

SURFspot General Terms and Conditions

Table of Contents:

Article 1 - Definitions
Article 2 - Identity of SURFmarket
Article 3 - Applicability
Article 4 - Offers
Article 5 - The contract
Article 6 - Right of withdrawal
Article 7 - Consumer obligations during the cooling-off period
Article 8 - Exertion of right of withdrawal by the consumer and associated costs
Article 9 - Obligations of SURFmarket upon withdrawal
Article 10 - Exclusions to right of withdrawal
Article 11 - Pricing
Article 12 - Fulfilment and additional warranty
Article 13 - Delivery and execution
Article 14 - Continuing performance contracts: duration, termination and extension
Article 15 - Payment
Article 16- Liability
Article 17- Complaints procedure
Article 18- Disputes
Article 19 - Additional or varying provisions

Article 1 - Definitions

The following definitions will apply to these terms and conditions:

1. **Supplementary contract:** A contract under which the consumer acquires products, digital content and/or services in connection with a distance contract, which goods, digital content and/or services are supplied by SURFmarket, or by a third party on the basis of an agreement between the third party and SURFmarket.
2. **Cooling-off period:** The period of time during which the consumer may invoke the right to withdrawal.
3. **Consumer:** The natural person not acting in a commercial, business, trade or professional capacity.
4. **Day:** A calendar day.
5. **Digital content:** Data that is produced and supplied in a digital format.
6. **Continuing performance contract:** A contract concerning the regular supply of goods, services and/or digital content for the duration of a certain period.
7. **Durable data carrier:** Any resource (including e-mail) that allows SURFmarket or the consumer to store any information addressed directly to him/it in a manner enabling both its future consultation or use for a period of time appropriate to the purpose for which the information was intended, as well as the verbatim reproduction of the stored information.
8. **Right of withdrawal:** The consumer's right to cancel the distance contract before the end of the cooling-off period.
9. **SURFmarket B.V.:** The owner of SURFspot, where products, digital content (and access thereto) and/or services are offered to consumers for remote order.
10. **Distance contract:** A contract concluded between SURFmarket and the consumer as part of an organised system for the remote sale of products, digital content and/or services, in which all steps up through the conclusion of the contract make exclusive or partial use of one or more remote communication technologies.
11. **Withdrawal template:** the European template withdrawal form which is included in Annex I to these general terms and conditions.
12. **Remote communication technology:** Any means that can be used to conclude a contract without the consumer and SURFmarket needing to be in the same room at the same time.

Article 2 - Identity of SURFmarket

SURFmarket B.V.
Chamber of Commerce registration number: 30099300

Registered office and visiting address

Moreelsepark 48
3511 EP Utrecht, the Netherlands

Accessibility

Facebook: www.facebook.com/surfspotnl
Twitter: www.twitter.com/surfspotnl

E-mail: info@SURFspot.nl

Monday-Friday: 09:00 - 17:00 (excluding weekends and public holidays)

Administration

Payment options:
SURFspot.nl, Utrecht
Bank: Rabobank
BIC code: FVLBNL22
IBAN code: NL41 FVLB 0699 9443 92

VAT number: NL 8004.51.442.B.01

Article 3 - Applicability

1. These general terms and conditions will apply to any and all SURFmarket offers and to all distance contracts concluded between SURFmarket and the consumer.
2. Before the distance contract is concluded, the text of these general terms and conditions will be made available to the consumer. If this is not reasonably possible, prior to conclusion of the contract SURFmarket will notify the consumer of how the general terms and conditions can be viewed at SURFmarket and offer to send them out as soon as possible free of charge at the consumer's request.
3. If the distance contract is concluded electronically, contrary to the paragraph above the text of these general terms and conditions may be made available to the consumer electronically prior to conclusion of the distance contract so that it can be easily stored by the consumer on a durable data carrier. If this is not reasonably possible, prior to conclusion of the distance contract the consumer will be notified of where the general terms and conditions can be viewed electronically, and that they will be sent out free of charge as soon as possible either electronically or by other means at the consumer's request.
4. In the event that specific product/service conditions apply in addition to these general terms and conditions, the second and third paragraphs above will apply accordingly. In the event of contradictory conditions, the consumer may invoke the applicable provision that is most favourable to him/her in each case.

