

MICROSOFT BAND LIMITED WARRANTY

This Limited Warranty ("Warranty") is granted to You by Microsoft Corporation ("Microsoft").

BY USING YOUR MICROSOFT BAND OR ACCESSORY, YOU AGREE TO THIS WARRANTY. PLEASE READ IT. IF YOU DO NOT ACCEPT THIS WARRANTY, DO NOT USE YOUR MICROSOFT BAND OR ACCESSORY. RETURN IT UNUSED TO YOUR RESELLER OR MICROSOFT FOR A REFUND. See: <http://microsoft.com/band/support>.

IF YOU LIVE IN (OR IF A BUSINESS YOUR PRINCIPAL PLACE OF BUSINESS IS IN) THE UNITED STATES, PLEASE READ THE BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER IN SECTION 11. IT AFFECTS HOW DISPUTES ARE RESOLVED.

1. Definitions

- (a) "Microsoft Band" means a genuine Microsoft Band.
- (b) "Accessory" or "Accessories" means a genuine Microsoft-branded accessory for your Microsoft Band purchased from an authorized retailer.
- (c) "Warranty Period" for Microsoft Band means one (1) year from the date You purchased it, and for Accessories means 90 days from the date You purchased it, subject to Section 2 below.
- (d) "You" means the end-user.
- (e) "Normal Use Conditions" means ordinary consumer use under normal home conditions according to the manual and online support documentation for the Microsoft Band or Accessory.

2. Duration

Without prejudice to any statutory warranty to which You may be entitled under any local law applicable to You, Microsoft offers this Warranty lasts for one (1) year for Microsoft Band, and ninety (90) days for Accessories, from the date of purchase from Microsoft or an authorized retailer by the original end-user.

3. Territory

This Warranty applies to genuine Microsoft Band and Accessories that Microsoft released for sale in, and has been purchased in the United States and Canada ("Covered Region") and provided that you send the Microsoft Band or Accessory back to the Microsoft service center situated in the Covered Region as requested by Microsoft.

You acknowledge that export laws and regulations may apply to You depending on Your country, and agree to comply with them if You export Your Microsoft Band or Accessory.

4. Warranty

- (a) During the Warranty Period, Microsoft warrants that the Microsoft Band or Accessory will not malfunction under Normal Use Conditions.

- (b) Except for any statutory warranty Microsoft may owe You under Your local law, this Warranty is the only guarantee, warranty, or condition Microsoft gives You for Your Microsoft Band or Accessory. No one else may give any guarantee, warranty, or condition on Microsoft's behalf.
- (c) IF YOUR LOCAL 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. IF YOUR LOCAL APPLICABLE LAW GIVES YOU ANY IMPLIED WARRANTY IN ADDITION TO THIS LIMITED WARRANTY, INCLUDING AN IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ITS DURATION IS LIMITED TO THAT PRESCRIBED BY LOCAL LAW. SOME STATES, PROVINCES, OR COUNTRIES DO NOT ALLOW LIMITATIONS ON HOW LONG AN IMPLIED WARRANTY LASTS, SO THE ABOVE LIMITATION MAY NOT APPLY TO YOU.

5. How to Get Warranty Service

- (a) Before starting the warranty process, please use the troubleshooting tips at <http://microsoft.com/band/support>.
- (b) If the troubleshooting tips do not resolve Your problem, then follow the online process at <http://microsoft.com/band/support> or call the customer service number at <http://microsoft.com/band/support>.
- (c) **Back up Your Data and Delete Confidential Information.** Before sending Your Microsoft Band or Accessory to Microsoft for service, be sure to:
 - i. KEEP A COPY OF ANY DATA YOU WANT TO SAVE. MICROSOFT IS NOT RESPONSIBLE FOR YOUR DATA AND MAY ERASE IT.
 - ii. DELETE ANYTHING YOU CONSIDER CONFIDENTIAL. MICROSOFT IS NOT RESPONSIBLE FOR YOUR PRIVACY IF YOU LEAVE CONFIDENTIAL INFORMATION ON YOUR DEVICE.

