

Product Warranty and Software License: Xbox 360 E Console

LIMITED WARRANTY

BY USING YOUR XBOX 360 E OR ACCESSORY YOU AGREE TO THIS WARRANTY. BEFORE SETTING UP YOUR XBOX 360 E OR ACCESSORY, PLEASE READ THIS WARRANTY CAREFULLY.

IF YOU DO NOT ACCEPT THIS WARRANTY DO NOT USE YOUR XBOX 360 E OR ACCESSORY. RETURN IT UNUSED TO YOUR RETAILER OR MICROSOFT FOR A REFUND. Contact Microsoft at <http://www.xbox.com> / (800) 4MY-XBOX or (800) 469-9269. This warranty gives You specific legal rights. You may also have other rights which vary from State to State or Province to Province.

If You live in the United states, section 9 contains a binding arbitration clause and class action waiver. It affects Your rights about how to resolve a dispute with Microsoft. Please read it.

1. Definitions

- a. "Xbox 360 E" means a new Xbox 360 E console purchased from an authorized retailer.
- b. "Accessory" means a new Microsoft branded Xbox 360 or Xbox 360 E hardware accessory purchased from an authorized retailer. A hard disk drive is an Accessory whether preinstalled or purchased separately.
- c. "Warranty Period" for Xbox 360 E, means 1 year from the date You purchased it; and for Accessories, means 90 days from the date You purchased it.
- d. "You" means the original end-user.
- e. "Normal Use Conditions" means ordinary consumer use under normal home conditions according to the instruction manual for the Xbox 360 E or Accessory.
- f. "State" means a State, the District of Columbia, and any other United States territory or possession. "The United States of America" includes all of them.

2. Warranty

- a. During the Warranty Period, Microsoft warrants, only to You, that the Xbox 360 E or Accessory will not malfunction under Normal Use Conditions.
- b. This is the only warranty Microsoft gives for Your Xbox 360 E or Accessory and Microsoft gives no other guarantee, warranty, or condition. No one else may give any guarantee, warranty, or condition on Microsoft's behalf.
- c. IF YOUR STATE'S OR PROVINCE'S LAW GIVES YOU ANY IMPLIED WARRANTY, INCLUDING AN IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ITS DURATION IS LIMITED TO THE WARRANTY PERIOD. Some States or Provinces do not allow limitations on how long an implied warranty lasts, so this limitation may not apply to You.

3. How to Get Warranty Service

- a. (a) Before starting the warranty process, please use the trouble- shooting tips at <http://www.xbox.com/support>
- b. (b) If the troubleshooting tips do not resolve Your problem, then follow the online process at <http://www.xbox.com/support>
- c. (c) Before sending Your Xbox 360 E or Accessory to Microsoft for service, be sure to

keep a copy of any data You want to save, and delete anything You consider confidential. Microsoft is not responsible for Your data and may erase it.

4. **Microsoft's Responsibility**

- a. After You return Your Xbox 360 E or Accessory to Microsoft, Microsoft will inspect it.
- b. If Microsoft determines that the Xbox 360 E or Accessory malfunctioned during the Warranty Period under Normal Use Conditions, Microsoft will (at its option) repair or replace it, or refund the purchase price to You. Repair may use new or refurbished parts. Replacement may be with a new or refurbished unit.
- c. After repair or replacement, Your Xbox 360 E or Accessory will be covered by this warranty for the longer of the remainder of Your original Warranty Period, or 95 days after Microsoft ships it to You.
- d. MICROSOFT'S RESPONSIBILITY TO REPAIR OR REPLACE YOUR XBOX 360 E OR ACCESSORY, OR TO REFUND THE PURCHASE PRICE, IS YOUR EXCLUSIVE REMEDY.
- e. If Your Xbox 360 E or Accessory malfunctions after the Warranty Period expires, there is no warranty of any kind. After the Warranty Period expires, Microsoft may charge You a fee for its efforts to diagnose and service any problems with Your Xbox 360 E or Accessory.

