

Surfgistics Terms and Conditions

Last update: October 2022

These terms and conditions (“**Terms**”) govern use of Surfgistics’ freight forwarding services and as specified in the each applicable delivery order or other statement of work (the “**Services**”) for its customers, including, shippers, importers, exporters, carriers, buyers, sellers, consignees, etc. (collectively, our “**Customers**”) and any relationship between Surfgistics and its vendors, including but not limit to, suppliers, transport carriers, and other partners that facilitate Surfgistics’ performance of its Services (collectively, our “**Vendors**”). Any delivery orders, purchase orders, agreements, engagement letters, statements of work, power of attorney, or other documents provided by Surfgistics (a “**Surfgistics Agreement**”) are incorporated into these Terms as of the date of the Surfgistics Agreement and can be updated upon written notice (including email) to our Customers or Vendors. These Terms and any Surfgistics Agreement represent the entire agreement between Surfgistics and its Customers and Vendors and cannot be overridden and shall prevail over any of terms and conditions put forward by either Customers or Vendors, regardless of whether or when either party has submitted its request for proposal, order, or such other terms. No amendment to these Terms are effective unless it is expressly in writing and signed by an authorized representative of Surfgistics.

I. General

A. Relationship of the Parties. At all times Surfgistics shall be acting as an independent contractor, and shall not be construed or deemed to be an employee, agent, partner, associate, or joint venturer of its Customers or Vendors unless expressly set forth herein. Neither party has authority to assume or create any obligation or representation, express or implied, on behalf of or in the name of the other party, except as specifically provided herein.

B. Assignment. Neither Customer or Vendor shall not assign any of its rights or delegate any of its obligations under these Terms without the prior written consent of Surfgistics. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves either Customer or Vendor of any of its obligations under this Agreement.

C. Force Majeure. Surfgistics shall not be liable for losses, damages, delays, wrongful or missed deliveries or nonperformance, in whole or in part, of its responsibilities under the Agreement, resulting from circumstances beyond the control of either Surfgistics or its sub- contractors, including but not limited to: (a) acts of God, including flood, earthquake, storm, hurricane, power failure or other natural disaster; (b) war, hijacking, robbery, theft of terrorist activities; (c) incidents or deteriorations to means of transportation; (c) embargoes; (d) civil commotions or riots; (e) defects, nature or inherent vice of the goods; (f) acts, breaches of contract or omission by Customers, Vendors, or anyone else who may have an interest in the shipment; (g) acts by any government or

any agency or subdivision thereof, including denial or cancellation of any import/export or other necessary license; (h) any governmental regulation order in connection with an epidemic or pandemic; or (i) strikes, lockouts or other labor conflicts.

D. Law and Venue. These Terms and the relationship of the parties shall be construed according to the laws of the State of Florida without giving consideration to principals of conflict of law. Each party irrevocably consents to the jurisdiction of the United States District Court and state courts of Miami-Dade County, Florida. Notwithstanding the foregoing, the parties acknowledge and agree that Surfistics may institute to enforce a judgment in any jurisdiction in its sole discretion.

E. Disclaimers, Limitation of Liability. Except as specifically set forth herein, Surfistics makes no express or implied warranties in connection with its Services or its Terms. Customers and Vendors may obtain their own liability coverage, up to the actual or declared value of the shipment or transaction, by requesting such coverage and agreeing to make payment therefore, which request must be confirmed in writing by Surfistics prior to rendering Services for the covered transaction(s). In no event shall Surfistics' aggregate liability arising out of or relating to these Terms exceed the lesser of (i) fifty dollars (\$50.00) per shipment or transaction; or (ii) the amount of brokerage fees paid to Surfistics for entry relating to customs business. In no event shall Surfistics be liable or responsible for any compensatory, consequential, indirect, special, exemplary, incidental, statutory or punitive damages even if it has been put on notice of the possibly of such damages or for acts of third parties. Unless subject to a specific statute or international convention, all claims against Surfistics must be made in writing addressed to Yousef Antebi, and received by Surfistics within ninety (90) days of the event giving rise to claim; the failure to give Surfistics timely notice as provided herein shall be a complete defense to any suit or action commenced against Surfistics, its representatives or assigns. All cargo, including the container and contents, must be held intact and made available for examination by the carrier and Surfistics, or their designated representatives, in the event a claim of damage or shortage is asserted against such cargo. The failure to do so is a bar to recovery of damages.

