

## NuVinci® Harmony™ Firmware ver. 2 License Terms

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(i) (888) 688-4624 or [support@fallbrooktech.com](mailto:support@fallbrooktech.com) (preferred method of contact)

(ii) Fallbrook Technologies Customer Service and Support, 2920 Brush Creek Loop Cedar Park TX 78613; or

(iii) visit [www.fallbrooktech.com/cycling](http://www.fallbrooktech.com/cycling)

(b) Europe. If you acquired the Software in Europe, Fallbrook International makes this limited warranty. To make a claim under this warranty, you should contact:

(i) Fallbrook International (Europe), NuVinci Europe Sales, Support and Service +31 38 7200 710 (DE +49 2289 2939 079) Popovstraat 12, 8013RK Zwolle, The Netherlands [eu-service@nuvinci.com](mailto:eu-service@nuvinci.com)

(ii) Visit <http://www.fallbrooktech.com/cycling>

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AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE AND FROM COUNTRY TO COUNTRY.

#### **4. TERMINATION**

This Agreement is effective until terminated. Licensor may terminate this Agreement at any time upon Your breach of any of the provisions hereof. Upon termination of this Agreement, You will cease all use of the Program, return to Licensor or destroy the Program in Your possession, and so certify to Licensor. Except for the license granted herein and as expressly provided herein, the terms of this Agreement will survive termination.

#### **5. GENERAL TERMS**

**5.1 Law.** This Agreement and all matters arising out of or relating to this Agreement will be governed by the internal laws of the State of California without giving effect to any choice of law rule. In the event of any controversy, claim or dispute between the parties arising out of or relating to this Agreement, such controversy, claim or dispute may be tried solely in a state or federal court for San Diego County, California, and the parties hereby irrevocably consent to the jurisdiction and venue of such courts.

**5.2 Limitation of Liability.** IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR DAMAGES FOR LOSS OF PROFITS, REVENUE, BUSINESS, SAVINGS, DATA, USE OR COST OF SUBSTITUTE PROCUREMENT, INCURRED BY EITHER PARTY OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES ARE FORESEEABLE. IN NO EVENT WILL LICENSOR'S LIABILITY FOR DAMAGES HEREUNDER EXCEED THE AMOUNTS ACTUALLY PAID BY YOU TO LICENSOR FOR THE PROGRAM AND IN THE EVENT YOU MODIFY THE SOFTWARE IN ANY WAY LICENSOR SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY DAMAGE. THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION AND IN THE OTHER PROVISIONS OF THIS AGREEMENT AND THE ALLOCATION OF RISK HEREIN ARE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN THE PARTIES, WITHOUT WHICH LICENSOR WOULD NOT HAVE ENTERED INTO THIS AGREEMENT. LICENSOR'S PRICING REFLECTS THIS ALLOCATION OF RISK AND THE LIMITATION OF LIABILITY SPECIFIED HEREIN.

**5.3 Severability and Waiver.** If any provision of this Agreement is held to be illegal, invalid or otherwise unenforceable, such provision will be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, will be deemed to be severed and deleted from this Agreement, while the remainder of this Agreement will continue in full force and effect. The waiver by either party of any default or breach of this Agreement will not constitute a waiver of any other or subsequent default or breach.

**5.4 No Assignment.** You may not assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement or any rights or obligations under this Agreement without the prior written consent of Licensor. Any purported assignment, transfer or delegation by You will be null and void. Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective successors and assigns.

**5.5 Entire Agreement.** This Agreement constitutes the entire agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement. This Agreement may not be modified or amended except in a writing signed by both parties; no other act, document, usage or custom will be deemed to amend or modify this Agreement.