

# OPENSWIM APP

## LEGAL INFORMATION

### Mobile app publisher

The OpenSwim mobile application is published by:

SSO Active, a French company with a capital of 3000 euros, registered in the R.C.S. of EVRY under the number 810 963 306, whose head office is located at 12 rue Fernand Leger 91440 Bures sur Yvette (France), represented by Laurent Neuville.

### Publishing director

The publishing director of the application is Laurent Neuville.

### Contact us

By email: [contact@openswim.fr](mailto:contact@openswim.fr)

By mail: 12 Rue Fernand Léger 91440 BURES-SUR-YVETTE (France)

## TERMS & CONDITIONS

Effective version as of 10/01/2025

### Article 1: Introduction

The purpose of the terms and conditions document (referred to as "T&Cs") is to provide a legal framework for the provision of the mobile application and services offered by SSO Active via the OpenSwim mobile application, and to define the conditions of access and use of the services by its users.

The present T&Cs are accessible on the App through the "**My account / Legal Information / Terms and conditions**" page.

These T&Cs are also available in the French. In the event of any inconsistency between the French and English language versions, the French language version shall prevail.

### Article 2: Definitions

For the purposes of our T&Cs and the proper understanding of the OpenSwim mobile application, the following terms are defined:

« **Account** »: personal account that the User can create on the App to access the Services, associated with an e-mail address and a password chosen by the User.

« **Administrator** »: User who created a Group or an Event.

« **App** »: the OpenSwim mobile application, published by the Company. The App includes its contents (with editorial content, illustrations, images, graphic charter, logo, brand, works), software, programs, tools, databases, documentation and all other elements and services that compose it, as well as updates and new versions that may be released.

« **Calories** »: The calories on our App are calculated using the MET method (MET= Metabolic Equivalent of Task). This method measures the intensity of a physical activity and the associated energy expenditure.

According to the [Compendium of Physical Activities](#), the formula used is:

Total calories burned = Duration of activity in minutes × (MET × 3.5 × user's body weight in kg) / 200.

Thus, the User's weight is necessary to calculate the caloric expenditure. If the User's weight is not known, we use the average values presented by the Obepi-Roche 2020 survey and taken over by the French League against obesity (source: <https://liquecontrelaobesite.org/actualite/taille-poids-et-tour-de-taille-photographie-2020-des-francais/>)

« **Company** »: the French company SSO Active, publisher and owner of the App, whose details are provided in the Legal Information above.

« **Content** »: texts, photographs, videos and any other form of content uploaded by the Company or by a User on the App.

« **Event** »: event a User may attend or participate in.

« **Group** »: multiple Users gathered on the App.

« **Services** »: all features and services available on the App.

« **Steps** »: Since not all activities and workouts are equal, we use 'steps' as a common unit of measurement for all users.

According to the World Open Water Swimming Association (<https://www.openwaterswimming.com/>), the used formula is: Steps = Duration x Stroke value.

« **T&Cs** »: the present document, the terms and conditions of the OpenSwim mobile App.

« **User** »: a member of our App, having the capacity to register and use the App as indicated in article 4 of the T&Cs.

### Article 3: Acceptance and application of the T&Cs

Registering on the App signifies the User's unconditional acceptance of these T&Cs, which will remain in effect until the User deletes their Account.

When registering on the App, each User expressly accepts the present T&Cs by checking a box preceding the following text: " I have read and agree to the Terms & Conditions and confidentiality". In case of non-acceptance of the T&Cs, the User will not be able to access the Services offered by the App.

The User acknowledges that he/she has the possibility to read the T&Cs on the App at any time and to save them on his/her phone. The Company reserves the right to unilaterally modify all or part of these T&Cs at any time, in particular in order to adapt them to changes in its Services or for technical, legal or jurisprudential developments. The changes are applicable and enforceable against the User, as soon as updated on the App and apply to any subsequent use of the App by the User. If the User does not agree with all or part of the T&Cs, he/she must not use the App. The User is invited to regularly consult the T&Cs in order to take note of any changes.

"No tolerance on how the T&Cs are applied", can be interpreted as a waiver by the Company of its right to do so later.

If any provision of these T&Cs is or becomes invalid under any present or future law, it shall be considered null and void without affecting the validity of the remaining provisions.