F. Insurance. Unless expressly agreed to in writing, Surfistics is under no obligation to procure insurance on its Customers' or Vendors' behalf; in all cases, Customer shall pay in advance all premiums and costs in connection with procuring requested insurance. If applicable, third parties to whom Customer's goods are entrusted may limit liability for loss or damage and Surfistics will request excess valuation coverage only upon specific written instructions from the Customer, which must agree to pay any charges therefore. In the absence of written instructions or the refusal of the third party to agree to a higher declared value, at Surfistics' discretion, the goods may be tendered to the third party, subject to the terms of the third party's limitations of liability and/or terms and conditions of service.

G. Termination. In addition to any remedies that may be provided under these Terms, Surfistics may terminate an agreement under these Terms with immediate effect upon written notice to Customer or Vendor upon: (i) its breach of these Terms; or (ii)

becoming insolvent, filing a petition for bankruptcy or commencing proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

H. Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and shall be effective upon: (a) personal delivery, (b) the third business day after mailing, (c) the second day after sending by recognized overnight courier, or (d) the first business day after sending by email (except that notices of breach, termination, or an indemnifiable claim may not be made by email). Except as otherwise provided in these Terms, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section. All Notices to Surfghostics shall be sent to:

Yousef Antebi d/b/a Surfghostics
323 Sunny Isles Blvd, Suite 744
Sunny Isles Beach, FL 33160
Email: info@surfghostics.com

I. Non-Solicitation, Non-Competition & Non-Circumvention. Each Customer and Vendor acknowledge and agree that Surfghostics' relationships with its employees, consultants, Customers, and Vendors are valuable business assets and neither Customers or Vendors, nor their employees, affiliates or assigns, shall (i) enter into, or otherwise arrange any business relationship with each other; or (ii) directly or indirectly divert or attempt to divert from Surfghostics any business, employee, consultant, Customer, or Vendor, for their services, advice, or investments, through solicitation or otherwise, without the prior written consent of Surfghostics. Vendors shall not directly or indirectly provide services of the same or similar nature to the Services provided herein to any Customer in any territories where Surfghostics conducts business without Surfghostics' prior written consent. The terms in this section shall remain in effect during the term of any agreement between the parties and for the longest period of time allowed under applicable law. Due to the irreparable and continuing nature of the injury which would result from a breach of this section, Customers and Vendors agree that Surfghostics may, in addition to any remedy which Surfghostics may have at law or in equity, apply to any court of competent jurisdiction for the entry of an immediate order to restrain or enjoin the breach of this section and to otherwise specifically enforce this section.

J. Severability. If any term or provision of these Terms or any portion thereof is declared illegal or unenforceable by any court of competent jurisdiction, such provision or portion thereof shall be deemed modified so as to render it enforceable, and to the extent such provision or portion thereof cannot be rendered enforceable, and to the extent such provision or portion thereof cannot be rendered enforceable, these Terms shall be considered divisible as to such provision which shall become null and void, leaving the remainder of these Terms in full force and effect.

K. Waiver. No waiver by Surfghostics of any of the provisions of these Terms is effective unless explicitly set forth in writing and signed by Surfghostics. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from these Terms operates or may be construed as a waiver thereof. No single or partial exercise of

any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

II. Customer Specific Terms

A. The Services. Surfistics provides its Services to Customers as its Customers' agent and for the purpose of performing duties in connection with the entry and release of goods, post entry services, the securing of export licenses, the filing of export and security documentation on behalf of the Customer and other dealings with Government Agencies: as to all other services, Surfistics acts as an independent contractor. Unless Services are performed by persons or firms engaged pursuant to express written instructions from the Customer, Surfistics shall use reasonable care in its selection of third parties, or in selecting the means, route and procedure to be followed in the handling, transportation, clearance and delivery of the shipment.

B. Disclaimer. Surfistics' selection of a particular Vendor to render services with respect to the goods, shall not be construed to mean that Surfistics warrants or represents that such Vendor will render such services nor does Surfistics assume responsibility or liability for any actions(s) and /or inactions(s) of such Vendors and/or their agents, and shall not be liable for any delay or loss of any kind, which occurs while a shipment is in the custody or control of a Vendor or any third party. All claims in connection with the acts of any Vendor or other third party shall be brought solely by Customer and against such party and/or its agents; in connection with any such claim and Customer shall be liable for any charges or costs incurred for such claims.

