

Shavatar – Terms of Use

2-minute-read summary

You find Terms of Uses long, difficult and full of legalese? We do too. However, we find it important to inform you about the way you can make use of Shavatar.

That's why we made this 2-minute-read summary to you. This summary will provide you with the necessary information and all you need to know in no-time!

First things first, what is Shavatar?

- Shavatar allows you to obtain optimal **personalised size advice** based on your body shape.
- Filling in your measurements and other information concerning your body enables us to create a **3D render of your body shape**. Therefore, we can tell you what your exact clothing sizes are for over 50 brands.

When can you use Shavatar?

- To use all the Shavatar features, you must **accept our Terms of Use**. They set out the rules for using our Application.
- You must also **agree and consent to our Privacy Policy**. The personal data you share with us remains always your property and Shavatar will only use it to provide services to you. For more information on this subject, we invite you to have a look at our Privacy Policy.
- When you subscribe, you must provide us with some personal information and be **at least 18 years** old.

How can you use Shavatar?

- You may only use our service as it's intended and are together with us, **responsible** for the confidentiality of your use.
- For as long as you're a member, you are allowed to use our Application for **private purposes only**.
- If you violate our Terms of Use, you risk being not allowed using Shavatar anymore.
- If you need **technical support**, you can always send us an email at hello@shavatar.me

Also important to know:

- Shavatar will always remain the owner of the Application and of all related **intellectual property rights**, you will always remain the owner of your data.
- Shavatar can only be held **liable** for damages directly attributed to us.
- Our Terms of Use may be **updated from time to time**, we advise you to check them regularly!

Want to know more? Then we invite you to read our entire Terms of Use, where everything is explained in detail!

DISCLAIMER: We recommend that you read these Terms of Use carefully before using the Application (as defined below). By clicking on the "I Agree to the Terms of Use" button, You agree that Your use of the Application is governed by these Terms of Use. We encourage you to keep and print a copy of these Terms of Use for future reference.

In order to use these Application, you must first read and agree to our Privacy Policy. It is prohibited to use our Application without first accepting our Privacy Policy.

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1. Applicability

- 1.1. The Shavatar Application, available via <https://www.shavatar.me> (hereinafter the "Website"), are owned and managed by Shavatar, a private limited company under Belgian law, with registered office at 2845 Niel, Eerste Meistraat 75, registered with the Crossroads Bank for Enterprises, under company number 0739.532.750 (hereinafter "Shavatar").
- 1.2. These Terms of Use set out how You can use the Application. By using the Application in any way whatsoever, You agree to be bound by these Terms of Use. These Terms of Use apply in any way that You use to gain access to the Application, including, but not limited to, the Internet, digital television and mobile phone.
- 1.3. These Terms of Use (hereinafter the "Terms of Use") constitute a legally binding agreement between us ("Shavatar") and you (hereinafter "You" or "User") and apply to Your use of the Application (as defined below). By using any part of the Application, You acknowledge and agree that Your use of the Application is governed solely by these Terms of Use. If You do not agree to any provision of these Terms of Use, You are not entitled to (continue to) use the Application in any way or to grant You access to it.
- 1.4. You declare and warrant that You have the necessary legal capacity to agree to and accept these Terms of Use.
- 1.5. The definitions that apply to these Terms of Use are defined in Annex 1.

2. Description of the Application

I. General Objective

- 2.1. We offer the Shavatar Application which allows You to obtain optimal personalised size advice based on your body shape. Filling in your measurements and other information regarding Your body enables us to create a 3D render of Your body shape. Therefore, we can tell You what Your exact clothing sizes are for over 50 brands.

