

## HTC LIMITED WARRANTY

**PLEASE READ THIS LIMITED WARRANTY CAREFULLY TO UNDERSTAND YOUR RIGHTS AND OBLIGATIONS. THIS LIMITED WARRANTY CONTAINS A MANDATORY ARBITRATION AGREEMENT.**

**BY USING YOUR HTC PRODUCT OR ACCESSORY, YOU AGREE TO THE LIMITED WARRANTY AND ARBITRATION AGREEMENT BELOW. IF YOU DO NOT ACCEPT THIS LIMITED WARRANTY OR ARBITRATION AGREEMENT, DO NOT USE YOUR HTC PRODUCT. INSTEAD, PLEASE RETURN IT WITHIN FOURTEEN (14) DAYS OF PURCHASE TO THE PROVIDER OR RETAILER FROM WHOM YOU PURCHASED IT FOR A REFUND. SOME STATES, WIRELESS SERVICE PROVIDERS OR RETAILERS ALLOW A LONGER RETURN PERIOD, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.**

### **DEFINITIONS**

The following definitions apply to this Limited Warranty:

1. “Product” means a new mobile device that can be identified by the “HTC” trademark, trade name, or logo affixed to the device as originally supplied, manufactured by or for HTC and purchased from an authorized retailer.
2. “Accessory” means a new headset, case, or other secondary component that is not affixed to the Product at the time of sale and included in the box; *provided* that it was manufactured by or for HTC and purchased from an authorized retailer and can be identified by the “HTC” trademark, trade name, or logo affixed to the to the component as originally supplied.
3. “Warranty Period,” for a Product, means twelve (12) months from the date You purchased the Product from an authorized retailer; and for Accessories, including any media on which software is provided, CD-ROM, or memory card, means ninety (90) days from the date You purchased it from an authorized retailer; *unless* You and HTC agree in writing to a different duration.
4. “State” means a State, the District of Columbia, and any other United States territory or possession.
5. “You” or “Your” means the original retail purchaser and/or original end-user of the Product or Accessory.

## **WHAT IS COVERED BY THIS LIMITED WARRANTY?**

During the Warranty Period HTC warrants that the Product or Accessory will function properly if used under normal conditions in accordance with the user instruction materials packaged with the Product or Accessory or posted on-line (“Limited Warranty”).

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 whatsoever, whether developed by HTC or a third party, even if packaged with or installed on the Product or Accessory prior to purchase by You. 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, the IMEI/MEID number, the water indicator, or the warranty seal (void label) 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 batteries 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, 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; rough handling; exposure to moisture, dampness or extreme thermal or environmental conditions or a rapid change in such conditions; corrosion; or oxidation;

7. to unauthorized modifications or connections, unauthorized opening, repair by use of unauthorized spare parts, or repair by an unauthorized person or location;
8. 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;
9. to physical damage to the surface of the Product or Accessory, including but not limited to cracks or scratches on any LCD screen or lens;
10. to any Bluetooth device, wireless connection 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. HTC makes no warranty regarding the speed or quality of service provided by a wireless service provider;
11. where the software loaded on the Product, including but not limited to the operating system, needs to be upgraded due to changes in cellular network parameters or the availability of an updated operating system, if such updates can be loaded by You;
12. to any Product in which the bootloader has been unlocked, or in which the operating system has been altered, including any failed attempts to unlock the bootloader or alter the operating system, regardless of whether such modifications are authorized, approved, or otherwise sanctioned by HTC; or
13. 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. Many companies sell accessories such as internal or external batteries, rapid chargers, or signal boosters that may look like HTC Accessories and/or claim to meet or exceed HTC specifications. Use of non-HTC accessories may void this Limited Warranty.

This Limited Warranty is valid and enforceable only in the country where the Product or Accessory is intended to be sold. Moreover, if the Product or Accessory is returned to be repaired under this Limited Warranty in a country other than where it was intended to be sold, HTC will attempt to repair the Product or Accessory but cannot guarantee the outcome or compatibility with wireless network(s) outside the intended destination country. Warranty service availability and response times may vary from country to country and may also be subject to a registration requirement in the country of purchase.

### **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.htc.com/support](http://www.htc.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 [htc.com/support](http://htc.com/support), You should contact the provider or retailer from which You purchased the Product or Accessory, contact an HTC service center, or visit [www.htc.com](http://www.htc.com) for further information. Only HTC or an HTC authorized service center should perform service on the Product or Accessory.
3. When You contact the provider, retailer, or HTC, please be sure to have the following information available:
  - a. The model, serial number, and IMEI/ESN 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 or Accessory. You must present a valid proof of purchase upon making any claims pursuant to this Limited Warranty. If no valid proof of purchase is supplied and the Product or Accessory was manufactured more than fifteen (15) months prior to the date the claim is made, HTC has no obligation to provide support under the Limited Warranty.

Upon completion of these steps, the provider, retailer, or 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 the provider, retailer, or HTC.