Article 4 - Offers

1. If a limited validity period or certain conditions apply to an offer, such will be expressly stated in the offer.
2. The offer will contain a complete and accurate description of the products, digital content and/or services offered. This description will be detailed enough to enable the consumer to evaluate the offer effectively. Any images used by SURFmarket will present a faithful picture of the products, services and/or digital content. Any obvious mistakes or errors will not bind SURFmarket in any way.
3. All offers will contain sufficient information so as make it clear to the consumer what rights and obligations are associated with acceptance of the offer.

Article 5 - The contract

1. Subject to the provisions in paragraph 4, the contract will be concluded upon acceptance of the offer and fulfilment of the associated conditions by the consumer.
2. If the consumer accepts the offer electronically, SURFmarket will confirm acceptance of the offer immediately via electronic means. As long as this acceptance remains unconfirmed by SURFmarket, the consumer may dissolve the contract.
3. If the contract is concluded electronically, SURFmarket will implement appropriate technological and organisational measures to ensure the secure electronic transfer of data and provide a secure online environment. If the consumer can pay electronically, SURFmarket will ensure appropriate security measures.
4. SURFmarket may use any legally permissible means to ascertain whether the consumer is able to fulfil his/her payment obligations, as well as to verify any facts and factors that are important for entering into a distance contract in a responsible manner. If such investigation reveals just cause for SURFmarket not to enter into the contract, it will be entitled to refuse any order or application or to attach special conditions to the fulfilment thereof.
5. Upon delivery of the product, service or digital content at the latest, SURFmarket will furnish the consumer with the following information, either in writing or in such a way that it can be stored on a durable data carrier by the consumer in an accessible manner:
 - a. The visiting address of the SURFmarket branch to which the consumer may direct any complaints;
 - b. Either the conditions under which and the manner in which the consumer may invoke the right of withdrawal, or a clear statement excluding the applicability of the right of withdrawal;
 - c. Warranty and after-sales service information;
 - d. The price of the product, service or digital content including all taxes, the delivery charges (if applicable), and the method of payment, delivery and performance of the distance contract;
 - e. The conditions for terminating the contract if the contract term is for more than one year or for an indefinite period;
 - f. If the consumer has the right of withdrawal, the withdrawal template form.
6. For continuing performance contracts, the provisions in the previous paragraph will only apply to the initial delivery.

Article 6 - Right of withdrawal

Products:

1. Consumers have a minimum cooling-off period of 14 days in which to dissolve a contract for the purchase of a product without having to state a reason. SURFmarket may ask the consumer for the reason why, however he/she is under no obligation to state the reason(s) for wanting to withdraw.
2. The cooling-off period stated in (1) above commences on the day after the consumer (or a third party designated in advance by the consumer who is not the transport provider) receives the product, or:
 - a. if the consumer has ordered multiple products in one order: the day on which the consumer (or a designated third party) receives the final product. SURFmarket may refuse to fulfil multiple-product orders with varying delivery times, provided it clearly informs the consumer of such prior to the ordering process;
 - b. if the delivery of a product consists of multiple dispatches or components: the day on which the consumer (or designated third party) receives the final shipment or component;
 - c. for contracts involving the regular supply of products over a certain period of time: the day on which the consumer (or a designated third party) receives the first product.

Extended cooling-off period for products, services and digital content not supplied on a physical carrier upon failure to provide information on the right of withdrawal:

3. If SURFmarket does not provide the consumer with the legally required information on the right of withdrawal or with the withdrawal template, the cooling-off period will expire twelve months after the end of the original cooling-off period as laid down in the previous paragraphs of this article.
4. If SURFmarket provides the information described in the previous paragraph to the consumer within 12 months of the commencement of the original cooling-off period, the cooling-off period will expire 14 days after the day on which the consumer received the information.