II. Account

- 2.4. In order to use all the functionalities off the Application, You must create Your Shavatar account (the "Account") on the Website. If no Account is created, only the 3D model according to Your measurements can be shown. The creation of the Account is subject to the following conditions:
 - You are only entitled to create an Account if You are a "natural person";
 - You are at least 18 years old;

- At the time You create or update an Account, You must:
 - Provide us with correct, accurate, complete and current information that is personal to You, such as Your name and first name. The retention and/or use of Your Personal Data by Us is subject to our Privacy Policy;
 - Enter a unique email address and password (collectively referred to as “Login data”)

3. Use of the Application

3.1. The Application can only be used by natural persons who are at least 18 years old.

3.2. With regard to the use of the Application, each User is obliged to:

- comply with the provisions laid down by law, regulation, decree, ordinance or decision of the federal, regional, local or international authorities;
- refrain from manipulating the information provided, in any way whatsoever or using any technique;
- not to send any data, messages or documents in any way via the Application, or to load any data or documents via the Application:
 - a) in which the rights (including, but not limited to, moral rights or intellectual property rights) of Third Parties or of the providers of the Application are violated;
 - b) of which the content is damaging, defamatory, violent, unlawful, obscene or degrading or in which the privacy of Third Parties is violated;
 - c) whose use or possession by the User is prohibited by law or by agreement;
 - d) that contain viruses or instructions that could cause damage to the providers of the Application and/or the Application and/or could impede or disrupt the Application provided via the Application.

3.3. In order to use the Application, You must have an Internet connection. You bear sole responsibility for any telecommunications or computer network equipment required to use the Application. You are solely responsible for providing this.

3.4. You are jointly responsible for the security and confidentiality of Your Results. You are advised to keep Your Results safe and secure and to not exchange or disclose them with Third Parties.

3.5. You are fully responsible for all activities You perform under Your name. You agree to notify us immediately of any unauthorised use of the Application under Your name or any other breach of security. We cannot be held liable for any loss or damage resulting from failure to comply with the above requirements.

3.6. The Application may only be intended for private use. The Application may not be used for commercial or business purposes unless we have approved You as a partner.

4. License – Restrictions

- 4.1. The Application and Documentation made available by us are our exclusive property. All rights in and to the Application or Documentation not expressly granted to You in these Terms of Use are reserved by us.
- 4.2. We hereby grant You a personal, revocable, non-exclusive, non-transferable, non-sublicensable right of use for the duration of the agreement to use the Application in accordance with the Terms of Use. You may not use the Application or any part of it for commercial purposes.
- 4.3. You, nor a Third Party, will under no circumstances:
- a) decompile, disassemble or reverse engineer the software, or attempt to reconstruct or discover the source code, underlying ideas, algorithms, file formats or programming interfaces of the Application in any way;
 - b) distribute, sell, rent, sublicense, lease, lend, distribute or otherwise transfer the Application or any part of it to a third party, except as expressly permitted under these Terms of Use;
 - c) use the Application for time-sharing, hosting, providing Application or similar purposes, except as expressly permitted under these Terms of Use;
 - d) change, remove or make unreadable any product identification, proprietary information, copyright notices, digital watermarks or other notices in or on the Application;
 - e) change, modify or change any part of the Application, create a derivative work from any part of the Application or integrate the Application into or with other software, except to the extent expressly permitted in writing by us;
 - f) provide Yourself with unauthorized access to our IT infrastructure or the structure to access the Application or to use the Application to perform or promote illegal activities;
 - g) use the Application to generate unwanted email advertisements or spam;
 - h) use an automatic, electronic, or manual high-volume process to access, search, or collect information about the Application (including but not limited to robots, spiders, or scripts);
 - i) pretend to be another person or entity;
 - j) intentionally distribute worms, Trojan horses, corrupt files or other destructive or deceptive elements or use the Application for unlawful, invasive, infringing, defamatory or fraudulent purposes;
 - k) to remove or otherwise circumvent technical and other protective measures in the Application.
- 4.4. By uploading, creating or otherwise transferring information, data or images through the Application and without prejudice to the provisions of our Privacy Policy You grant us a non-exclusive, royalty-free, worldwide, sublicensable and transferable license to use, copy, store, modify, transmit and display the user content to the extent necessary to supplement and update the Application.
- 4.5. We reserve the right, but have no obligation, to monitor and remove any user content that is deemed to violate the provisions of the Terms of Use or to be inappropriate, or that violates the rights of Third Parties or applicable laws or regulations.

