

UNITED STATES (ENGLISH)

LIMITED WARRANTY

BY USING YOUR MICROSOFT BAND PURCHASED FROM MICROSOFT OR AN AUTHORIZED RESELLER (“MICROSOFT BAND”), OR MICROSOFT BRANDED ACCESSORY PURCHASED FROM MICROSOFT OR AN AUTHORIZED RESELLER (“ACCESSORY”), YOU AGREE TO THIS WARRANTY. BEFORE USING IT, PLEASE READ THIS WARRANTY CAREFULLY. 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: www.microsoft.com/band/warranty for more information.

IF YOU LIVE IN (OR IF A BUSINESS YOUR PRINCIPAL PLACE OF BUSINESS IS IN) THE UNITED STATES, SECTION 7 CONTAINS A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER. IT AFFECTS YOUR RIGHTS ABOUT HOW TO RESOLVE ANY DISPUTE WITH MICROSOFT. PLEASE READ IT.

This warranty gives You specific legal rights. You may also have other rights which vary from State to State.

1. Warranty

- (a) For **1 year** from the date You purchased Your Microsoft Band or Accessory from Microsoft or an authorized reseller (“Warranty Period”), Microsoft warrants, only to You, that the Microsoft Band or Accessory will not malfunction due to a defect in materials or workmanship under Normal Use Conditions.
- (b) This is the only warranty Microsoft gives for Your Microsoft Band or Accessory. 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 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 do not allow limitations on how long an implied warranty lasts, so this limitation may not apply to You.
- (d) **Other Definitions.** “You” means the original end-user. “Normal Use Conditions” means ordinary consumer use under normal conditions according to the instruction manual. “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. 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>.
- (c) **Back up Your Data and Delete Confidential Information.** Before sending Your Microsoft Band or Accessory to Microsoft or taking it to an authorized reseller for service, be sure to:
 - i. KEEP A COPY OF ANY DATA YOU WANT TO SAVE. MICROSOFT OR RESELLERS ARE NOT RESPONSIBLE FOR YOUR DATA AND MAY ERASE THEM.
 - ii. DELETE ANYTHING YOU CONSIDER CONFIDENTIAL. MICROSOFT OR RESELLERS ARE NOT RESPONSIBLE FOR YOUR PRIVACY IF YOU LEAVE CONFIDENTIAL INFORMATION ON YOUR DEVICE.For more information, please see: <http://microsoft.com/band/support>.

3. Microsoft's Responsibility

- (a) After You return Your Microsoft Band or Accessory to Microsoft or an authorized reseller, Microsoft or the reseller will inspect it.
- (b) If Microsoft or the reseller determines that the Microsoft Band or Accessory malfunctioned due to a defect in materials or workmanship during the Warranty Period under Normal Use Conditions, Microsoft or the reseller 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 Microsoft Band or Accessory will be covered by this warranty for the longer of the remainder of Your original Warranty Period, or 90 days after Microsoft or the reseller ships it to You.
- (d) 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, 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.

4. Warranty Exclusions

- (a) Microsoft is not responsible and this warranty does not apply if Your Microsoft Band or Accessory is:
 - i. damaged by use with products not sold or licensed by Microsoft;
 - ii. opened, modified, or tampered with (including, for example, any attempt to defeat or circumvent any Microsoft technical limitation or security mechanism, etc.), or its serial number is altered or removed;
 - iii. 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, etc.; acts of God; power surge; misuse; abuse; negligence; accident; mishandling; misapplication; failure to follow instructions in the instruction manual; or other causes unrelated to defects in the Microsoft Band or Accessory);
 - iv. scratched, dented, etc. or shows other cosmetic damage; or
 - v. repaired, modified, or altered by anyone other than Microsoft or an authorized reseller.
- (b) This warranty does not apply to consumable parts that are designed to diminish over time, including normal wear and tear, unless the failure has occurred due to a defect in materials or workmanship.
- (c) 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.