Article 7 - Consumer obligations during the cooling-off period

1. During the cooling-off period, the consumer must treat the product and packaging with care, and only open or use the product to the extent necessary in order to establish the nature, features and functioning of the product. The basic premise is that the consumer may only handle and inspect the product to the extent that he/she would be permitted to do so in a store.
2. Consumers are only liable for a product's drop in value due to treatment of the product that goes beyond that described in paragraph 1.
3. Consumers are not liable for the drop in value of a product if SURFmarket fails to provide the consumer with all information that is legally required concerning the right of withdrawal either before or upon conclusion of the contract.

Article 8 - Exertion of right of withdrawal by the consumer and associated costs

1. If the consumer exercises the right of withdrawal, he/she must notify SURFmarket before the end of the cooling-off period, either using the withdrawal template form or by other unambiguous means.
2. The consumer must send the product back or hand it over to SURFmarket (or its representative) as soon as possible, but in any event within 14 days of the day following the notification mentioned in paragraph 1. This is not necessary if SURFmarket has offered to collect the product itself. The consumer will be considered to have observed the product return deadline if he/she has at least sent the product back by the end of the cooling-off period.
3. The consumer must return the product with all supplied accessories, if possible in the original condition and packaging, and in accordance with all clear and reasonable instructions issued by SURFmarket.
4. All risk and burden of proof associated with invoking the right of withdrawal in a correct and timely manner rests with the consumer.
5. The consumer will bear any costs directly associated with sending back the product. If SURFmarket has not stated that the consumer must bear these costs, or if SURFmarket offers to cover the costs itself, the consumer does not have to pay for sending the product back.
6. The consumer will not pay for services rendered if:
 - a. SURFmarket fails to issue the legally required information on the right of withdrawal, associated refunds or the withdrawal template form; or
 - b. the consumer has not expressly requested commencement of the services during the cooling-off period.
7. The consumer will not be liable for the costs associated with the full or partial delivery of digital content not supplied on a physical data carrier, if:
 - a. prior to the delivery thereof, he/she did not expressly agree to commencement of performance of the contract before the end of the cooling-off period;
 - b. he/she did not acknowledge that granting his/her permission would result in waiving the right of withdrawal; or
 - c. SURFmarket neglected to confirm this acknowledgement by the consumer.
8. If the consumer invokes his/her right of withdrawal, all supplementary contracts will be terminated by operation of law.

Article 9 - Obligations of SURFmarket upon withdrawal

1. If SURFmarket allows consumers to invoke the right of withdrawal by electronic means, it will immediately confirm receipt of any such notification.
2. SURFmarket will immediately refund all payments by the consumer, including any delivery costs charged by SURFmarket for returning the product, at the latest within 14 days of the day on which the consumer sent notification. Unless SURFmarket offers to collect the product itself, it may wait before reimbursing the consumer until it has received the product or until the consumer can provide proof of having sent it back, whichever is earlier.
3. When making the reimbursement, SURFmarket will use the same payment method used by the consumer, unless the consumer agrees to a different method. The consumer will incur no costs for the reimbursement.
4. If the consumer opted for a delivery option that is more expensive than the cheapest standard delivery, SURFmarket does not need to refund the additional costs for the more expensive method.

Article 10 - Exclusions to right of withdrawal

SURFmarket may exclude the following products and services from the right of withdrawal, but only if SURFmarket has clearly stated as much in its offer, or at least in good time prior to conclusion of the contract:

1. Service contracts, after full performance of the service, but only if:
 - a. performance commenced with the consumer's express prior permission; and
 - b. the consumer agreed to surrender his/her right of withdrawal as soon as SURFmarket completed performance of the contract;
2. Products produced according to the consumer's specifications that are not pre-fabricated and that are manufactured based on an individual choice or decision by the consumer, or that are clearly intended for a specific individual;
3. Products that spoil quickly or have a limited shelf life;
4. Sealed products that, for reasons of health protection or hygiene, are not suitable for return and whose seal has been broken subsequent to delivery;
5. Products that, due to their nature, have been irrevocably mixed with other products after delivery;
6. Sealed audio/video recordings and computer software whose seal has been broken after delivery;
7. Newspapers, magazines or journals, with the exception of subscriptions;
8. The delivery of digital content other than on a physical data carrier, but only if:
 - a. performance commenced with the consumer's express prior permission; and
 - b. the consumer declares that by granting permission, he/she surrenders the right of withdrawal.