5. **Warranty Exclusions**

Microsoft is not responsible and this warranty does not apply if Your Xbox 360 E or Accessory is:

- a. damaged by use with products not sold or licensed by Microsoft (including, for example, games and accessories not manufactured or licensed by Microsoft, and "pirated" games, etc.);
- b. used for commercial purposes (including, for example, rental, pay-per-play, etc.);
- c. opened, modified, or tampered with (including, for example, any attempt to defeat any Xbox 360 E or Accessory technical limitation, security, or anti-piracy mechanism, etc.), or its serial number is altered or removed;
- d. damaged by any external cause (including, for example, by being dropped, used with inadequate ventilation, etc., or failure to follow instructions in the instruction manual for the Xbox 360 E or Accessory); or
- e. repaired by anyone other than Microsoft

6. **EXCLUSION OF CERTAIN DAMAGES**

MICROSOFT IS NOT RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; ANY LOSS OF DATA, PRIVACY, CONFIDENTIALITY, OR PROFITS; OR ANY INABILITY TO USE YOUR XBOX 360 E OR ACCESSORY. THESE EXCLUSIONS APPLY EVEN IF MICROSOFT HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES, AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. Some States or Provinces do not allow the exclusion or limitation of incidental or consequential damages, so this limitation or exclusion may not apply to You.

7. **Additional Terms**

If You attempt to defeat or circumvent any Xbox 360 E or Accessory technical limitation, security, or anti-piracy system, You may cause Your Xbox 360 E or Accessory to stop working permanently. You will also void Your warranty, and make Your Xbox 360 E, or Accessory ineligible for authorized repair, even for a fee.

8. **Choice of Law**

- a. (a) The laws of the State or Province where You live govern the interpretation of this

warranty, any claim that Microsoft has breached it, and all other claims (including consumer protection, unfair competition, implied warranty, and tort claims), regardless of conflict of law principles.

9. Binding Arbitration and Class action Waiver for U.S. residents

- a. (a) Application. This section applies to any dispute EXCEPT IT DOES NOT INCLUDE A DISPUTE RELATING TO THE ENFORCEMENT OR VALIDITY OF YOUR, MICROSOFT'S, OR EITHER OF OUR LICENSORS' INTELLECTUAL PROPERTY RIGHTS. Dispute means any dispute, action, or other controversy between You and Microsoft concerning the Microsoft Xbox 360 E or Accessory (including its price) or this warranty, whether in contract, warranty, tort, statute, regulation, ordinance, or any other legal or equitable basis. "Dispute" will be given the broadest possible meaning allowable under law.
- b. (b) Notice of Dispute. In the event of a dispute, You or Microsoft must give the other a Notice of Dispute, which is a written statement that sets forth the name, address and contact information of the party giving it, the facts giving rise to the dispute, and the relief requested. You must send any Notice of Dispute by U.S. Mail to Microsoft Corporation, ATTN: LCA ARBITRATION, One Microsoft Way, Redmond, WA 98052-6399. A form is available at <http://www.microsoft.com/about/legal/en/us/arbitration/notice.aspx>. Microsoft will send any Notice of Dispute to You by U.S. Mail to Your address if we have it, or otherwise to Your e-mail address. You and Microsoft will attempt to resolve any dispute through informal negotiation within 60 days from the date the Notice of Dispute is sent. After 60 days, You or Microsoft may commence arbitration.
- c. (c) Small Claims Court. You may also litigate any dispute in small claims court in Your county of residence or King County, Washington, if the dispute meets all requirements to be heard in the small claims court. You may litigate in small claims court whether or not You negotiated informally first.
- d. (d) Binding Arbitration. If You and Microsoft do not resolve any dispute by informal negotiation or in small claims court, any other effort to resolve the dispute will be conducted exclusively by binding arbitration. You are giving up the right to litigate (or participate in as a party or class member) all disputes in court before a judge or jury. Instead, all disputes will be resolved before a neutral arbitrator, whose decision will be final except for a limited right of appeal under the Federal Arbitration Act. Any court with jurisdiction over the parties may enforce the arbitrator's award.
- e. (e) Class Action Waiver. Any proceedings to resolve or litigate any dispute in any forum will be conducted solely on an individual basis. Neither You nor Microsoft will seek to have any dispute heard as a class action, private attorney general action, or in any other proceeding in which either party acts or proposes to act in a representative capacity. No arbitration or proceeding will be combined with another without the prior written consent of all parties to all affected arbitrations or proceedings.
- f. (f) Arbitration Procedure. Any arbitration will be conducted by the American Arbitration Association (the "AAA") under its Commercial Arbitration Rules. If You are an individual and use the Microsoft Hardware or Accessories for personal or household use, or if the value of the dispute is \$75,000 or less whether or not You are an individual or how You use the Microsoft Hardware or Accessories, its Supplementary Procedures for Consumer-Related Disputes will also apply. For more information, see www.adr.org or call 1-800-778-7879. To commence arbitration, submit the form available at <http://www.microsoft.com/about/legal/en/us/arbitration/demand.aspx> to the AAA. You