## **ARTICLE 4: App access**

### **4.1. Free App**

The download of the App on the stores (App store and Play store) is totally free.

User acknowledges that all costs for the User to get access to internet, the App, sports areas, and any hardware or software User may need to use the App, are at his/her expense.

### **4.2. Member access and registration**

To use the App, the User is required to create an account.

To create an Account, it is necessary to fill in a registration form. Some information is mandatory, without which a registration cannot be validated. By registering, the User agrees to provide true and accurate information, including his/her e-mail address, and to choose a strong password. The User also has the option of creating an Account with his/her Google, Facebook or Apple account.

The User is informed and agrees that by creating an Account on the App, his/her profile is initially configured as public, which means that some of his/her personal information available on the App may be visible to other Users. The User may, however, change the privacy settings of User's profile on User's personal account under "My account / My preferences / Social interactions" so that it becomes private, i.e. not visible to other users, or partially public for some categories of users. The User alone decides whether to have a public or private profile and the consequences of this decision, and may not hold the Company liable in this respect.

Once the registration is completed, the User will receive an e-mail asking him/her to confirm his/her e-mail for security reasons (especially in case of loss of password). This confirmation is not mandatory but is strongly recommended by the Company.

To access the Services, the User must identify himself/herself using his/her login (email address) and password.

The User's Account on the App is purely personal. The User undertakes to use it personally and never to allow a third party to use it in his/her place or on his/her behalf, unless he/she bears full responsibility.

In the same way, the User is responsible for maintaining the confidentiality of his/her login identification, in particular his/her password. The User must immediately contact the Company if he/she notices that his/her Account has been used without his/her knowledge, in which case the Company will be free to take all appropriate measures to restore the integrity of the Account.

#### **4.3. Unsubscribe**

Any User may request to unsubscribe from the App by going to the dedicated page on his/her Account. This will be effective within a few minutes if the request to unsubscribe is made on the dedicated page or as soon as possible if the request is made via the contact form. The User acknowledges that when he/she unsubscribes, all his/her data recorded on the App (in particular workouts, statistics, performance) will be permanently deleted.

#### **4.4. Minors**

**The use of the App and the Services is reserved for adults. In this context, all Users certify that they are of legal age to use the Services.**

The Company may at any time request proof from the User and delete any Account if proof is not received.

#### **4.5. Recommendations for sports practice and health condition**

The practice of any sport activity depends on the physical ability of each person to achieve this activity, as well as their health condition.

Before using the Services, the User certifies that he/she is in good health condition, is physically fit to practice the sports and workouts offered by the App, and has no medical counter-indication. He/she certifies that he/she has consulted a doctor before starting the workouts.

The User agrees to choose workout levels that match to his/her physical abilities, to adapt them to his/her health condition, to measure the risks, to respect his/her limits and to stop training immediately in case of difficulty or pain.

Furthermore, the User acknowledges that swimming in open waters requires to respect safety measures. The Company recommends that its Users take note of the following measures recommended by the French Swimming Federation:

[https://www.ffnatation.fr/sites/default/files/ckeditor\\_files/fiche\\_pratiquant.pdf](https://www.ffnatation.fr/sites/default/files/ckeditor_files/fiche_pratiquant.pdf).

These measures include, but are not limited to:

- respecting the rules, signs and markings of the practice site;
- to be equipped with an individual safety buoy;
- to be attentive to changes in conditions (weather, current, other users) and adapt accordingly;
- to ask for help if needed, by putting yourself on your back and raising an arm.

The Company shall not be liable for any breach of the above obligations by the User, except where such breach is due to the Company's own negligence or failure to perform its obligations.

#### **4.6. App availability and security**

The Company makes every effort to ensure the availability of the App. The User acknowledges in any case that the Company shall not be held responsible for any interruption of the App and Services due to an event of major force or to an external circumstance to the Company (telecommunication network, Internet, connection mode, User's infrastructure, etc.).

The Company may have to suspend the Services for maintenance and/or updates, or for any other reason, particularly technical. These suspensions may be carried out without the User being notified. The Company shall not be held responsible for the consequences of these suspensions for the User.

The Company makes its best efforts in accordance with the rules of the art to secure the App given the complexity of the Internet.

### **ARTICLE 5: Services and operation of the App**

#### **5.1. Swimming related services**

The App is a mobile application whose purpose is to develop the practice of sports and in particular swimming for its Users. Nevertheless, the User acknowledges that the App is not intended to teach swimming.

