THIS PRODUCT MAY ONLY BE USED FOR THE FOLLOWING PERMITTED USES OR WARRANTY COVERAGE IS VOID: (I) FOR USE BY VIVE FOCUS VR CONTENT DEVELOPERS AND (II) FOR A PURPOSE EXPRESSLY APPROVED BY HTC IN WRITING.**

## DEFINITIONS

The following definitions apply to this Limited Warranty:

1. **“Accessory”** or **“Accessories”** means a secondary or auxiliary element included in the box with the **“Product”** at the time of sale and may include without limitation: USB Type-C cable and HTC Rapid Charger 3.0; 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.
2. **“Normal Use Conditions”** means common use under normal conditions that is in accordance with the user manual and instructions provided with the Product or Accessory or posted online.
3. **“Product(s)”** means the HTC VIVE FOCUS Developer Edition virtual reality system purchased from an authorized Retailer, which includes in a kitted system the following: the VIVE FOCUS headset and the Controller.
4. **“Retailer”** means a business that sells goods directly to end users, including those with a physical and/or online presence.
5. **“State”** means a State, the District of Columbia, and any other United States territory or possession.
6. **“Warranty Period”** means six (6) months from the date You purchased the Product from an authorized Retailer.
7. **“You”** or **“Your”** means the original purchaser and/or original end-user of the Product.

## WHAT IS COVERED BY THIS LIMITED WARRANTY?

During the Warranty Period HTC warrants that the Product or Accessory 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 Product or Accessory or any other person. This Limited Warranty gives You specific legal rights, and You may also have other rights which vary from State to State.

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

This Limited Warranty does not apply other than to the Product or Accessory. 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. 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 PRODUCT OR ACCESSORY YOU PURCHASED, THIS LIMITED WARRANTY SHALL NOT APPLY:**

1. if the Product or Accessory serial number, the date code, or the water indicator has been removed, erased, defaced, or altered, or is illegible;
2. to any deterioration of the cosmetic appearance of the Product or Accessory due to normal wear and tear;
3. to consumable parts, such as AAA batteries, wrist strap, face cushion 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, or if the seals of the battery or the battery pack is broken or show evidence of leakage or tampering;
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 the 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 the Product may connect. HTC does not warrant that the operation of the Product or Accessory will be uninterrupted or error-free;
12. where the software loaded on the 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 the Product, or your computer during any firmware update; or
15. to malfunctions caused by the use of the Product or Accessory with or connection of the 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.

This Limited Warranty is valid and enforceable only in the United States where the Product and Accessories are intended to be sold. A Product or Accessory can only be returned for repair under this Limited Warranty in the country where it was purchased. Warranty service availability and response time may vary from country to country.

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

In the event of a perceived malfunction in the Product or Accessory, 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. **Please note that opening the Product or Accessory may cause damage that is not covered under the Limited Warranty.**
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 contact the Retailer from which You purchased the Product or Accessory or visit [www.vive.com/support](http://www.vive.com/support) for further information 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 or Accessory.
  - 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 the Product or Accessory should be returned. You may be responsible for costs in connection with the return of the Product or Accessory to HTC. Before returning the 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 the 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. The Retailer or HTC 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 the Product or Accessory, the repaired or replaced Product or Accessory for the remaining time of the original Warranty Period or three (3) months from the date of repair or replacement, whichever is longer.

Rather than ask You to return the 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 the Product or Accessory 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 the 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 the 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 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES, AND CONDITIONS. HTC LIMITS THE DURATION AND REMEDIES OF ALL STATUTORY AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND WARRANTIES AGAINST HIDDEN OR LATENT DEFECTS TO THE DURATION OF THIS LIMITED WARRANTY AND, AT HTC'S OPTION, THE REPAIR OR REPLACEMENT SERVICES DESCRIBED HEREIN. Some States do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to You.

## **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 LOSS OF DATA, LOSS OF PRIVACY, LOST PROFITS OR COMMERCIAL LOSS, BUSINESS INTERRUPTION, 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 THE CUSTOMER FOR THE PRODUCT OR ACCESSORY. THESE EXCLUSIONS APPLY EVEN IF HTC HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES. Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation or exclusion may not apply to You.

## **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.**

**Binding Arbitration.** Except for disputes in which either party seeks to bring an individual action in small claims court, 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 or Accessory (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 attempts 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 Legal, 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, or given to any alternate contact previously provided, 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.

**Process.** Except for Disputes in which either party seeks to bring an individual action in small claims court, 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 according to the American Arbitration Association Commercial Arbitration Rules applicable to consumer disputes (the "AAA Rules"), 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 King County, Washington and the state and federal courts located in King County, Washington have exclusive jurisdiction over any appeals and the enforcement of an arbitration award. You may also litigate a Dispute in the small claims court located in the U.S. county of Your residence if the Dispute meets the requirements to be heard in small claims court.

**Authority of Arbitrator.** As limited by the Federal Arbitration Act, this Agreement and the applicable AAA rules, 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 United States District Court 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 AAA Rules, 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 King County, Washington, 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 King County, Washington, rather than an arbitrator.

**Rules of AAA.** The rules of AAA and additional information about AAA are available on the AAA website (<https://www.adr.org/Consumer>). By not opting out of this agreement to arbitrate as specified below, You either (a) acknowledge and agree that You have read and understand the AAA Rules, or (b) waive Your opportunity to read the AAA Rules and any claim that the AAA 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 TO THE CLASS CLAIM.

**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, or description of Accessory. These numbers may be found on the packaging and on the Product or Accessory. You must send Your written notice to HTC Legal, 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:** The Federal Arbitration Act (the “FAA”) applies to the agreement to arbitrate. Except as preempted by FAA, the law of the State of Washington, without reference to its choice of laws principles, shall govern this Limited Warranty. Notwithstanding the foregoing, the laws of Your state of residence will apply to any tort claims and/or any claims under any consumer protection statutes.
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.

This Limited Warranty is offered by HTC Corporation, No. 23, Xinghua Road, Taoyuan District, Taoyuan City, 330, Taiwan.