

Terms and Conditions of Sale

These Terms and Conditions apply to the ordering, purchase and delivery of Fitbit products on <https://store-nz.fitbit.com/> (“**Fitbit Store**”). Products purchased through the Fitbit Store (“**Products**”) are sold and distributed by **Ingram Micro (NZ) Limited** (“**we**”, “**us**” or “**our**”). The Products on the Fitbit Store are only available for purchase in New Zealand. These Terms and Conditions do not cover Products not purchased from the Fitbit Store or sale of products by third parties to you. We are also responsible for operating the Fitbit Store. If you have any issues with the Fitbit Store or the Products purchased from the Fitbit Store, please contact us at:

Ingram Micro (NZ) Limited

78 Apollo Drive

Rosedale Auckland 0632

New Zealand

Email: Fitbitnz@ingrammicro.com

ORDERS

You can place an order for the Products by following the instructions on the Fitbit Store (“**Order**”). We will email you an order confirmation after we have received your Order (“**Order Confirmation**”). An Order Confirmation or processing of your Order does not constitute acceptance of your Order. All Orders are subject to our acceptance and no contract for the purchase of Products or Services will be formed until your Order is accepted by one of the following:

- (a) delivering the Product to you and sending you a shipment confirmation email; or
- (b) providing a Service to you. For purposes of these Terms and Conditions, reference to “Service” means the performance of a task, assistance, or access to a resource (such as access to an information database) that we make available to you.

We reserve the right (at our sole discretion) to decline, reject or limit your Order, for various reasons including if:

- (a) you do not accept these Terms and Conditions;
- (b) you do not provide a valid shipping address within New Zealand;
- (c) your payment for the Order is unsuccessful;
- (d) the Product or Service you have ordered is not available or will not be available within 30 days;

- (e) the information you provided us is incomplete or inaccurate, or
- (f) if there are any errors in connection with your Order or the Fitbit Store.

If we decline, reject or limit your Order after you have made payment, we will notify you and refund the amount paid. If there are any errors on the Fitbit Store that affect your Order or if there has been an error in the price of the Product you ordered, we reserve the right to correct the error and will use reasonable efforts to notify you of the same. In such case, you may either choose to purchase the Product at the correct price or information, or cancel your Order and we refund you the amount paid.

TERMS OF CONTRACT

This contract (the “**Contract**”) consists of (a) your Order; (b) these Terms and Conditions; and (c) our Privacy Policy, any associated Fitbit warranty statements, license agreements, applicable attachments and documents created pursuant to these Terms and Conditions. Any additional documents or communications are not valid or binding on us unless expressly agreed in writing by us.

PRICES AND OFFERS

All prices are in New Zealand dollars and unless specified otherwise, include all applicable taxes and standard delivery charges. All promotional prices are final prices and cannot be combined with other existing promotional offers. Offers, prices, specifications and availability may change or be withdrawn without notice.

We take no responsibility for any editorial, photographic or typographic errors, and may correct any errors and to change or update information on the Fitbit Store without prior notice. Subject to a reduction in price in accordance with the below or unless a change in price is caused by our error, any change in Product price will not affect you once we have issued you with an Order Confirmation.

If the price of a Fitbit Product or Service (excluding items on clearance, promotion or discount) is reduced on the Fitbit Store after you have purchased it from us, you may contact us to request for a refund of the difference in the amount paid and the reduced sum within seven (7) days of delivery of the Product or Service. For clarity, this is not a price match guarantee and we will not match the prices offered by other retailers for the same Product.

PAYMENT

The total amount specified on the checkout page is the amount payable. We accept payment by valid New Zealand-issued visa and master credit cards. Your credit card will be charged at the point of purchase. We are not liable for any fees incurred by you as a result of your chosen payment method. In certain circumstances, we may require a re-authorization for your chosen method of payment. However, you will not be charged twice if this occurs.

SHIPMENT AND DELIVERY

Freight charges associated with non-standard shipping are your responsibility. We will inform you of such freight charges at the time you place your Order. All deliveries require a signature therefore you are required to ensure that someone is present to accept delivery.

After placing an order, you will receive an Order Confirmation email providing you with a unique reference number. Once your Order has been shipped, you will receive an Order shipment email confirming your freight consignment number for freight tracking with New Zealand Post.

Delivery time depends on the delivery location and is estimated to be one (1) week after shipment to most major metropolitan areas, and two (2) weeks after shipment to other areas. Items in your Order may be shipped together or separately. If your Order is not delivered within thirty (30) days from payment, you are entitled to cancel your Order and we will provide you with a refund.

CANCELLATION AND VARIATION BEFORE DELIVERY

Unless otherwise provided in these Terms and Conditions, Orders cannot be cancelled or amended after the Order is submitted. You are therefore advised to review your Order carefully before proceeding to checkout and payment.

DELIVERY ERRORS

If we make an error by delivering the incorrect Product and/or quantity to you, we will provide you with the correct Product and/or quantity and will arrange return or collection of the incorrect Product at no cost to you. Please contact us at Fitbitnz@ingrammicro.com to arrange for return of the Product.

PRODUCT DAMAGED ON ARRIVAL

If the Product delivered to you has obvious damage on its packaging or upon opening the packaging you discover that the Product has sustained physical damage, please contact us within three (3) days from the date of delivery and we will provide you with a replacement Product. You will also be required to provide us with proof of purchase and any delivery documentation. We will arrange for the return or collection of the damaged Product from you at no cost to you.

RETURN POLICY

The Products come with guarantees that cannot be excluded under the Consumer Guarantees Act 1993. You are entitled to a replacement or refund for a major failure and compensation for any other reasonably foreseeable loss or damage. You are also entitled to have the Products repaired or replaced if the Products fail to be of acceptable quality and the failure does not amount to a major failure.

