



HARVEST TECHNOLOGY PTY LIMITED

DOWNLOADABLE SOFTWARE LICENCE TERMS

Revision Date: 08.08.2022



DOWNLOADABLE SOFTWARE LICENCE TERMS

These Downloadable Software Licence Terms, together with our General Terms, apply to all Downloadable Software supplied to you, our customer (**You, Your**) by any of **Harvest Technology Pty Ltd** (ABN 52 601 194 138) of 7 Turner Avenue, Technology Park, Bentley, Western Australia, Australia, **Harvest Technology (UK) Ltd** (Company Number 14032351) of 71-75 Shelton Street, Covent Garden, London WC2H 9JQ, United Kingdom, **Opsivity, Inc.** of 1155 SW Morrison St, Portland, Oregon, USA, and **Harvest Infinity Pty Ltd** (ABN 57 620 773 060) of 7 Turner Avenue, Technology Park, Bentley Western Australia, Australia (**we, us, our**). These Downloadable Software License Terms are Product-Specific Terms and, together with our General Terms, form part of the Agreement between You and Us.

1. Definitions and Interpretation

1.1. Capitalised terms are defined below or in our General Terms:

Administrator has the meaning given to it in clause 2.2

Agreement has the meaning given to it in the General Terms and, for the supply of Downloadable Software to You, includes the applicable Authorised User Terms.

Authorised User means Your individual users whom you allow to use Downloadable Software in accordance with the Authorised User Terms.

Authorised User Terms means the agreement applicable to the user of the Downloadable Software available prior to the user being permitted to download the Downloadable Software.

Beta Versions has the meaning given to it in clause 12.1.

Downloadable Software means Our Software that is provided to Your Authorised Users or in the case of the Wearwolf Application, Your End Users, as a download and installable electronic file or application.

Effective Date means the date set out in the Purchase Order.

End User means Your individual users whom you allow to use the Wearwolf Application.

Feedback has the meaning given to it in clause 12.1(b)(ii).

Streamed Content means any data or audio-visual material input to or streamed by You when using the Downloadable Software.

Term has the meaning given to it in clause 14.1.

Third Party Software has the meaning given to it in clause 11.1.

Wearwolf Application means Downloadable Software that is provided as an electronic file to be used exclusively with a Wearable Device.

Wearable Device means any device that can be worn on the person for streaming of audio or video data.

Your Property has the meaning given to it in clause 9.5(a).

2. Access

2.1. We grant to You access during the Term to use the Downloadable Software solely for Your internal business purposes in accordance with the terms of this Agreement.

2.2. For all Downloadable Software excluding the Wearwolf Application, You must designate an account administrator (**Administrator**) to nominate Authorised Users and issue them our offer of an Authorised User licence for the Downloadable Software, account administration and communications between us and You. You must identify the Administrator by completing and returning to us the Administrator Details



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Form provided by us. You may replace the Administrator by completing and sending to us a new Administrator Details Form.

- 2.3. The Fees for the access granted under clause 2.1 during the Term is calculated in accordance with the number of Authorised Users, as specified in the Quote or in the case of the Wearwolf Application, fees will be in accordance with the number of Wearwolf Applications, as specified in the Quote.
- 2.4. Subject to clause 2.5, access under clause 2.1 is limited to the number of Authorised Users or Wearwolf Applications specified in the Purchase Order.
- 2.5. You may add additional Authorised Users or Wearwolf Applications at any time by submitting a Purchase Order to us.
- 2.6. The additional Fees for any additional Authorised Users or Wearwolf Applications will be charged:
 - (a) if the additional Authorised User or Wearwolf Application is added during the Term, in accordance with Fees in the Quote; and
 - (b) if the additional Authorised User or Wearwolf Application is added after the Term, our rates current at the time the Authorised User or Wearwolf Application is added.
- 2.7. We will give notice prior to the expiry of the Term and any anniversary of Term of our Fees for Authorised Users or Wearwolf Application for the next 12-month period.

3. Changes to the Downloadable Software

- 3.1. We may, on reasonable notice to You, change or modify the Downloadable Software (without materially reducing its general functionality), including by providing You with a new version at any time.
- 3.2. We may make available to You new functionality or features for the Downloadable Software. If the new functionality or features increase the Fees payable for the Downloadable Software, You will have the option of accepting or declining the new functionality or features.

4. Authorised Users

In addition to the terms and conditions of the applicable Authorised User Terms:

- 4.1. Each Authorised User must have a unique username and password issued or otherwise assigned by You for access to and use of the Downloadable Software.
- 4.2. You must immediately notify us of any unauthorised use of an Authorised User's login credentials or any other breach of security known to You or Your Authorised Users.
- 4.3. Use of an Authorised User's login credentials or Downloadable Software access by You or Your Authorised Users other than as provided in the Agreement will be considered a breach of the Agreement by You.

5. Wearwolf Application

- 5.1. A Wearwolf Application can only be used with one unique Wearable Device, as assigned by You, for use of the Downloadable Software.