agree to commence arbitration only in Your county of residence or in King County, Washington. Microsoft agrees to commence arbitration only in Your county of residence. You may request a telephonic or in-person hearing by following the AAA rules. In a dispute involving \$10,000 or less, any hearing will be telephonic unless the arbitrator finds good cause to hold an in-person hearing instead. The arbitrator may award the same damages to You individually as a court could. The arbitrator may award declaratory or injunctive relief only to You individually, and only to the extent required to satisfy Your individual claim.

g. (g) Arbitration Fees and Incentives.

1. Disputes Involving \$75,000 or Less. Microsoft will promptly reimburse Your filing fees and pay the AAA's and arbitrator's fees and expenses. If You reject Microsoft's last written settlement offer made before the arbitrator was appointed ("Microsoft's last written offer"), Your dispute goes all the way to an arbitrator's decision (called an "award"), and the arbitrator awards You more than Microsoft's last written offer, Microsoft will give You three incentives: (i) pay the greater of the award or \$5,000; (ii) pay twice Your reasonable attorney's fees, if any; and (iii) reimburse any expenses (including expert witness fees and costs) that Your attorney reasonably accrues for investigating, preparing, and pursuing Your claim in arbitration. The arbitrator will determine the amount of fees, costs, and expenses unless You and Microsoft agree on them.
2. Disputes Involving More Than \$75,000. The AAA rules will govern payment of filing fees and the AAA's and arbitrator's fees and expenses.
3. Disputes Involving Any Amount. In any arbitration You commence, Microsoft will seek its AAA or arbitrator's fees and expenses, or Your filing fees if it is reimbursed, only if the arbitrator finds the arbitration frivolous or brought for an improper purpose. In any arbitration Microsoft commences, Microsoft will pay all filing, AAA, and arbitrator's fees and expenses. Microsoft will not seek its attorney's fees or expenses from You in any arbitration. Fees and expenses are not counted in determining how much a dispute involves.

h. (h) Conflict with AAA Rules. This warranty governs to the extent it conflicts with AAA's Commercial Arbitration Rules and Supplementary Procedures for Consumer-Related Disputes.

- i. (i) Claims or Disputes Must Be Filed Within One Year. To the extent permitted by law, any claim or dispute under this warranty must be filed within one year in small claims court (Section 9(c)), an arbitration proceeding (Section 9(d)), or in court, if Section 9 permits the dispute to be filed in court instead of arbitration. The one-year period begins when the claim or Notice of Dispute first could be filed. If a claim or dispute is not filed within one year, it is permanently barred.
- j. (j) Severability. If the class action waiver in Section 9(e) is found to be illegal or unenforceable as to all or some parts of a dispute, then it will not apply to those parts. Instead, those parts will be severed and proceed in a court of law, with the remaining parts proceeding in arbitration. If any other provision of Section 9 is found to be illegal or unenforceable, that provision will be severed with the remainder of this Section 9 remaining in full force and effect.

All parts of this Limited Warranty apply to the maximum extent permitted by law or unless prohibited by law.

10. This warranty is valid only in the United States of America and Canada.

Microsoft's address in the United States:

Microsoft Corporation, One Microsoft Way, Redmond, WA 98052

Microsoft's address in Canada:

Microsoft Canada Inc., 1950 Meadowvale Blvd., Mississauga, Ontario, L5N 8L9

SOFTWARE LICENSE

BY USING YOUR XBOX 360 E OR AUTHORIZED ACCESSORY YOU AGREE TO THIS SOFTWARE LICENSE. BEFORE SETTING IT UP, PLEASE READ THIS SOFTWARE LICENSE CAREFULLY. IF YOU DO NOT ACCEPT THIS SOFTWARE LICENSE, DO NOT USE YOUR XBOX 360 E OR AUTHORIZED ACCESSORY. RETURN IT TO UNUSED TO YOUR RETAILER OR MICROSOFT FOR A REFUND. Contact Microsoft at

<http://www.xbox.com> / (800) 4MY-XBOX or (800) 469-9269.

