

# Nuitrack Software Terms

Last Updated May 12, 2020

## Scope

These Terms govern your use of the Nuitrack Software (the “Software Terms”). 3DiVi provides downloadable software components that provide 3D skeletal tracking capability (the “Nuitrack Software”). Depending on your requirements and circumstances, you will be permitted to use either Nuitrack Pro or Nuitrack Trial.

## Primary Differences Between Nuitrack Pro and Nuitrack Trial

Nuitrack Trial is for demo purpose only and may not be used for development of applications (Project Content) for commercial use.

Nuitrack Pro may be used by anyone who pays the applicable subscription and/or unit license fees to develop, distribute, sell and offer for sale Project Content.

Nuitrack Pro license is required for each copy of Project Content.

3DiVi may monitor your compliance with and enforce these restrictions and requirements including but not limited to monitoring the number of installations of Your Project Content.

All two tiers of the Nuitrack Software share most of the same features and functionality. To see the differences between each tier, please visit [3DiVi's online store](#).

## Authorized Hardware

Nuitrack Software may be only used with the following 3D sensors: Orbbec Persee, Orbbec Astra, Orbbec Astra Pro, LIPS, Intel RealSense, Structure.

## Auto-Renewal

At the end of the subscription term for Nuitrack Pro, your subscription will automatically renew on a month to month basis at the then-current list price, unless you renew the subscription for a new subscription term or terminate and cancel it.

You May Not Use Nuitrack Trial, and Nuitrack Pro simultaneously.

## Nuitrack Software Terms

Your use of the Nuitrack Software is subject to these Additional Terms (the “Software Terms”), which supplement and incorporate the [3DiVi Terms of Service](#). By downloading, installing or using the Nuitrack Software in any manner, you represent and affirm that you have read, understand and agree to be legally bound by and comply with these Software Terms. If you do not agree with these Software Terms, you are not authorized to use the Nuitrack Software in any manner.

## Nuitrack Trial and Nuitrack Pro

Nuitrack Trial is for demo purpose only and may not be used for development of applications for commercial use.

Nuitrack Pro may be used by anyone who pays the applicable subscription and/or unit fees to develop, distribute, sell and offer for sale Project Content. Nuitrack Pro license is required for each copy of Project Content.

3DiVi may monitor your compliance with and enforce these restrictions and requirements including but not limited to monitoring the number of installations of Your Project Content.

All two tiers of the Nuitrack Software share most of the same features and functionality. To see the differences between each tier, please visit [3DiVi's online store](#).

# 1. Rights to use the Nuitrack Software.

1. *Use Rights.* Conditioned upon your compliance with the terms and conditions of this Agreement and payment of all applicable subscription and unit license fees, 3DiVi grants you a non-exclusive, non-transferable license: (a) to install and execute the executable form of the Nuitrack Software.
2. *Copies of Nuitrack Products.* You may install the Nuitrack Software on both a primary and a secondary computer or operating system, solely for your convenience, but only for use by a single person. You may make a single copy of the Nuitrack Software solely for backup or archival purposes. For the sake of clarity, you may only use one installation at any given time.

3. *Third Party Software.* The NuiTrack Software incorporates or is bundled with Third Party Software governed by separate terms, including open source licenses. Such Third Party Software terms are identified in the LICENSE.TXT file bundled with the NuiTrack Software and incorporated into this Agreement by reference. You agree that you have reviewed and accepted those terms and that your use of the NuiTrack Software will be deemed acceptance thereof.

## 2. Restrictions.

1. *NuiTrack Software Streaming Restriction.* You may not directly or indirectly distribute Your Project Content that utilizes data transmission (wireless such as Bluetooth or WiFi, or wired) between electronic device that runs NuiTrack Software and other electronic device that runs Project Content without a separate license from 3DiVi.
2. *NuiTrack Software Tier Restrictions.* You acknowledge and agree that as an express condition to the rights granted under Section 1, you are not permitted to combine or integrate in any manner any of Your Project Content developed with one tier of the NuiTrack Software (e.g., NuiTrack Trial) with any of Your Project Content developed simultaneously with another tier (e.g., NuiTrack Pro).
3. *Educational Product Restrictions.* If you are using an educational version of the NuiTrack Software, your right to use the NuiTrack Software and distribute the runtime portion of the NuiTrack Software in Your Project Content is limited to educational, non-commercial purposes.