C. Fees & Payment. As compensation for the Services, Customers shall pay each invoice from Surfistics upon receipt (the "**Service Fees**"). If an invoice is in dispute, Customers must timely pay the invoice and notify us in writing within seven (7) calendar days of receipt of such disputed invoice explaining their good faith reasoning for the dispute. If Customers do not dispute an invoice within seven (7) days of receiving it, the invoice shall be considered correct, complete, and conclusive. If such dispute proves to be correct, Surfistics will, in its sole discretion, either refund the disputed amount or apply the disputed amount as a credit to that Customer's account. Customers acknowledge and agree that the Service Fees are exclusive of federal, local, or other sales taxes and Customers are solely responsible for the payment of such taxes in connection with the Services.

D. Quotes. Quotations as to Service Fees, rates of duty, freight charges, insurance premiums or other charges given by the Surfistics to Customer are for informational purposes only and are subject to change without notice, no quotation shall be binding upon Surfistics.

E. C.O.D. or Cash Collect Shipments. Surfistics shall use reasonable care regarding written instructions relating to "Cash/Collect on Deliver (C.O.D)" shipments, bank drafts, cashier's and/or certified checks, letter(s)of credit and other similar payment documents and/or instructions regarding collection of monies but shall not have liability if the bank or consignee refuses to pay for shipment.

F. Reliance On Information Furnished.

- (i) Customers acknowledge that it is their responsibility to review all documents and declarations prepared and/or filed with U.S. Customs & Border Protection, or other Government Agency, and will immediately advise Surfistics of any errors, discrepancies, incorrect statements, or omissions on any declaration, or other submission filed on their behalf;
- (ii) In preparing and submitting customs entries, export declarations, applications, security filings, export data and/or other required data or documentation, Surfistics relies on the correctness of all documentation, whether in written or electronic format, and all information furnished by its Customers; and
- (iii) Customers shall use reasonable care to ensure the correctness of all such information and shall indemnify, defend, and hold Surfistics harmless from any and all claims asserted and/or liability or losses suffered by reason of their failure to disclose information or any incorrect, incomplete or false statement by a Customer or its agent, representative or contractor upon which Surfistics relied.
- (iv) Customers acknowledge and agrees they have an affirmative non-delegable duty to disclose any and all information required to import, export or enter the goods in compliance with all applicable requirements of the law.

G. Indemnification/Hold Harmless. Customers shall indemnify, defend, and hold Surfistics harmless from any and all claims and/or liability, fines, penalties and/or attorneys' fees arising from (i) the importation or exportation of that Customer's merchandise and/or any conduct of the Customer, including but not limited to the inaccuracy of entry, export or security data supplied by Customer or its agent or representative which violates any Federal, State, Local and/or other laws; (ii) that Customer's violation of applicable law; (iii) that Customer's breach of these Terms; or (iv) that Customer's gross negligence or willful misconduct. Customers shall further indemnify, defend, and hold Surfistics harmless against any and all liability, loss, damages, costs, claims, penalties, fines and/or expenses including but not limited to reasonable attorney's fees, which Surfistics may hereafter incur, suffer or be required to pay by reason of such claims; in the event that any claim, suit or proceeding is brought against Surfistics, it shall give notice in writing to Customer by mail at its address on file with Surfistics.

H. General Lien and Right To Sell Customer Property.

- (i) Surfgistics shall have a general and continuing lien on any and all property of Customer coming into Surfgistics' actual or constructive possession or control for monies owed to Surfgistics with regard to the shipment on which the lien is claimed, a prior shipment(s) and/or both;
- (ii) Surfgistics shall provide written notice to Customer of its intent to exercise such lien, the exact amount of monies due and owing, as well as any on-going storage or other charges
- (iii) Customer shall notify all parties having an interest in its shipment(s) of Surfgistics' rights and/or the exercise of such lien;
- (iv) Unless, within thirty (30) days of receiving notice of lien, Customer posts cash or letter of credit at sight, or, if the amount due is in dispute, an acceptable bond equal to 110% of the value of the total amount due, in favor of Surfgistics, guaranteeing payment of the monies owed plus all storage charges accrued or to be accrued, Surfgistics shall have the right to sell such shipment(s) at public or private sale or auction and any net proceeds remaining thereafter shall be refunded to Customer.