6. Availability

- 6.1. We will use commercially reasonable efforts to maintain availability of the Downloadable Software during the Term.



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- 6.2. You agree and understand that there will be times when the Downloadable Software will not be available, such as:
- (a) scheduled maintenance times;
 - (b) outages;
 - (c) emergency maintenance;
 - (d) unavailability caused by software, hardware, or other customers; and
 - (e) causes beyond our reasonable control.
- 6.3. We will make commercially reasonable efforts to notify You of any planned downtime and unavailability of the Downloadable Software.
- 6.4. We are not liable for any delays, interruptions, or other transmission errors resulting from any lack of Downloadable Software access or caused by Your device or Your internet or wireless service provider.

7. Your responsibilities

- 7.1. You must, and must ensure that You, Your End Users and Your Authorised Users:
- (a) comply with all applicable laws and the terms of the Agreement;
 - (b) only access and use the Downloadable Software for Your own internal business purposes;
 - (c) take all reasonable steps to safeguard access to the Downloadable Software; and
 - (d) not use the Downloadable Software in any manner or for any purpose that:
 - (i) is unlawful;
 - (ii) would give rise to any civil or criminal liability for Yourself, us, or any third party; or
 - (iii) in any manner contrary to or prohibited by the Agreement.
- 7.2. Except for End Users and Authorised Users, You must not assign, sublicense, license, sell, lease, rent or otherwise make the Downloadable Software available to third parties.
- 7.3. Without limiting clause 7.1 or any other provision in the Agreement, You acknowledge and agree that You are solely responsible for:
- (a) Your End Users' and Your Authorised Users' compliance with applicable laws, the Agreement, and any applicable Authorised User Terms;
 - (b) the acts and omissions of Your End Users and Your Authorised Users, as if they were Your acts and omissions;
 - (c) the Streamed Content uploaded to the Downloadable Software, including its accuracy and legality;
 - (d) managing the security, confidentiality, and access to the Downloadable Software of Your End Users and Your Authorised Users and for all Streamed Content uploaded to the Downloadable Software;



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- (e) all liabilities incurred through use of the Downloadable Software by Your End Users and Your Authorised Users and that any transaction by an End User or under an Authorised User's login credentials will be deemed to have been performed by You; and
- (f) ensuring that Your Authorised Users' account information is true and accurate information.

7.4. You acknowledge that Your Authorised Users and may act on information submitted to us by Your Authorised Users whether or not such information is accurate or true, and You agree that You or Your Authorised Users rely on such information at Your own risk and that we are not liable to You or Your Authorised Users for Your or Your Authorised User's reliance thereon.

7.5. Any use of the Downloadable Software by You, Your End Users or Your Authorised Users that in our reasonable opinion threatens the security, integrity, or availability of the Downloadable Software may result in Your, Your End Users' or Your Authorised Users' immediate suspension of access to the Downloadable Software.

8. Acceptable Use

8.1. Without limiting clause 5.1 or any other provision in the Agreement, You must not, You must not permit anyone to, and must ensure that Your End Users and Your Authorised Users do not:

- (a) download, install or use the Downloadable Software on any devices on which You do not have permission to operate the Downloadable Software, or on which the Downloadable Software cannot be legally and rightfully operated;
- (b) send communications that are illegal;
- (c) defraud, deceive, or mislead anyone;
- (d) transmit any content, data or information that is abusive, harmful, threatening, harassing, defamatory, bullying, malicious, discriminatory, deceptive, misleading, unethical, unlawful, or which violates another person's privacy rights, or which is otherwise objectionable;
- (e) copy, modify, translate, adapt, or otherwise create derivative works or improvements of the Downloadable Software;
- (f) remove, disable, circumvent, or otherwise create or implement any workaround to any copy protection, rights management, or security features in or protecting the Downloadable Software;
- (g) remove, delete, alter, or obscure any trade marks or any copyright, patent, or other intellectual property or proprietary rights notices from the Downloadable Software, including any copy of them; or
- (h) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available the Downloadable Software, or any features or functionality of the Downloadable Software, to any third party.

9. Your Licence to Us

9.1. You grant us a licence to review and monitor all use of the Downloadable Software by Your End Users and Your Authorised Users to ensure compliance with all of the terms of this Agreement and evaluate performance of the Downloadable Software. This licence includes the ability to analyse user behaviour, both on an individual basis and in the aggregate, and otherwise to collect, create, and analyse metadata about Your use of the Downloadable Software.