Article 11 - Pricing

1. For the length of the applicability period stated in the offer, the prices of the products and/or services offered will not be increased, with the exception of pricing alterations resulting from changes to VAT rates.
2. Contrary to the paragraph above, SURFmarket products or services whose prices are dependent on fluctuations in the financial markets over which SURFmarket has no influence, may be offered at variable rates. This dependence on fluctuations and the fact that any listed prices are recommended prices will be stated in the offer.
3. Price increases within 3 months of the conclusion of the contract are only permitted if they are due to statutory regulations or provisions.
4. Price increases starting from 3 months after the conclusion of the contract are only permitted if SURFmarket has stipulated as such, and:
 - a. they are due to statutory regulations or provisions; or
 - b. the consumer is authorised to terminate the contract starting from the day on which the price increase becomes effective.
5. The prices listed in the offer for products or services will be inclusive of VAT.

Article 12 - Fulfilment and additional warranty

1. SURFmarket guarantees that the products and/or services will meet the requirements of the contract, of the specifications listed in the offer, the reasonable criteria for quality and/or usability, and the statutory provisions and/or government stipulations applicable on the date the contract was concluded. If agreed as such, SURFmarket will also guarantee that the product is suitable for extraordinary use.
2. Any additional warranty issued by SURFmarket, its supplier, manufacturer or importer will never limit the statutory rights and claims that the consumer may enforce against SURFmarket under the contract if SURFmarket fails to fulfil its share of the contract.
3. 'Additional warranty' is defined as any commitment by SURFmarket, its supplier, importer or manufacturer that issues the consumer with certain rights or claims beyond those that are required by law in the event that it fails to fulfil its share of the contract.

Article 13 - Delivery and execution

1. SURFmarket will take the greatest possible care when accepting and fulfilling orders for products, and when evaluating requests for the performance of services.
2. The address provided by the consumer will be used as the delivery address.
3. With due observance of the relevant provisions given in Article 4 of these general terms and conditions, SURFmarket will execute accepted orders with due speed, but within 5 days at the latest, unless another delivery period has been agreed on. If delivery is delayed, or if an order cannot be completed either fully or in part, the consumer will be notified of such no later than 5 days of having placed the order. In such cases, the consumer will be entitled to dissolve the agreement at no cost to him/her.
4. After dissolution as described in the paragraph above, SURFmarket will immediately refund the amount paid by the consumer.

5. The risks of damaged and/or lost products will be borne solely by SURFmarket until delivery to the consumer (or to a representative made known to SURFmarket in advance) has been completed, unless expressly agreed otherwise. If such a situation arises, the consumer must follow the instructions issued by SURFmarket.

Article 14 - Continuing performance contracts: duration, termination and extension

Termination:

1. The consumer may terminate a contract concluded for an indefinite period and for the regular delivery of products or services at any time, with due observance of termination regulations agreed on for this purpose and a notice period of no longer than one month.
2. The consumer may always terminate a contract concluded for a fixed period and for the regular delivery of products or services towards the end of the agreed term, with due observance of the termination rules agreed for this purpose and a notice period of no more than one month.
3. The consumer may terminate contracts described in the above paragraphs:
 - at any time, and will not be limited to termination at a particular time or within a certain period;
 - at least in the same manner in which they were entered into;
 - always subject to the same notice period that SURFmarket has stipulated for itself.

Extension:

4. A contract concluded for a fixed period for the regular delivery of products or services may not be automatically extended or renewed for a fixed period.
5. Contrary to the previous paragraph, a contract for a fixed period for the regular delivery of daily or weekly newspapers and magazines may be automatically extended for a fixed period of no longer than three months, provided the consumer may cancel the extended contract towards the end of the extended period subject to a notice period of no longer than one month.
6. A contract concluded for a fixed period and for the regular delivery of products or services may only be automatically extended for an indefinite period if the consumer is entitled to terminate the contract at any time subject to a notice period of no more than one month. The notice period will never exceed three months if the contract is for the regular delivery (but less often than once per month) of daily or weekly newspapers or magazines.
7. A fixed-term contract intended for the sampling of daily/weekly newspapers and magazines (a trial or introductory subscription) will never be automatically renewed, and will terminate automatically at the end of the trial or introductory period.