5. Intellectual Property Rights

- 5.1. Within the scope of the agreement between the User and us, the Application and all established and/or applicable, related or associated worldwide Intellectual Property Rights remain our exclusive property.
- 5.2. All rights in and to the Application and/or the Documentation that are not expressly granted to the User in this agreement are reserved to us. Except as expressly provided herein, no express or implied license is granted to the User with respect to the Application and/or Documentation or any part thereof, including any right to obtain any source code, data or other technical material relating to the Application.

6. Suspension

- 6.1. If, in our sole discretion, we learn or suspect that You are violating these Terms of Use or any other instructions, guidelines or policies (including, but not limited to, the Privacy Policy) issued by us, we may suspend or restrict Your access to the Application. Any such suspension by us will continue until You have remedied the breach that led to the suspension or restriction.
- 6.2. If You do not pay the Fees on time (if applicable), we may automatically suspend Your use of the Application. Any such suspension by us will continue until You have paid the Fees.

7. Support

- 7.1. If You need technical support, please hello@shavatar.me. We will use reasonable efforts to answer your questions in the shortest possible time and to resolve Your technical problems with our Application.

8. Privacy and Protection of Your Personal Data

- 8.1. Your privacy is very important to us and we will comply with all applicable laws when processing your personal data.
- 8.2. You will always remain owner of Your personal data. Shavatar only uses Your personal data in order to provide the Application to You.
- 8.3. In our Privacy Policy You will find more information on how we collect and process Your personal data.

Before using our Application, You must agree to and consent with our Privacy Policy.

9. Liability

- 9.1. All warranties, conditions and representations otherwise implied by applicable laws with respect to the Application are excluded to the fullest extent permitted by law and are rejected. In particular, we do not represent or warrant that the Application is error-free, free of viruses or other harmful components, or that defects will be corrected. In this respect, You must take Your own precautions. To the fullest extent permitted by law, in no event will we be liable for any loss or damage caused by a distributed denial of service attack, viruses or other technologically harmful material that may infect Your computer equipment, computer programs, data or other protected material through Your use of our Application.
- 9.2. To the extent permitted by law, we accept no liability for any failure to maintain the Application and/or to deliver the content or to deliver it on time.
- 9.3. You agree that on the basis of these Terms of Use we can only be held liable to the extent that the damage suffered by You can be directly attributed to us. For the avoidance of doubt, we cannot be held liable for claims resulting from:
- Your unauthorized use of the Application;
 - Modification of the Application (or parts thereof) by You or Third Parties;
 - Your use of the Application in combination with products or services that do not belong to us.
- 9.4. To the fullest extent permitted by applicable law, we shall not be liable to any Third Party for any special, indirect, exemplary, repressive, incidental or indirect damages of any kind, including, but not limited to, damages or costs resulting from loss of profits, data, income, goodwill, of the purchase of replacement Application or of damage to property arising from the Application that fall under these Terms of Use, including, but not limited to miscalculations or use, misuse of the Application or the inability to use the Application, regardless of the cause of the claim or the theory of liability - on the grounds of unlawfulness, contractually or otherwise -, even though we have been informed of the probability of such damage.
- 9.5. The Application may contain inaccuracies and typographical errors. We do not guarantee the accuracy or completeness of the content and services offered on our Application. In addition, we expressly reserve the right to correct any erroneous information on the Application.
- 9.6. We will not be liable in any way for any damages resulting from Your acts or omissions on the basis of the content available on the Application. Nor can we be held liable for actions, errors, omissions, representations, warranties, violations or omissions of third party independent service providers.

10. Guaranties and disclaimers

I. By us

- 10.1. Except as expressly provided in these Terms of Use and to the extent permitted by applicable law, the results are provided "as is". We do not provide (and hereby reject all) other warranties, covenants or representations and conditions, whether or not written, oral, express or implied and without limitation, and all implied warranties regarding adequate quality, handling, trade use or practice, merchantability, usability, availability, title, non-infringement or fitness for a particular

use or purpose, and this subject to the use, misuse or inability to use the products or Application provided to the User by us.

We don't guarantee that:

- All errors can be corrected or access to or operation of the products will always be uninterrupted, safe and error-free;
- The information, including but not limited to the results, that is available on the Application is true, complete and accurate.