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 and/or parts. The provider, 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 the provider, retailer, or HTC.

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. You in turn agree to return the replaced parts if requested by HTC.

Before returning any unit for service, be sure to back up data and remove any confidential, proprietary, or personal information, and/or removable memory from the Product, such as micro SD cards. HTC is not responsible for damage to or loss of any programs, data, images, personal information, or removable storage media. DURING THE NORMAL REPAIR PROCESS, THE CONTENTS OF THE PRODUCT WILL LIKELY BE ERASED, INCLUDING DATA STORED ON EITHER INSTALLED OR REMOVABLE STORAGE. At HTC's sole discretion, the Product or Accessory may be returned to You in either the original configuration or as updated to the newest available software.

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, WHETHER ORAL, WRITTEN, STATUTORY, EXPRESS, OR IMPLIED. HTC DISCLAIMS 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 EXTENT PERMITTED BY LAW. INsofar AS SUCH WARRANTIES CANNOT BE DISCLAIMED, HTC LIMITS THE DURATION AND REMEDIES OF SUCH WARRANTIES TO THE DURATION OF THIS LIMITED WARRANTY AND, AT HTC'S OPTION, THE REPAIR OR REPLACEMENT SERVICES DESCRIBED BELOW. 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 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, HTC AND ITS SUPPLIERS' ENTIRE LIABILITY UNDER ANY PROVISION OF THIS LIMITED WARRANTY SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY THE CUSTOMER FOR THE PRODUCT. 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**

**ALL DISPUTES ARISING IN ANY WAY FROM THIS LIMITED WARRANTY OR THE SALE, CONDITION, USE, OR PERFORMANCE OF THE PRODUCT AND/OR ACCESSORY SHALL BE RESOLVED EXCLUSIVELY THROUGH FINAL AND BINDING ARBITRATION, AND NOT BY A COURT OR JURY.**

If You intend to seek arbitration under the preceding paragraph, You must first notify HTC of the dispute in writing at least 30 days in advance of initiating the arbitration. Notice to HTC should be sent to HTC Arbitration Program Administrator, 13920 SE Eastgate Way, Suite 200, Bellevue, WA 98005. Similarly, if HTC intends to seek arbitration under the preceding paragraph, HTC must first notify You of the dispute in writing at least 30 days in advance of initiating the arbitration. The notice must describe the nature of the claim and the relief being sought. If You and HTC are unable to resolve the dispute within 30 days, either You or HTC may then file an arbitration claim. HTC will pay any filing fee charged to initiate the arbitration as well as any administrative and arbitrator fees charged later by the arbitral body, unless Your claim is found to be frivolous.

The arbitration shall be conducted before a single arbitrator, whose award may not exceed, in form or amount, the relief that a United States District Court could order under the Limited Warranty. 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. The arbitration shall be held in the county in which You are billed for Your wireless service.

For any arbitration in which Your total monetary claims, exclusive of attorney's fees and expert witness fees, are \$5,000 or less, the arbitrator may, if You prevail, award Your reasonable attorney's fees and expert witness fees as part of any award, but may not grant HTC its attorney's fees, expert witness fees, or costs unless the arbitrator finds that You brought the claim in bad faith or that Your claim is frivolous under applicable legal standards. 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. In a case where Your total monetary claims, exclusive of attorney's fees and expert witness fees, are greater than \$5,000, the arbitrator may grant

to the prevailing party, or apportion among the parties, reasonable attorney's fees, expert witness fees, and costs, insofar as it is permitted by governing law.

This agreement to arbitrate is subject to the following additional conditions:

1. Decisions Concerning Arbitrability or Enforceability: 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, 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, rather than an arbitrator.
2. Waiver of Class Arbitration: NO DISPUTE WITHIN THE SCOPE OF THE DISPUTE RESOLUTION CLAUSE MAY BE COMBINED OR CONSOLIDATED WITH A DISPUTE INVOLVING ANY OTHER PERSON'S OR ENTITY'S PRODUCT OR CLAIM. **NO CLASS OR COLLECTIVE ARBITRATION IS PERMITTED, EVEN IF THE AAA RULES OR OTHER RULES GOVERNING THE ARBITRATION WOULD OTHERWISE PERMIT IT.** THE ARBITRATOR IS AUTHORIZED TO AWARD RELIEF ONLY IN FAVOR OF THE INDIVIDUAL PARTY SEEKING RELIEF AND ONLY TO THE EXTENT PERMITTED TO RESOLVE THAT INDIVIDUAL'S CLAIM, SUBJECT TO THE RESTRICTIONS IN THIS LIMITED WARRANTY.
3. 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.
4. **RIGHT TO OPT OUT**: This agreement to arbitrate disputes will apply unless You notify HTC in writing 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) the IMEI or MEID or Serial Number of the Product or Accessory. These numbers can be found on the Product packaging and on the Product or Accessory. You must send Your written notice to HTC Arbitration Program Administrator, 13920 SE Eastgate Way, Suite 200, Bellevue, WA 98005. 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.