The App allows the User to access the following Services:

- follow individual swimming workouts;
- follow training programs over several weeks;
- get advice on several workouts and workouts exercises;
- share workouts with third parties or other Users;
- create your own list of favorite workouts;
- report swimming sessions for follow-up;
- have a statistical follow-up of his/her performances and evolution;
- geolocate swimming practice sites.

The workouts, training programs and advice are prepared, provided and updated by highly experienced swimmers (e.g. former French national team swimmers, lifeguards, swimming coaches, etc.). These

contents are intended for personal use, within the framework of a workout. Under no circumstances may they be copied, distributed or sold for any other use and on any other distribution channel.

The Company reserves the right to modify or delete the workouts, training programs and advice on the App (except those created by the User, unless requested by the User or by deletion of his/her Account). In such cases, the Company shall endeavor to inform the User in advance.

## **5.2. "Health" page**

The App provides the User with a "Health" page containing numerous health and well-being tips and recommendations. The content of these pages is entirely provided by our partner, the French mutualist company Harmonie Mutuelle. This page is only available in French.

The User acknowledges that:

- the Company is not responsible for the content provided by Harmonie Mutuelle and cannot be held liable;
- the advice provided in this section does not constitute medical advice, diagnosis or opinion, and cannot be a substitute for medical consultation or treatment, if any.

## **5.3. "Community" page**

The App provides the User with a page entitled "Community" allowing him to create bonds with other Users of the App.

On this page, the User can:

- Look for other Users and access their information, such as: their main swimming stats, the 10 last workouts saved on the App and the upcoming Events they will attend;
- « Follow » Users and thus be able to easily see their profile and information.

The User acknowledges that the Company is not responsible for verifying the identity of Users, their performance, and the Content they post on the App.

### **5.3.1. « Leaderboard » tab**

On the "Leaderboard" tab, the User can view his ranking compared to other Users, according to the filter chosen (friends, city, country, world). This ranking is based on the distance swum.

### **5.3.2. « Group » tab**

On the « Group » tab, the User can access every Group created on the app (except the private ones), the Groups he is a member of, look for a Group, join a Group or create a Group.

To search for a Group, the User must use the dedicated search bar. Groups are ordered by location and by number of members, the Groups having the most Users appearing first. If a Group is "private", the User will not be able to find it by a search.

The User that creates a Group, becomes the Group's Administrator with the ability to suspend, activate, edit, add photos, delete a member on this Group. The Administrator is expected to promote compliance with the 8.1 article of the present terms among group members and to inform the Company as soon as he/she becomes aware of any Content that is contrary to these terms. However, the Administrator is not personally responsible for the actions of other group members.

The User is solely responsible for his/her participation or not in a Group, and for his/her withdrawal from a Group, and commits in this context to respect the conditions of these terms, in particular those mentioned in 8<sup>th</sup> Article.

The Company cannot be held responsible in any way on how those Groups are managed, as the Company does not control their creation, the identity of the Groups, their internal functioning, the exchanges between their members, their Content, or their modification and deletion.

### 5.3.3. « Event » tab

On the "Event" tab, the User has access to current and upcoming Events, upcoming Events in which he/she is participating, Events and virtual Events (challenge) organized by the Company, and Events that he/she has created. The User can also search for an Event, join an Event and create an Event.

To search for an Event, the User must use the dedicated search bar. Events are ordered by location and by number of participants, the Events having the most Users appearing first. If an Event is "private", the User will not be able to find it by a search.

If the User participates in an Event organized by the Company, he can book a race bib for this Event by clicking on a hypertext link. As part of the challenges organized by the Company, the User is informed that his/her data on the App will be used to determine whether the User fulfills the conditions of this challenge. A ranking of Users among the participants will be available on the App, based on the performance of Users as saved in the App. Users are informed that individual User cannot create a challenge and an Event created by User cannot use the data in the App.

The User that creates an Event, becomes the Event's Administrator with the ability to suspend, activate, edit, add description/photos, delete a member on this Event. The Administrator is expected to promote compliance with the 8.1 article of the present terms among event participants and to inform the Company as soon as he/she becomes aware of any Content that is contrary to these terms. However, the Administrator is not personally responsible for the actions of other event participants.

