

KineticData Apps Ltd

Terms & Conditions

Last updated: 9 January, 2018

These Terms and Conditions ("**Terms**", "**Terms and Conditions**") govern your relationship with www.SensusFit.com website (the "**Website**") and **SensusFit App** mobile application (the "**App**"), the Website and the App collectively referred to as the "**Service**" operated by K.D.A. KineticData Apps Ltd and its affiliates ("**us**", "**we**", "**our**", or the "**Company**").

Please read these Terms and Conditions carefully before using our Website and SensusFit App mobile application (the "**Service**").

Your access to and use of the Service is conditioned on your acceptance of and compliance with these Terms. These Terms apply to all visitors, users and others who access or use the Service (the "**User(s)**"). By accessing or using the Service you agree to be bound by these Terms. If you disagree with any part of the terms then you may not access the Service.

1. Information About the Service

At KineticData Apps Ltd we aim to design data analytics tools to help people in their everyday life. We aim to make sports informative and enjoyable and to make a positive contribution to people's health. The Service, through the SensusFit App and the Website, aims to help and motivate people to exercise and live more active lives. The SensusFit App is designed as a fitness data analytics tool that empowers you to visualize your fitness and exercise data, track your progress and benchmark your progress against your friends and other users.

2. Accounts

You need to create an account (the "**User Account**") to be able to use the Service. When you create a User Account with us, you must provide us information, including your name, email address, date of birth, location, gender, height and weight (the "**Personal Data**"), that is accurate, complete, and current at all times. Failure to do so constitutes a breach of the Terms, which may result in immediate termination of your User Account on our Service.

You are responsible for safeguarding the password (the "**Password**") that you use to access the Service and for any activities or actions under your Password, whether your Password is with our Service or a third-party service. You agree not to disclose your Password to any third party. You must notify us immediately upon becoming aware of any breach of security or unauthorized use of your User Account.

You may not use as a username (the "**Username**") the name of another person or entity or that is not lawfully available for use, a name or trade mark that is subject to any rights of another person or entity other than you without appropriate authorization, or a name that is otherwise offensive, vulgar or obscene. We suggest that you use a Username that does not identify you.

You are responsible for all activity that occurs in association with your User Account. The Company is not liable for any loss or damages caused by your failure to maintain the confidentiality of your User Account credentials.

We may need to contact you about your use of the Service. These communications are part of the Service and you may not opt-out from receiving them. You can manage and opt-out from receiving other communications and keep your email address up-to-date from your User Account settings.

3. Necessary Equipment

The full utilization of the Service is dependent upon your use of mobile device and a wearable device (i.e. smartwatch or a fitness tracker) that collects data about your daily exercise, workouts, heart rate etc. and records data into the Apple HealthKit on your mobile device (the “**Activity Data**”). The maintenance and security of these equipment may influence the performance of the Service and it is your responsibility to ensure the equipment’s functionality. To utilize the full features of Service you need an Apple Watch and an iPhone. Nevertheless, iPhone users without an Apple Watch can still utilize the Service but with limited features. Users of other trackers, can still use the Service with extended features, provided that they allow their fitness data to upload in the Apple HealthKit.

4. Personal & Activity Data

To be able to use the Service you will need to authorize the App to access and synchronize your data in the Apple HealthKit and upload your activities (e.g. walks, runs, swims etc.) and activity data (e.g. steps, distance, activity time, calories burned, heart rate, sleep, etc.) from the Apple HealthKit to the SensusFit App (your “Activity Data”). By accessing or using the Service you agree and authorize the Company to access and synchronize your Activity Data from the Apple HealthKit.

5. Subscriptions

Some parts of the Service may be billed on a subscription basis (“**Subscription(s)**”). In such case, you will be billed with the subscription fee (the “**Subscription Fee(s)**”) in advance on a recurring and periodic basis (“**Billing Cycle**”). Billing cycles are set either on a monthly or annual basis, depending on the type of subscription plan you select when purchasing a Subscription.