10.2. You expressly acknowledge and agree that we shall not be liable for any health-related decisions that You or Third Parties make based on the results arising from the Application, whether or not such data is accurate.

10.3. You expressly acknowledge and agree that Your use of the Application and the results are at Your own risk. You acknowledge and agree that there are risks associated with transmitting and storing information over the Internet and that we shall not be liable for any loss of data, including, but not limited to, the results and all related usage content.

10.4. As stipulated herein, we will indemnify and defend You against substantiated and well-founded claims from Third Parties to the extent that the claim is based on a violation of the Third Party's Intellectual Property Rights by the Application and/or the Documentation and to the exclusion of claims that are the result of:

- Your unauthorized use of the Application;
- Modifications of the Application by You or Third Parties;
- Your use of the Application in combination with products or Application that are not specific to us.

10.5. Any such indemnity obligation shall be subject to the following conditions:

- We will be informed immediately in writing of any such claim;
- We will determine the defence and settlement of any such claim at our sole discretion;
- At our request, You will cooperate fully with us in defending and settling any such claim at our expense;
- You do not make any representations about our liability in respect of any such claim, nor do You agree to any settlement in respect of such claim, without Our prior written consent.

If these conditions are met, We will indemnify You for all damages and costs incurred by You as a result of any such claim, as awarded by a competent court of last instance or as agreed in the settlement with our Prosecutors.

10.6. If, in Our reasonable opinion, the Application and/or the Documentation is likely to be the subject of an infringement claim by a Third Party, we reserve, at our own discretion and expense, the right to:

- amend the Application and/or the Documentation (or the (allegedly) infringing part thereof) so that the infringement no longer exists, but the equivalent functionality is maintained;
- obtain for You a license to continue to use the Application and/or the Documentation in accordance with these Terms of Use;

- terminate the agreement and pay You an amount equal to a pro rata portion of the Fees for that part of the Application that is the subject of the infringement.

II. By the User

10.7. You shall indemnify and hold us harmless from any claim, demand, loss, liability or damage of any kind, including reasonable attorneys' fees, whether in tort or in contract, that they or any of them may face as a result of any claim by any Third Party with respect to:

- Your breach or violation of any provision of these Terms of Use or any other instructions or policies;
- Content that is in violation of Third Party's Intellectual Property Rights;
- Fraud, deliberate deception or gross negligence on your part.

10.8. We are under no obligation towards You to back up any user content and/or Results. You agree that the use of the Application in violation of or in violation of the User's terms and warranties in this section constitutes an unauthorized and improper use of the Application.

11. Updates or changes to our Terms of Use and/or our Application

11.1. We reserve the right to at any time, with or without reason and without prior notice to or liability to You:

- amend, supplement or change these Terms of Use;
- change the Application. This also includes the removal or discontinuation, temporarily or permanently, of any service or other characteristic of the Application without any liability to the User or any third parties; and/or
- Reject or discontinue Your use of and/or access to the Application in whole or in part, temporarily or permanently.

11.2. Any such changes, additions or modifications to the Terms of Use and/or the Application will become effective immediately upon being made available on the Application or upon notification to You.

By continuing to use the Application, You agree to the changes, additions or modifications made to the Terms of Use and/or the Application.

11.3. You do not have the right to modify, supplement or amend these Terms of Use in any way.

11.4. With respect to changes, additions and/or modifications to our Privacy Policy, You will be notified separately in accordance with Article 1 of our Privacy Policy.

11.5. We recommend that You check the Terms of Use regularly to ensure that You are aware of the most recent Terms of Use that You must respect.

12. Duration and Termination

- 12.1. The agreement will be effective from the time You subscribe to our Application and will remain in effect until it is terminated or replaced by a new agreement, or, if none of these events occur, as long as You continue to use the Application. In the event that we choose to cease supplying the Application, or to grant a third party the right to supply the Application, we will notify You at least three months in advance.
- 12.2. We may terminate the contract at any time if You provide inaccurate, incomplete or inaccurate information when subscribing to our Application or at any other time during the provision of Application.
- 12.3. We may at any time terminate or suspend Your use of the Application immediately, without prior notice or liability, in our sole discretion, for any reason and without limitation, including but not limited to a breach of the Terms of Use.