The User is solely responsible for his/her participation or not in an Event, and for his/her withdrawal from an Event, and commits in this context to respect the conditions of these terms, in particular those mentioned in 8<sup>th</sup> Article.

The Company cannot be held responsible in any way on how those Events are managed (except for his own), as the Company does not control their creation, the identity of the Events, their internal functioning, their Content, or their modification and deletion.

#### **5.4. Synchronization with third-party applications and connected objects**

The User may authorize the App to synchronize with third-party partners, such as a third-party application or a third-party tool (such as a connected watch). This synchronization makes it possible to exchange data with third-party partners (the nature of this data depends on each synchronized partner) and in particular to:

- collect and store in the App: workouts saved on third-party partners from the time of synchronization and/or the User's swimming data over the last 30 days, including distance, stroke type, speed, heart rate, calories burned ;
- and conversely, transfer to third-party partners: workouts saved on the App as of synchronization and/or a specific workout from the App.

To set up this synchronization, the User must connect his Account to the third-party partners and authorize access to his swimming and training data.

The User may at any time revoke the authorization granted to synchronize his/her data. Revocation of authorization will result in the cessation of data synchronization between the App and the concerned third-party partner. If the User no longer wishes to keep the synchronized data, he/she must delete it from the App.

The User acknowledges that the Company is not responsible for third-party partners, their content, tools and obligations, and declines all responsibility for the accuracy, completeness and availability of synchronized data dependent on third parties.

### **ARTICLE 6: Data collection**

Registration to the App and its use implies the processing of the User's personal data by the Company in compliance with the regulations. When registering, the User is informed of the processing of his/her personal data in the "Privacy Policy" document, which can be found on the "Legal Information" page.

### **ARTICLE 7: Intellectual Property**

#### **7.1 Intellectual property of the Company**

The trademarks, logos, signs as well as the App and all its components, including Content uploaded by the Company in the App belong to the Company or its partners and are protected by the regulations on intellectual property, in particular the French Code of Intellectual Property and more particularly by the copyright.



No provision of these terms and conditions, nor the provision of the App, shall be construed as implying any transfer of intellectual property to the User.

The User agrees to use the App in a strictly private context, any use for commercial and advertising purposes is strictly prohibited.

The User is hereby informed that any use beyond what is permitted by the App, reproduction, representation or adaptation, in any form whatsoever, of all or part of the Company's intellectual property without its prior written consent, is strictly prohibited and would constitute an infringement punishable by intellectual property regulations. The fact that the Company does not initiate proceedings as soon as it becomes aware of these unauthorized uses does not mean that it accepts the said uses and waives any legal proceedings.

The Company is the owner of the databases made available to the User within the framework of the App and is the producer within the meaning of Article L341-1 of the French Intellectual Property Code. As such, the Company prohibits the User:

- the extraction, by a definitive or temporary transfer of all or a qualitatively or quantitatively substantial part of the contents of its database onto another support, by any means and in any form whatsoever
- re-use, by making available to the public all or a qualitatively or quantitatively substantial part of the content of its database, whatever the form;
- the repeated or systematic extraction or reuse of qualitatively or quantitatively insubstantial parts of the contents of its database when these operations manifestly exceed the normal conditions of use of the database.

## **7.2 Intellectual property of the User**

The User remains the owner of the rights to the Content that he/she inserts in the Groups and Events pages and guarantees that he/she has all the rights to upload this Content in those Groups and Events pages. The User thus guarantees that this Content does not infringe the rights of third parties and indemnifies the Company against any recourse by a third party about this Content.

The User grants the Company, free of charge and for the entire world, a right of access and use of this Content, solely for the purposes of providing, hosting and maintaining the App.

## **ARTICLE 8: Liability**

### **8.1. User's commitment and responsibility**

By accessing the App, the User acknowledges:

- that it is up to him/her to take any measure he/she deems appropriate to ensure the security of his/her equipment and his/her own data, in particular against contamination by any virus and/or intrusion attempt of which he/she could be victim.
- that the information presented to him/her within the framework of the Services is for information purposes only and that it is his/her responsibility to verify that he/she can use it, in particular under the conditions referred to in article 4.5 of the T&Cs

- that he is solely responsible for the decisions he makes following the consultation of the App's Content, that it is recommended for him to consult other sources of information and to carry out his own research;
- that the sources of the information disseminated on the App are deemed reliable but are not free of defaults, errors or omissions.