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- 9.2. We will not disclose or distribute such metadata or other information resulting from monitoring activities, except in an anonymised and aggregate format.
- 9.3. Subject only to the limited licences expressly granted under this clause 9, we acquire no right, title, or interest from You or Your Authorised Users under the Agreement in or to the Streamed Content, including any Intellectual Property in it.
- 9.4. You are solely responsible for the Streamed Content that You, Your End Users or Your Authorised Users upload, publish, display, link to or otherwise make available on or through the Downloadable Software, and You agree that we are only acting as a passive conduit for the online distribution and publication of the Streamed Content which You control.
- 9.5. You:
- (a) are solely responsible for the accuracy, quality, and legality of all Streamed Content, software, and hardware that is used with the Downloadable Software other than that provided by us (**Your Property**), and for the means by which You acquired Your Property; and
 - (b) warrant that Your Property does not and will not violate third-party rights of any kind, including any Intellectual Property Rights or privacy rights.

10. Security

- 10.1. We will use commercially reasonable efforts to implement and maintain data security practices for Your Streamed Content in accordance with applicable law and as set out in our Privacy Policy which can be accessed at [Harvest | Terms and Conditions](#).
- 10.2. Notwithstanding clause 10.1, You acknowledge that:
- (a) Your access to and use of the Downloadable Software is at Your own risk;
 - (b) we cannot guarantee that Your use of the Downloadable Software will be uninterrupted or error free, or that the Downloadable Software will be free of viruses or other harmful components
 - (c) we cannot guarantee that the Streamed Content will not be lost, or that unauthorised third parties will never be able to defeat the data security measures we have, or use the Streamed Content for improper purposes;
 - (d) we are not responsible for any loss or damage caused by a distributed denial-of-service attack, or any viruses, Trojans, worms, or other technologically harmful material that may infect Your device; and
 - (e) the internet is not secure and we are not responsible for any loss, corruption or interception of data sent to or from the Downloadable Software.

11. Third Party Software

- 11.1. You may have the option to use the Downloadable Software through or integrated with third party software, applications, or platforms (**Third Party Software**). You acknowledge and agree that:
- (a) the Third-Party Software may have its own terms of use and privacy policies, and You agree to use the Third Party Software in accordance with all applicable terms and privacy policies;
 - (b) we do not endorse and are not responsible or liable for the behaviour, features, or content of any Third-Party Software, or for any transaction You may enter into with the provider of any such Third Party Software;



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- (c) should the provider of the Third-Party Software modify or change that Third Party Software in any way, we cannot warrant the continuing compatibility of the Third Party Software with our Downloadable Software; and
- (d) we will notify You if we become aware of any proposed modifications or changes to the Third-Party Software.

12. Free or Trial Subscriptions; Beta Versions

12.1. We may, in our sole discretion, make free, trial, and/or Beta Versions of the Downloadable Software available to You. Because free, trial, or beta offerings are different from paid subscriptions, the following special terms apply:

- (a) if we make the Downloadable Software, or a demonstration version of the Downloadable Software, available to You on a free or trial basis, it is so that You can use the Downloadable Software before purchasing a subscription to determine if the Downloadable Software meets Your needs. Free/trial subscriptions to the Downloadable Software, and any demonstration versions, are subject in all respects to the Agreement, except that we may discontinue the Downloadable Software or Your ability to use the Downloadable Software or demonstration version at any time, with or without notice to You and without further obligations to You; and
- (b) we may make new versions of the Downloadable Software available prior to their release to the general public, for testing and evaluation purposes (**Beta Versions**).
 - (i) Beta Versions of the Downloadable Software are subject in all respects to the terms of the Agreement, except that we may discontinue the Downloadable Software or Your ability to use a Beta Version at any time, with or without notice to You and without further obligations to You; and
 - (ii) You agree to notify us of all comments or suggestions about the Downloadable Software, including any problems and ideas for improvements ("**Feedback**"), which come to Your attention during its use of the Beta Version; and
 - (iii) You assign to us all right, title, and interest (including the Intellectual Property Rights) in the Feedback as and when created.

13. Disclaimer of Warranties

In addition to and without limiting any provision in the General Terms or elsewhere in the Agreement:

- 13.1. We make no warranty of any kind, whether express or implied, with regard to any Third-Party Software.
- 13.2. You agree that Your use of the Downloadable Software is at Your sole discretion and risk.

14. Term and Termination

- 14.1. The term of the Agreement with respect to the Downloadable Software commences as of the Effective Date and continues for a period of 12 months (**Term**) unless otherwise specified in a Quote or invoice.
- 14.2. You must notify us at least 30 days before the end of the Term of Your intent to terminate Your access to the Downloadable Software.
- 14.3. If You fail to notify Us in accordance with clause 14.2, the Term will automatically renew for the same Term, and We will continue to use the initial Purchase Order until such time as You supply a new or revised Purchase Order for the new Term.



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- 14.4. On termination or expiry of the Agreement, unless otherwise agreed in writing, the following will apply:
- (a) any licence rights granted to the other party with respect to the Downloadable Software will terminate as of the date of termination or expiry;
 - (b) we will have no obligation to provide the Downloadable Software to You, Your End Users or Your Authorised Users after the date of termination or expiry; and
 - (c) we will provide You, Your End Users and Your Authorised Users with access to the Streamed Content until 30 days after the date of termination or expiry, at which point such access will cease.