1. Definitions

- a. "Xbox 360 E" means an Xbox 360 E console.
- b. "Authorized Accessory" means a Microsoft branded Xbox 360 or Xbox 360 E hardware accessory, and a Microsoft licensed, third party branded, Xbox 360 or Xbox 360 E hardware accessory whose packaging bears the official "Licensed for Xbox" logo. A hard disk drive is an Accessory whether preinstalled or purchased separately.
- c. "Authorized Games" means Xbox 360 or Xbox 360 E games on game discs published or licensed by Microsoft, and game content downloaded from Microsoft's Xbox Live service or Xbox.com Web site (for example, avatars, downloadable games, game add-ons, etc.).
- d. "Software" means the software pre-installed in the Xbox 360 E or Authorized Accessory, including any updates Microsoft may make available from time to time.
- e. "Unauthorized Accessories" means all hardware accessories other than an Authorized Accessory, except that USB memory sticks, digital cameras used to make photographs or movies, and music players used to play music or display photographs or videos are not Unauthorized Accessories. Hard disk drives are Accessories whether preinstalled or purchased separately.
- f. "Unauthorized Games" means all game discs, game downloads, and game content or media other than Authorized Games.
- g. "Unauthorized Software" means any software not distributed by Microsoft through Xbox 360 or Xbox 360 E game discs published or licensed by Microsoft, Microsoft's Xbox Live service, or Xbox.com Web site.
- h. "You" means the user of an Xbox 360 E or Authorized Accessory.

2. License

- a. The Software is licensed to You, not sold. You are licensed to use the Software only as pre-installed in Your Xbox 360 E or Authorized Accessory, and updated by Microsoft from time to time. You may not copy or reverse engineer the Software.
- b. As conditions to this Software license, You agree that:
 - i. **You will use only Authorized Accessories and Authorized Games with Your Xbox 360 E or Authorized Accessory. You will not use Unauthorized Accessories or Unauthorized Games. They may not work or may stop working permanently after a Software update.**
 - ii. **You will not use or install any Unauthorized Software. If You do, Your Xbox 360 E or Authorized Accessory may stop working permanently at that time**

or after a later Software update.

- iii. You will not attempt to defeat or circumvent any Xbox 360 E or Authorized Accessory technical limitation, security, or anti-piracy system. If You do, Your Xbox 360 E or Authorized Accessory may stop working permanently at that time or after a later Software update.
- iv. Microsoft may use technical measures, including Software updates, to prevent use of Unauthorized Accessories and Unauthorized Games, and to protect the technical limitations, security, and anti-piracy systems in the Xbox 360 E or Authorized Accessory.
- v. **Microsoft may update the Software from time to time without further notice to You, for example, to update any technical limitation, security, or anti-piracy system.**

3. **Warranty**

The Software is covered by the Limited Warranty for Your Xbox 360 E or Authorized Accessory, and Microsoft gives no other guarantee, warranty, or condition for the Software. No one else may give any guarantee, warranty, or condition on Microsoft's behalf.

4. **EXCLUSION OF CERTAIN DAMAGES**

MICROSOFT IS NOT RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES; ANY LOSS OF DATA, PRIVACY, CONFIDENTIALITY, OR PROFITS; OR ANY INABILITY TO USE THE SOFTWARE. THESE EXCLUSIONS APPLY EVEN IF MICROSOFT HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES, AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. Some States or Provinces do not allow the exclusion or limitation of incidental or consequential damages, so this limitation or exclusion may not apply to You.

5. **Choice of Law**

- a. If You acquired Your Xbox 360 E or Authorized Accessory in the United States, Washington State law governs the interpretation of this Software license and any claim that Microsoft has breached it, regardless of conflict of law principles.
- b. If You acquired Your Xbox 360 E or Authorized Accessory in Canada, Ontario Provincial law governs the interpretation of this Software license and any claim that Microsoft has breached it, regardless of conflict of law principles.
- c. The laws of the State or Province where You live govern all other claims (including consumer protection, unfair competition, implied warranty, and tort claims).

This agreement applies to the maximum extent permitted by law and unless prohibited by law. This agreement does not change your rights under the laws of your State or country if the laws of your State or country do not permit it to do so.

Microsoft's address in the United States:

Microsoft Corporation, One Microsoft Way, Redmond, WA 98052

Microsoft's address in Canada:

Microsoft Canada Inc., 1950 Meadowvale Blvd., Mississauga, Ontario, L5N 8L9