If a Product is faulty, a return authorization must be requested from our customer service team. To request a return authorization, please contact Customer Service at <http://help.fitbit.com/>. The return authorization number must be included along with your returned product.

We reserve the right to inspect the Product and verify fault. You are required to return the faulty Product to us for assessment and the Product must be returned in a reasonable condition with documentation and original accessories intact, along with proof of purchase, the original packaging materials, shipping label and packaging slip. You do not need to return the Product in the original packaging but you should ensure that the Product is properly packaged to prevent damage or water seepage. We will notify you of our assessment within a reasonable period of time. If a Product is found to be faulty, you are entitled to have the Product repaired, replaced or refund in accordance to your rights under law. All refunds will be made via the payment method used for the original transaction.

If we reasonably determine after inspection that the Product is not faulty, or if the fault is caused by you, or is a fault that is not covered under the Product warranty, we reserve the right to refuse a refund, replacement or repair and to charge you the cost of collecting the Product from and returning it to you plus any costs of inspecting the Product. Our return policy excludes Fitbit Services, third party goods or services and pre-installed software Products.

This section does not affect your statutory rights under the Consumer Guarantees Act 1993 and your rights set out in these Terms and Conditions are in addition to any statutory right you may have under the Consumer Guarantees Act 1993.

PRODUCT WARRANTIES

Nothing in these Terms and Conditions excludes or limits any statutory rights available to you under New Zealand legislation, including the Consumer Guarantees Act 1993 which cannot be excluded, restricted or modified by contract. These Terms and Conditions must in all cases be subject to those statutory provisions.

In addition to the statutory rights referred to above, Fitbit hardware Products are expressly warranted under the Fitbit Limited Warranty accompanying each Fitbit hardware Product. Additional warranties for Products may be provided by Fitbit where expressly specified.

A copy of the Product warranties can be found at www.fitbit.com/nz/legal/returns-and-warranty

Without limiting the foregoing, and to the extent permitted by law, all express and implied representations, conditions, warranties, guarantees or other provisions that are not contained in these Terms and Conditions (whether based in legislation, the common law or otherwise) are excluded, including any representations, conditions, warranties or guarantees as to acceptable quality, fitness for purpose or timeliness.

LIMITATION OF LIABILITY

TO THE EXTENT PERMITTED BY LAW, WE (INCLUDING OUR RELATED BODIES CORPORATE, OFFICERS, EMPLOYEES AND AGENTS) EXCLUDE ALL LIABILITY ARISING FROM YOUR USE OF THE FITBIT STORE, ANY ERROR OR MISTAKE OCCURRING ON THE FITBIT STORE, ANY INTERRUPTION OF USE, ANY BUGS, VIRUSES, MALWARE, TROJAN HORSE VIRUS OR OTHER HARMFUL CODE OR COMMUNICATIONS WHICH MAY BE TRANSMITTED TO OR THROUGH THE FITBIT STORE OR ANY LINKS TO THIRD PARTY WEBSITES FROM THE FITBIT STORE.

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS AND CONDITIONS, AND TO THE FULLEST EXTENT ALLOWED BY LAW, IN NO EVENT WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHERWISE WILL WE (INCLUDING OUR RELATED BODIES CORPORATE, OFFICERS, EMPLOYEES AND

AGENTS) BE LIABLE FOR ANY LOSSES OR DAMAGES THAT A THIRD PARTY SUFFERS, ANY LOSSES WHICH ARE NOT A FORESEEABLE CONSEQUENCE OF OUR FAILURE TO COMPLY WITH THESE TERMS AND CONDITIONS, ANY LOSS OR DAMAGE TO DATA, ANY SPECIAL, INCIDENTAL, OR INDIRECT DAMAGES OR FOR ANY ECONOMIC CONSEQUENTIAL DAMAGES OF ANY KIND, ANY LOST PROFITS, BUSINESS, REVENUE, GOODWILL OR ANTICIPATED SAVINGS. THIS LIMITATION AND EXCLUSION WILL APPLY EVEN IF WE WERE INFORMED OR SHOULD HAVE KNOWN OF THEIR POSSIBILITY.

TITLE AND RISK OF LOSS

When you purchase hardware Products, title is transferred to you on delivery. You undertake to pass us title to any returned hardware Products free from all encumbrances. For each hardware Product, the risk of loss or damage will pass to you on delivery of the Product.

GENERAL

Fitbit reserves its right to change components or parts of a hardware Product without notice due to the availability of such components or parts, provided that the replacement components or parts provide equal or better performance. Such changes will be at no additional cost to you, and will not affect the hardware Product Limited Warranty.

You warrant that any purchase made by you from the Fitbit Store is not for the purpose of commercial resale.

Ingram Micro and its related companies will process, store and use personal information collected from you or on your behalf from your transaction on the Fitbit Store. Such personal information will be collected, processed, stored and used in accordance with our Privacy Policy, available at <http://nz.ingrammicro.com/c/privacypolicy.aspx>

We will not be liable for any loss or damage suffered or incurred by you for any delay in fulfilling or failure to fulfill your Order caused by any circumstance beyond our reasonable control.

We reserve the right to amend, vary and/or replace these Terms and Conditions from time to time at our sole discretion.

Any provision of these Terms and Conditions which is held to be illegal, void or unenforceable shall be deemed to be severed and the remainder of these Terms and Conditions read in full force and effect.

These Terms and Conditions are governed under the laws of New Zealand and you submit to the New Zealand courts having jurisdiction to settle any dispute arising out of or in connection with these Terms and Conditions.