Term:

8. If the term of a contract is longer than a year, after one year the consumer may terminate the contract at any time subject to a notice period of no longer than one month, unless the principles of reasonableness and fairness speak against termination prior to the end of the agreed term.

Article 15 - Payment

1. Unless otherwise specified in the contract or supplementary conditions, amounts owed by the consumer must be paid within 14 days of the commencement of the cooling-off period or, if there is no cooling-off period, within 14 days of conclusion of the contract. For contracts pertaining to the provision of services, this period will commence on the day after which the consumer receives the contract confirmation.
2. General terms and conditions for product sales to consumers may never prescribe advance payments exceeding 50%. Any advance payments stipulated will never entitle the consumer to any rights concerning performance of the relevant order or service(s) prior to the stipulated advance payment having been made.
3. The consumer must report any inaccuracies in the payment details issued or stated immediately to SURFmarket.
4. If the consumer does not fulfil his/her payment obligation(s) on time and – after having received a reminder of late payment from SURFmarket and been given a period of 14 days in which to make the payment – fails to complete the payment within this 14-day period, he/she will owe statutory interest on the outstanding amount and SURFmarket will be entitled to charge any extrajudicial collection costs to the consumer. These collection costs will not exceed: 15% of outstanding amounts up to a total of €2,500; 10% of the next €2,500 and 5% of the next €5,000, with a minimum amount of €40. SURFmarket is entitled to deviate from these stated amounts and percentages in favour of the consumer.

Article 16 – Liability

1. SURFmarket will be liable for damages resulting from any shortcoming attributable to SURFmarket in fulfilling one of its obligations arising from this contract.
2. SURFmarket's maximum liability per claim will not exceed the value of the purchased product or service, or the contract value of the service.
3. SURFmarket cannot be held liable for consequential losses, including but not limited to: trading losses and/or damages due to business interruption, loss of profits, missed savings, drop in goodwill or loss of management time.
4. Nor is SURFmarket liable for damages suffered by the consumer in the following cases:
 - Damages due fully or in part to shortcomings on the part of the consumer, including the provision of incorrect or incomplete information;
 - Loss of or damage to data (and any resultant reduction in its usability or value);
 - Any type of damage caused by products and/or programs made available for free by SURFmarket, for demonstration/testing purposes or otherwise;
 - Wear-and-tear or degradation of the purchased product that is normal and to be expected;
 - Any damages due to failure to activate licence codes or download links, or to activate them on time.
5. The limitations and exclusions to SURFmarket's liability specified under 16.2 through 16.4 above will not apply if the damage was caused by intentional or deliberate reckless behaviour on the part of SURFmarket or its employees or agents.
6. Without prejudice to the remaining provisions in this contract, SURFmarket will not be liable for the compensation of any damage that is not communicated to SURFmarket in writing within a reasonable period after having been discovered or after it could reasonably be expected to have been discovered.

Article 17 - Complaints procedure

SURFmarket is currently working on its complaints procedure. To make a complaint, consumers may contact SURFmarket using the contact information provided in Article 2.

Article 18 - Disputes

Contracts between SURFmarket and the consumer to which these general terms and conditions pertain will be subject exclusively to Dutch law.

Article 19 - Additional or varying provisions

Any additional or varying provisions to these general terms and conditions may never be to the disadvantage of the consumer, and must be set out in writing or in such a way that they can be stored on a durable data carrier in an accessible manner by the consumer.

Annex I: Withdrawal template form



Please only truthfully complete and e-mail this form to retouren@surfspot.nl if you wish to exercise your right to withdraw from the purchase contract.

Note: It is **not** possible to withdraw from the contract if you have purchased digital content such as download products – please see our General Terms and Conditions.

I hereby withdraw from the purchase contract concerning the following product(s):

.....

Ordered on:/...../20..... and received on: /...../20.....

Order number:

First name and surname:

Address:

E-mail address:

Date (the day you sent this form)