At the end of each Billing Cycle, your Subscription will automatically renew under the exact same conditions unless you cancel it or the Company cancels it. You may cancel your Subscription renewal either through your online account management page, through the App, or by contacting the Company’s customer support team.

A valid payment method, such as credit card, is required to process the payment for your Subscription. You shall provide the Company with accurate and complete billing information including full name, address, state, zip code, telephone number, and a valid payment method information. By submitting such payment information, you automatically authorize the Company to charge all Subscription fees incurred through your account to any such payment instruments.

The Company uses third-party tools for its payment processing and does not handle any of the provided payment information, such as the credit card, at any time.

Should automatic billing fail to occur for any reason, the Company will issue an electronic invoice indicating that you must proceed manually, within a certain deadline date, with the full payment corresponding to the billing period as indicated on the invoice.

6. Free Trial

The Company may, at its sole discretion, offer a Subscription with a free trial for a limited period of time (“**Free Trial**”).

You may be required to enter your billing information in order to sign up for the Free Trial. If you do enter your billing information when signing up for the Free Trial, you will not be charged by the Company until the Free Trial has expired. On the last day of the Free Trial period, unless you cancelled your Subscription, you will be automatically charged the applicable Subscription Fee for the type of Subscription you have selected.

At any time and without notice, the Company reserves the right to (i) modify the terms and conditions of the Free Trial offer, or (ii) cancel such Free Trial offer.

The Analytics feature of the App is currently offered free of charge, as part of the initial App purchase. However, it is the intention of the Company to enrich the Analytics feature of the App in the near future, and start offering of the Analytics features on a Subscription basis.

7. Fee Changes

The Company, in its sole discretion and at any time, may modify the Subscription Fee for the Subscriptions. Any Subscription Fee change will become effective at the end of the then-current Billing Cycle.

The Company will provide you with a reasonable prior notice of any change in Subscription Fees to give you an opportunity to terminate your Subscription before such change becomes effective.

Your continued use of the Service after the Subscription Fee change comes into effect constitutes your agreement to pay the modified Subscription Fee amount.

8. Refunds

Except when required by law, paid Subscription Fees are non-refundable.

9. Personal Use of the Service

The Service is intended for your personal use only, and you should not use it for any commercial use without the approval of the Company. We grant you a limited, non-exclusive, non-transferable, non-sublicensable license to use the Service through the App and the Website as authorized in these Terms.

10. Our Enforcement Rights

We are not obligated to monitor access or use of the Service, but we have the right to do so for the purpose of operating the Service, to ensure compliance with these Terms, and to comply with applicable law or other legal requirements. We reserve the right (but are not required) to remove or disable access to the Service at any time and without notice, and at our sole discretion, if we determine that your use of the Service is objectionable or in violation of these Terms. We have the right to investigate violations of these Terms and any conduct that affects the Service.

11. Use of the Service

We make no endorsement, representation or warranty and we are not responsible for the accuracy, reliability, effectiveness, or correct use of information you receive through the Service. If you rely on the Service, you do so solely at your own risk. The Service is not intended to diagnose, treat, cure, or prevent any disease. If you have a medical or heart condition, consult your doctor before using the Service.

12. Intellectual Property

The Service and its original content, features and functionality are and will remain the exclusive property of the Company and its licensors. The Service may be protected by copyright, trademark, and other laws of both the Cyprus and foreign countries. Our trademarks and trade dress may not be used in connection with any product or service without the prior written consent of the Company.

13. Links to Other Web Sites

Our Service may contain links to third-party web sites or services that are not owned or controlled by the Company. The Company has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third party web sites or services. You further acknowledge and agree that the Company shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with use of or reliance on any such content, goods or services available on or through any such web sites or services.

We strongly advise you to read the terms and conditions and privacy policies of any third-party web sites or services that you visit.