6. Microsoft's Responsibility

- (a) After You return Your Microsoft Band or Accessory to Microsoft, Microsoft will inspect it.
- (b) If Microsoft determines that Your Microsoft Band 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, unless a mandatory provision of Your local law provides otherwise. Repair may use new or refurbished parts. Replacement may be with a new or refurbished unit.
- (c) After repair or replacement, Your Microsoft Band 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) UNLESS OTHERWISE PROVIDED UNDER YOUR LOCAL LAW, MICROSOFT'S RESPONSIBILITY TO REPAIR OR REPLACE YOUR MICROSOFT BAND OR ACCESSORY, OR TO REFUND THE PURCHASE PRICE, IS YOUR EXCLUSIVE REMEDY.
- (e) If Your Microsoft Band or Accessory malfunctions after the Warranty Period expires, Microsoft may charge You a fee for its efforts (whether successful or not) to diagnose and service any problems with it.

- (f) When You return Your Microsoft Band or Accessory to Microsoft, You do not need to live or be in one of the Covered Countries but You must return it to the address Microsoft specifies, even if outside your country.

7. Warranty Exclusions

Microsoft is not responsible and this Warranty does not apply (and Microsoft may not offer service even for a fee) if Your Microsoft Band or Accessory was:

- (a) damaged by use with products not sold or licensed by Microsoft;
- (b) opened, modified, or tampered with or its serial number was altered or removed;
- (c) damaged by any external cause (including, for example, by being dropped; exposed to liquid beyond perspiration, rain, snow, or brief splashes of water, all under Normal Use Conditions; used with inadequate ventilation; acts of God; power surge; misuse; abuse; negligence; accident; mishandling; misapplication; failure to follow instructions in the manual; or other causes unrelated to defects in the Microsoft Band or Accessory);
- (d) scratched, dented, etc. or shows other cosmetic damage, shows damage that is limited to that reasonably expected as a result of normal wear and tear;
- (e) repaired, modified, or altered by anyone other than Microsoft; or
- (f) not first released for sale and purchased in a Covered Country.

This Warranty does not cover normal wear and tear, or consumable parts designed to diminish over time unless the failure occurred due to a defect in materials or workmanship.

Microsoft does not guarantee that Your use of the Microsoft Band or Accessory will be uninterrupted, timely, secure, or error-free, or that data loss will not occur.

8. EXCLUSION OF CERTAIN DAMAGES

THE FOLLOWING IS NOT INTENDED TO LIMIT THE APPLICATION OF SECTION 10 OF THE QUEBEC CONSUMER PROTECTION ACT, IF SUCH SECTION IS OTHERWISE APPLICABLE. UNLESS OTHERWISE PROVIDED UNDER YOUR LOCAL LAW, 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 MICROSOFT BAND 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, PROVINCES, AND COUNTRIES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.

9. Additional Terms

If You attempt to defeat or circumvent any Microsoft Band or Accessory technical limitation, You may cause Your Microsoft Band or Accessory to stop working permanently. You will also void Your Warranty, and make Your Microsoft Band or Accessory ineligible for authorized repair, even for a fee.

10. Choice of Law

If you live or if a business your principal place of business is in the United States, the laws of the State where You live (or if a business where your principal place of business is located) govern the interpretation of this Warranty, claims for breach of it, and all other claims (including consumer protection, unfair competition, implied warranty, and tort claims), regardless of conflict of laws principles, except that the FAA governs all provisions relating to arbitration. If you live or if a business your principal place of business is in the Canada, the laws of the Province where You live (or if a business where your principal place of business is located) govern the interpretation of this Warranty, claims for breach of it, and all other claims (including consumer protection, unfair competition, implied warranty, and tort claims), regardless of conflict of laws principles.