The User is solely responsible for the Content he/she inserts on the App, uploads and otherwise transmits via the App. The User acknowledges that Content posted by another User is the responsibility of that User, and the Company has no control over such Content.

In any case, the User commits to use the App and Services in compliance with the laws and regulations in force that are applicable to him/her and the rights of others. In this context, the User agrees not to use the App or its Services to:

- spread information contrary to public order or morality;
- hijack the purpose of the App to propaganda or proselytizing or soliciting;
- to disseminate Content that infringes or is likely to infringe the rights of third parties or of a User in any way, that is defamatory, insulting or threatening, that constitutes blackmail, harassment or that violates privacy or human dignity;
- disseminate Content that is defamatory, abusive, obscene, pornographic, offensive, violent or that incites discrimination, hatred, political violence, racism, xenophobia, sexism or homophobia;
- infringe the intellectual property rights of any third party or User, or any other property rights of any third party or User;
- to disseminate Content that violates or is likely to violate the privacy, image, protection of personal data by posting, for example, the personal information of other individuals without consent, the secrecy of correspondence and business secrets;
- to use the App and the Services for promotional purposes and to offer products and services that remunerate him directly or indirectly;
- to reproduce, represent, use, reference (in particular in the meta words of search engines), all or part of the Content, trademarks, logos, distinctive signs appearing on the App.

Being non-compliant with these terms may result in the immediate and automatic removal of the offending Content, a warning, the suspension and/or permanent closure of a Group, an Event, and/or the Account of the offending User, and the denial of access to all or part of the Services in the future, without prejudice to any damages that the Company may be entitled to claim. The User may not claim any compensation in these cases.

## **8.2. Limitation of the Company's liability**

The Company shall not be held liable in the event of a User's failure to comply with these terms.

The Company shall also not be liable in the event of:

- any damage occurring during a workout session or an Event of any kind;
- loss, delay or error in data transmission while using the App;
- loss of information and Content available on the App;
- unavailability of the App or all or part of the Services;

- unavailability, interruption or malfunction of the synchronization, which also depends on the technical resources used by third-party partners;
- and in general, any direct or indirect damage resulting from the use of the App.

Finally, the Company does not guarantee the relevance and accuracy of information published on the App by Users.

### **8.3. Reporting Illegal Content**

**If a User believes that Content hosted on the App is clearly unlawful, he or she may report it to the Company, using the designed page on the app on “My account / Legal Information / Illegal Content”.**

**The notification must allow the Company to know:**

- **a sufficiently substantiated explanation of why the User alleges that the information in question is Illegal Content;**
- **a clear indication of the exact location of such Illegal Content, such as the URL and a photography, if applicable, additional information to identify the Illegal Content;**
- **first and last names and the email address of the User giving notice;**
- **a statement that the User submitting notice believes, in good faith, that the information and claims he declared are full and accurate.**

**Any notification of Content abusively declared as illicit in order to obtain its removal would expose the User to civil and/or penal sanctions.**

**If Content is found to be unlawful, the Company will promptly remove such Content or make it unavailable.**

## **ARTICLE 9: Hyperlinks**

Hypertext links may be present on the App. The User is informed that by clicking on these links, he/she will leave the App. The Company has no control over the web pages to which these links lead and cannot, under any circumstances, be held responsible for their content.

## **ARTICLE 10: Customer Service**

For any question(s) or suggestion(s), the User is invited to contact the Company, using the contact form included in the App. This contact form is accessible on the mobile application, on the page named "Contact Us".

Also, the User may send an e-mail to the following email address: [contact@openswim.fr](mailto:contact@openswim.fr).

## **ARTICLE 11: Applicable law and jurisdiction**

The present T&Cs are subject to French law. In the event of failure to resolve a dispute between the parties amicably, the French courts shall have sole jurisdiction (subject to any mandatory rules benefiting the User).

In addition, in accordance with Article 14 of Regulation (EU) No. 524/2013, the European Commission has set up an Online Dispute Resolution platform, facilitating the independent settlement by extrajudicial means of online disputes between consumers and professionals in the European Union. This platform is accessible at the following link: <https://webgate.ec.europa.eu/odr/>