4. *Embedded Software Restriction.* You may not directly or indirectly distribute Your Project Content installed on more than 1,000 electronic devices or systems without a separate license from 3DiVi.
5. *Gambling Restriction.* You may not distribute or publish any of Your Project Content in connection with any Gambling Activities without a separate license agreement from 3DiVi.
6. *General Restrictions.* Except as expressly specified in this Agreement, you may not: (a) copy (except in the course of loading or installing) or modify or create derivative works of the NuiTrack Software; (b) distribute, transfer, sublicense, lease, lend, rent or otherwise provide access to the NuiTrack Software to any third party; (c) directly or indirectly make the functionality of the NuiTrack Software available to multiple users or third parties through any means, including but not limited to by uploading the NuiTrack Software to a network or file-sharing service or through any hosting, application services provider, service bureau, software-as-a-service (SaaS) or any other technology or service; (d) use the NuiTrack Software for competitive analysis or to develop a competing product or service; or (e) do anything that could cause or result in the NuiTrack Software (including the runtime portion thereof) being subject to any open source license (or similar license) that requires as a condition of use, modification or distribution that the NuiTrack Software (including the runtime portion thereof) or other software combined or distributed with the NuiTrack Software be: (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge. You acknowledge and agree that portions of the NuiTrack Software, including but not limited to the source code and the specific design and structure

of individual modules or programs, are confidential and constitute or contain trade secrets of 3DiVi and its licensors. Accordingly, you agree not to disassemble, decompile or reverse engineer the NuiTrack Software, in whole or in part, or permit or authorize a third party to do so, except to the extent such activities are expressly permitted by this Agreement or by law notwithstanding this prohibition.

### **3. Consent to Data Collection; Privacy Policy Obligations.**

1. You acknowledge and accept [3DiVi's privacy policy](#). You agree that the NuiTrack Software may send data to 3DiVi to: (a) check for NuiTrack Software updates; (b) provide aggregated usage statistics of your use of the NuiTrack Software and the use of Your Project Content by end users; (c) provide optional Developer Services; and (d) validate units in order to prevent unauthorized use. You acknowledge and agree that 3DiVi may deliver messages and contact you about the NuiTrack Software and other 3DiVi product and service offerings.

### **4. Support.**

You may access the online forums through the Site. You may also email [info@3divi.com](mailto:info@3divi.com) for assistance. Technical support may be offered by 3DiVi at its sole discretion as described on the 3DiVi website. You acknowledge and agree that 3DiVi has no obligation under this Agreement to provide patches, updates, new releases or new versions of the NuiTrack Software.

## **5. Term.**

Subscription for Nuitrack Pro will remain in effect for the initial subscription period (which has a minimum commitment of 12 months), and thereafter will automatically renew on a month-to-month basis at the then-current list price, unless you renew the subscription for a new subscription term or terminate and cancel it as described on the Site. For clarity, subscription for Nuitrack Pro are not cancelable during the applicable subscription term and are non-refundable. Upon termination, you must at 3DiVi's option either promptly delete and destroy or return to 3DiVi all copies of the Nuitrack Software in your possession or control; however, if you have subscribed to use Nuitrack Software for the prior twenty-four (24) consecutive months, you may continue to use the then-current version of the Nuitrack Software after the subscription term.

## **6. Export Law.**

You agree to comply fully with all export laws and regulations to ensure that neither the Nuitrack Software nor any technical data related thereto nor any direct product thereof are exported or re-exported directly or indirectly in violation of, or used for any purposes prohibited by, such laws and regulations.

## **7. Definitions.**

1. "Commercial Entity" means any company, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, proprietorship, joint venture or other form of business organization, excluding any government, non-profit, educational or academic institution.

2. "Gambling Activities" means any gambling product or service offered in any market or application that is regulated by any local, state or national authority and requires a gambling license.
3. "Legal Entity" means any Commercial Entity, Non-Commercial Entity or Sole Proprietor.
4. "Non-Commercial Entity" means any government, non-profit, educational or academic institution, including but not limited to any primary or secondary school, vocational school, college or university.
5. "Sole Proprietor" means any Commercial Entity that is owned or controlled by a single individual, with no other partners or employees.
6. "Third Party Software" means software developed by third parties that is furnished with or as part of the Nuitrack Software.
7. "Nuitrack Trial" means Nuitrack Trial Edition, the version of the Nuitrack Software that is available for evaluation purpose.
8. "Nuitrack Pro" means Nuitrack Professional Edition, the full commercial version of the Nuitrack Software.
9. "Nuitrack Software" means all versions and updates of all the Nuitrack software products identified on 3DiVi's website.
10. "Your Project Content" means games, applications, software or other content that you develop with the 3DiVi Software.