14. Privacy Policy

For information about the use of your personal data, you must refer to the Privacy Policy of the Company which is hereby considered to be part of these Terms.

15. Copyright

All trademarks, nominal or figurative, and all other marks, trade names, service marks, word marks, illustrations, images, or logos that appear concerning the Service are, and remain, the exclusive property of the Company or its licensors and are protected by the laws in force on trademarks and by related international treaties.

16. Age Eligibility

Users declare themselves to be adult according to their applicable legislation. Under no circumstance may persons under the age of 13 use the Service.

17. Assignment of Contract

The Company reserves the right to transfer, assign, dispose of by novation or subcontract all or any rights or obligations under these Terms, as long as the your rights under the Terms are not affected.

You may not assign or transfer their rights or obligations under these Terms in any way without the written permission of the Company.

18. Termination

We may terminate or suspend your User Account immediately, without prior notice or liability, for any reason whatsoever, including without limitation if you breach the Terms. Upon termination, your right to use the Service will immediately cease. If you wish to terminate your account, you may simply discontinue using the Service.

19. Limitation of Liability

In no event shall the Company, nor its directors, employees, partners, agents, suppliers, or affiliates, be liable for any indirect, incidental, special, consequential or punitive damages, including without limitation, loss of profits, data, use, goodwill, or other intangible losses, resulting from (i) your access to or use of or inability to access or use the Service; (ii) any conduct or content of any third party on the Service; (iii) any content obtained from the Service; and (iv) unauthorized access, use or alteration of your transmissions or content, whether based on warranty, contract, tort (including negligence) or any other legal theory, whether or not we have been informed of the possibility of such damage, and even if a remedy set forth herein is found to have failed of its essential purpose.

20. Disclaimer

Your use of the Service is at your sole risk. The Service is provided on an "AS IS" and "AS AVAILABLE" basis. The Service is provided without warranties of any kind, whether express or implied, including, but not limited to, implied warranties of merchantability, fitness for a particular purpose, non-infringement or course of performance.

The Company its subsidiaries, affiliates, and its licensors do not warrant that a) the Service will function uninterrupted, secure or available at any particular time or location; b) any errors or defects will be corrected;

c) the Service is free of viruses or other harmful components; or d) the results of using the Service will meet your requirements.

21. Indemnity

You agree to defend, indemnify, and hold harmless the Company, its officers, directors, employees and agents, from and against any claims, actions or demands, including without limitation reasonable legal and accounting fees, alleging or resulting from your breach of these Terms of Use.

22. Governing Law

These Terms shall be governed and construed in accordance with the laws of Cyprus, without regard to its conflict of law provisions.

Any dispute, controversy or claim arising out of or relating to this Terms or the breach, termination or validity thereof shall be finally settled at the Company's discretion (i) at your domicile's competent courts; or (ii) by arbitration in accordance with the Cyprus Arbitration Law. The arbitration shall be conducted in Cyprus, in the English language. YOU AGREE THAT YOU MAY BRING CLAIMS AGAINST THE COMPANY ONLY IN YOUR INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING.

Our failure to enforce any right or provision of these Terms will not be considered a waiver of those rights. If any provision of these Terms is held to be invalid or unenforceable by a court, the remaining provisions of these Terms will remain in effect. These Terms constitute the entire agreement between us regarding our Service, and supersede and replace any prior agreements we might have between us regarding the Service.

23. Changes

We reserve the right, at our sole discretion, to modify or replace these Terms at any time. If a revision is material we will try to provide at least 30 days' notice prior to any new terms taking effect. What constitutes a material change will be determined at our sole discretion.

By continuing to access or use our Service after those revisions become effective, you agree to be bound by the revised terms. If you do not agree to the new terms, please stop using the Service.

24. Contact Us

If you have any questions about these Terms, please contact us at:

Email: info@SensusFit.com