11. BINDING ARBITRATION AND CLASS ACTION WAIVER IF YOU LIVE IN (OR IF A BUSINESS YOUR PRINCIPAL PLACE OF BUSINESS IS IN) THE UNITED STATES

We hope we never have a dispute, but if we do, you and we agree to try for 60 days to resolve it informally. If we can't, you and we agree to **binding individual arbitration before the American Arbitration Association ("AAA") under the Federal Arbitration Act ("FAA"), and not to sue in court in front of a judge or jury.** Instead, a neutral arbitrator will decide and the arbitrator's decision will be final except for a limited right of appeal under the FAA. **Class action lawsuits, class-wide arbitrations, private attorney-general actions, and any other proceeding where someone acts in a representative capacity aren't allowed. Nor is combining individual proceedings without the consent of all parties.**

- (a) **Disputes Covered—Everything Except IP.** The term "dispute" is as broad as it can be. It includes any claim or controversy between You and Microsoft concerning the Microsoft Band or Accessory, its price, or this Warranty, under any legal theory including contract, warranty, tort, statute, or regulation, **except disputes relating to the enforcement or validity of Your, Your licensors', our, or our licensors' intellectual property rights.**
- (b) **Mail Notice of Dispute First.** If You have a dispute and our customer service representatives can't resolve it, send a Notice of Dispute by U.S. Mail to Microsoft Corporation, ATTN: LCA ARBITRATION, One Microsoft Way, Redmond, WA 98052-6399. Tell us Your name, address, how to contact You, what the problem is, and what You want. A form is available at <http://go.microsoft.com/fwlink/?LinkId=245499>. We'll do the same if we have a dispute with You. After 60 days, You or we may start an arbitration if the dispute is unresolved.
- (c) **Small Claims Court Option.** Instead of mailing a Notice of Dispute, and if You meet the court's requirements, You may sue us in small claims court in Your county of residence (or if a business Your principal place of business) or King County, Washington. We hope You'll mail a Notice of Dispute and give us 60 days to try to work it out, but You don't have to before going to small claims court.
- (d) **Arbitration Procedure.** The AAA will conduct any arbitration under its Commercial Arbitration Rules (or if You are an individual and use the Microsoft Band or Accessory 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 Band or Accessory, its Consumer Arbitration Rules). For more information, see www.adr.org or call 1-800-778-7879. To start an arbitration, submit the form available at <http://go.microsoft.com/fwlink/?LinkId=245497> to the AAA; mail a copy to Microsoft. In a dispute involving \$25,000 or less, any hearing will be telephonic unless the arbitrator finds good cause to hold an in-person hearing instead. Any in-person hearing will take place in Your

county of residence (or if a business Your principal place of business) or King County, Washington. You choose. 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 to satisfy Your individual claim.

(e) **Arbitration Fees and Payments**

i. 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 our last written settlement offer made before the arbitrator was appointed, Your dispute goes all the way to an arbitrator's decision (called an "award"), and the arbitrator awards You more than this last written offer, we will: (i) pay the greater of the award or \$1,000; (ii) pay 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 amounts unless You and we agree on them.

ii. 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.

iii. Disputes Involving Any Amount. If You start an arbitration, we won't seek our AAA or arbitrator's fees and expenses, or Your filing fees we reimbursed, unless the arbitrator finds the arbitration frivolous or brought for an improper purpose. If we start an arbitration, we will pay all filing, AAA, and arbitrator's fees and expenses. We won't seek our attorney's fees or expenses from You in any arbitration. Fees and expenses are not counted in determining how much a dispute involves.

(f) **Must File Within One Year.** You and we must file in small claims court or arbitration (except intellectual property disputes—see Section 11(a)) within one year from when it first could be filed. Otherwise, it is permanently barred.

(g) **Severability.** If the class action waiver is found to be illegal or unenforceable as to all or some parts of a dispute, those parts won't be arbitrated but will proceed in court, with the rest proceeding in arbitration. If any other provision of Section 11 is found to be illegal or unenforceable, that provision will be severed but the remainder of Section 11 still applies.

(h) **Conflict with AAA Rules.** This Warranty governs if it conflicts with the AAA's Commercial Arbitration Rules or Consumer Arbitration Rules.

THIS WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS WHICH VARY FROM STATE TO STATE OR BY PROVINCE OR COUNTRY. All parts of this Warranty apply to the maximum extent permitted by law or unless prohibited by law.

SOFTWARE LICENSE

The Software License for your Microsoft Band or Accessory is available at <http://microsoft.com/msa>. **BY USING YOUR MICROSOFT BAND OR ACCESSORY, YOU AGREE TO THE SOFTWARE LICENSE. BEFORE USING IT, PLEASE READ THE SOFTWARE LICENSE.**