13. Varia

I. Force majeure

- 13.1. We will not be liable for any failure or delay in the performance of our obligations with respect to the Application if such failure or delay is due to causes beyond our control, including but not limited to force majeure, war, strikes, lockouts, riots, epidemics, fire, line of communication failures, power outages, earthquakes, other catastrophes, unauthorised access to our information technology systems by Third Parties or for any other reason if our failure to comply with the obligations falls outside our reasonable control.

II. Entire agreement

- 13.2. These Terms of Use, together with our Privacy Policy, constitute the entire agreement and understanding between You and us. These Terms of Use supersede all prior proposals, understandings and any other oral or written agreements between You and us relating to this subject matter.

III. Severability

- 13.3. If any provision of these Terms of Use is found by any court of competent jurisdiction to be unenforceable or invalid, the other provisions of these Terms of Use shall remain enforceable. The invalid and unenforceable provision will be deemed amended to be valid and enforceable to the fullest extent permitted by law.

IV. Waiver

13.4. Failure to make a particular provision of the Terms of Use enforceable does not mean that it or any other provision will be waived.

V. Allocation

13.5. We may freely transfer or assign all or part of the rights and obligations described in these Terms of Use without Your consent and without notice to You.

You may not transfer these Terms of Use or any of your rights and obligations under these Terms of Use without our prior written consent.

These Terms of Use are binding on and for the benefit of the parties and their respective successors and assigns.

VI. Notices

13.6. All our notices intended to be received by You will be deemed delivered and effective when sent to the email address You provided when subscribing to our Application. If you change this e-mail address, You will also need to change Your e-mail address on the personal settings page.

VII. Expiration of agreement

13.7. Articles 6, 8, 10, 11, 13 and 14.8 shall remain in force even after termination or expiry of the agreement.

VIII. Applicable law and jurisdiction

13.8. The Agreement shall be governed exclusively by and construed in accordance with Belgian law and shall not be construed in accordance with any conflicting laws or regulations. The courts and tribunals of Ghent have exclusive jurisdiction if any dispute arises in relation to the Application.

If You have any further questions about the Application or these Terms of Use, please contact us at the following address: hello@shavatar.me

These Terms of Use are provided electronically on our website: <https://shavatar.me>. A paper version is available on request via hello@shavatar.me

Annex 1. Definitions

The following definitions apply to these Terms of Use:

1. “Account” means your registered account that you have created through the subscription process on the Website;
2. “Delivery Date” means the date on which subscribed to our Application;
3. “Documentation” means the documents relating to the use of the Application that are made available to you by Shavatar;
4. “Shavatar Application” means the whole of the Application provided by Shavatar, following and linked to our Website and Services.
5. “Shavatar Services” means providing highly optimal personalised size advice based on your body shape through the Application.
6. “Intellectual Property Rights” means all currently known or later additional (a) copyrights, neighbouring rights and moral rights; (b) trademark or service mark rights; (c) trade secret rights, know-how, expertise; (d) patents, patent rights and industrial property rights; layout design rights, design rights; supplementary protection certificates; (f) trade and company names, domain names, database rights, rental rights and all other industrial and intellectual property rights or similar rights (whether registered or not); (g) all registrations, Application for registration, renewals, extensions, subdivisions, improvements or reissues relating to these rights and the right to apply, maintain and impose any of the foregoing, in any case and in any jurisdiction worldwide, for as long as this protection applies;
7. “Personal Data” means any information about an identified or identifiable person;
8. “Privacy Policy” means the privacy statement of Shavatar regarding the use of the Application.
9. “Results” refers to the results of the body shape calculation by Shavatar on the basis of the Personal Data entered and supplied by the User;
10. “Terms of Use” refers to the current terms of use;
11. “Third Parties” means any natural or legal person or entity other than You or Shavatar;
12. “User” means the users of the Application;
13. “Website” refers to the website available at <https://www.shavatar.me>