I. No Duty To Maintain Records For Customer. Customer acknowledges that pursuant to Section 508 and 509 of the Tariff Act, as amended, (19 USC §1508 and 1509) it has the duty and is solely liable for maintaining all records required under the Customs and/or other Laws and Regulations of the United States; unless otherwise agreed to in writing, Surfgistics shall only keep such records that it is required to maintain by Statue(s) and/or Regulation(s), but not act as a "recordkeeper" or "recordkeeping agent" for Customer.

J. Release Of Confidential Records Under 19 CFR §111.24. Customer recognizes that Surfgistics might be compelled by the United States Government and its agencies/authorities to disclose and/all records and communications protected under 19 CFR §111.24. Customer expressly authorizes Surfgistics to disclose any/all records and communications protected under 19 CFR §111.24 to the United States Custom and Border Protection and/or any other United States Government Entity compelling Surfgistics to release such information. Such release, if necessary, will be expressly communicated to Customer.

K. Obtaining Binding Rulings, Filing Protests, etc. Unless requested by Customer in writing and agreed to by Surfgistics in writing, Surfgistics shall be under no obligation to undertake any pre – or post Customs release action, including, but not limited to, obtaining binding rulings, advising of liquidations, filing of petition(s) and/or protest, etc.

L. Preparation and Issuance of Bill of Lading. Where Surfistics prepares and/or issues a bill of lading, Surfistics shall be under no obligation to specify thereon the number of pieces, packages and/or cartons, etc.; unless specifically requested to do so in writing by Customer or its agent and Customer agrees to pay for same, Surfistics shall rely upon and use the cargo weight supplied by Customer.

III. Vendor Specific Terms

A. Performance. Vendors shall perform all of their obligations to Surfistics as set forth in the applicable delivery order or bill of lading (together, a “**BOL**”) (i) with due care, skill, diligence; (ii) in a professional and workmanlike manner; and (iii) in accordance with high industry standards and practices.

B. Vendor Personnel. Vendors shall determine the methods, details, and means of performing its services. Surfistics will not control, direct, or supervise Vendor employees, independent contractors, permitted subcontractors, agents, and invitees (“Vendor Personnel”). Vendors shall use adequate numbers of qualified individuals with suitable training, education, experience and skills to perform the services. All Vendor Personnel shall meet the licensing, security, labor and site requirements for the locale where the Services are being performed. Vendors shall withhold and pay all amounts required for any employer or employee tax or contribution, including local, state and federal income tax, unemployment insurance and disability insurance. It shall be Vendors sole responsibility to compensate and/or pay Vendor Personnel.

C. Subcontracting. Vendor shall not subcontract any services in a work order without the prior written consent of Surfistics. If Surfistics provides such written consent, then Vendors shall be fully responsible for the performance of any subcontractors and the compliance with all of its obligations to Surfistics by any subcontractor.

D. Delivery and Shipment. Delivery and/or Shipment of Customers goods shall be strictly in accordance with the applicable Surfistics’ work order and any other written instructions provided by Surfistics from time to time. Any delays in shipment shall be reported immediately by Vendor to Surfistics. No partial deliveries or deliveries of additional items shall be made without Surfistics’ prior written consent. Surfistics reserves the right to cancel a work order in whole or in part at any time for any reason. Vendors shall bear all risk of loss, damages, or destruction.

E. Payment Terms. Unless otherwise provided in a work order, Surfistics shall pay Vendors within sixty (60) days upon receipt of Vendor’s undisputed invoice.

F. Indemnification. Vendor shall indemnify, defend, and hold harmless Surfistics and its affiliates, and each of their officers, directors, employees, and agents from and against all third-party claims, demands, suits, causes of action, awards, judgments and liabilities, including reasonable attorneys’ fees and costs arising out of (i)

Vendor's or Vendor Personnel's negligence or willful misconduct; (ii) breach of these Terms; or (iii) violation of applicable law.

G. No Lien. Neither Vendor nor any of its subcontractors or other third parties used by Vendor for the performance of the services will have any lien, claim or encumbrance upon any Surfistics or Surfistics' Customers' property, and Vendor hereby waives, and will cause each of its subcontractors and any other third party used by Subcontractor to waive, any lien, claim, or encumbrance upon any Surfistics or Surfistics' Customers' property.