5. 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 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 do not allow the exclusion or limitation of incidental or consequential damages, so this limitation or exclusion may not apply to You.

6. Additional Terms

If You attempt to defeat or circumvent any Microsoft Band or Accessory technical limitation or security system, 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.

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

This section applies to any dispute EXCEPT DISPUTES RELATING TO THE ENFORCEMENT OR VALIDITY OF YOUR, YOUR LICENSORS', MICROSOFT'S, OR MICROSOFT'S LICENSORS' INTELLECTUAL PROPERTY RIGHTS. The term "dispute" means any dispute, action, or other controversy between You and Microsoft concerning the Microsoft Band 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.

- (a) **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, U.S.A. A form is available on the Legal and Corporate Affairs (LCA) website (<http://go.microsoft.com/fwlink/?LinkId=245499>). Microsoft will send any Notice of Dispute to You by U.S. Mail to Your address if we have it, or otherwise to Your email 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.
- (b) **Small Claims Court.** You may also litigate any dispute in small claims court in Your county of residence (or if a business Your principal place of business) or King County, Washington, U.S.A. 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.
- (c) **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 individual binding arbitration governed by the Federal Arbitration Act ("FAA"). Class arbitrations are not permitted. You are giving up the right to litigate disputes in court before a judge or jury (or participate in court as a party or class member).** Instead, all disputes will be resolved before a neutral arbitrator, whose decision will be final except for a limited right of appeal under the FAA. Any court with jurisdiction over the parties may enforce the arbitrator's award.
- (d) **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 other proceeding will be combined with another without the prior written consent of all parties to all affected arbitrations or proceedings.**
- (e) **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 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 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 on the Legal and Corporate Affairs (LCA) website (<http://go.microsoft.com/fwlink/?LinkId=245497>) to the AAA. You agree to commence arbitration only in Your county of residence (or if a business Your principal place of business) or in King County, Washington, U.S.A. Microsoft agrees to commence arbitration only in Your county of residence (or if a business Your principal place of business). 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.

(f) **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 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: (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 amount of fees, costs, and expenses unless You and Microsoft 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. In any arbitration You commence, Microsoft will seek its AAA or arbitrator's fees and expenses, or Your filing fees it 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 won't 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.

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

(h) **Claims or Disputes Must Be Filed Within One Year.** To the extent permitted by law, any claim or dispute to which Section 7 applies must be filed within one year in small claims court (Section 7(b)), or in arbitration (Section 7(c)), or in court, if Section 7 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 such a claim or dispute is not filed within one year, it is permanently barred.

(i) **Severability.** If the class action waiver in Section 7(d) is found to be illegal or unenforceable as to all or some parts of a dispute, then Section 7 won't 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 7 is found to be illegal or unenforceable, that provision will be severed with the remainder of Section 7 remaining in full force and effect.

8.Choice of Law

The laws of the State where You live govern the interpretation of this warranty, claims for breach of it, and all other claims (including consumer protection, unfair competition, and tort claims), regardless of conflict of law principles, except that the FAA governs all provisions relating to arbitration.

9. All parts of this 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.

Microsoft's address: Microsoft Corporation, One Microsoft Way, Redmond, WA 98052

SOFTWARE LICENSE

The Software License for your Microsoft Band or Accessory is available at

<http://www.microsoft.com/microsoft-band/software-license-terms-microsoft-band-app-and-client.html>.

BY USING YOUR MICROSOFT BAND OR ACCESSORY, YOU AGREE TO THE SOFTWARE LICENSE. BEFORE SETTING IT UP, PLEASE READ THE SOFTWARE LICENSE. IF YOU DO NOT ACCEPT THE SOFTWARE LICENSE, DO NOT USE YOUR MICROSOFT BAND OR ACCESSORY. RETURN IT UNUSED TO YOUR RESELLER OR MICROSOFT FOR A REFUND.