

SURGE GENERAL TERMS & CONDITIONS



1. INTRODUCTION

- 1.1 These general terms and conditions ("**General Terms**") set out the agreement between Surge Fitness Limited, trading as Surge ("**we**", "**us**" or "**our**"), and any person receiving one or more of the Services performed by us ("**you**" or "**your**").
- 1.2 These General Terms are supplementary to the terms and conditions that apply in respect of each of the Services you receive pursuant to Clause 3.1 ("**Service Terms**"), which together with the Privacy Policy make up the agreement ("**Agreement**"). These General Terms will continue to apply to you for the relevant duration as set out in the relevant Service Terms. If there is a conflict between the General Terms and the relevant Service Terms, the relevant Service Terms will prevail.
- 1.3 While all of these terms are important, you should pay particular attention to:
 - 1.3.1 the conditions relevant to you while training at the Surge Studio as set out in Clause 4;
 - 1.3.2 our liability to you and your liability to us as set out in Clauses 9 and 10; and
 - 1.3.3 how we may make changes to the Services and/or the Agreement as set out in Clauses 11 and 12.

2. DEFINITIONS

- 2.1 The following words and phrases have the meanings as shown below:

Agreement	has the meaning given in Clause 1.2;
Credit or Debit Card	means the credit or debit card you used to sign up for an Introduction to Surge, Membership or any other services from us, or any other credit or debit card you notify to us by updating your online account;
Contraindications	means any of the following: active medical implants; epilepsy; pregnant; severe circulatory disorders; arterial circulatory disorders; strong bleeding tendencies (haemophilia); bleeding; abdominal wall hernia; inguinal hernia; tuberculosis; tumour diseases; arteriosclerosis in advanced stage; severe neurological disorders; diabetes mellitus; febrile diseases; acute bacterial or viral infections; or liver diseases, and as updated from time to time;
Data Protection Laws	means the Data Protection Act 1998, Directive 95/46/EC of the European Parliament and any laws or regulations implementing it, until such date as the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) or equivalent legislation shall apply and all other applicable laws (including judgments of any relevant court of law) and regulations relating to the processing of personal data, data privacy and data security, in each case as amended, extended or re-enacted from time to time and all orders, regulations, statutes, instruments or other subordinate legislation made thereunder in any jurisdiction from time to time;

Dispute	has the meaning given in Clause 14.1;
EMS Trial Session	means a trial of a machine based fitness training session using the Surge Training Gear with up to two (2) Users partaking in such training at any one time, which is conducted by one of our Surge Trainers;
EMS Training Device	means the electric muscle stimulation training device itself, the vest and any other accessories and equipment connected or associated with the electric muscle stimulation training vest, supplied to you during an EMS Trial Session or EMS Training Session;
EMS Training Session	means a machine based fitness training session using the Surge Training Gear with up to four (4) Users partaking in such training at any one time, which is conducted by one of our Surge Trainers;
Intellectual Property Rights	means patents, copyright and related rights, trade marks, company names and domain names, rights in designs and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world;
Introduction to Surge	has the meaning in the Surge Trial and Consultation Terms and Conditions;
Member	has the meaning in the Surge Membership Terms and Conditions;
Membership	has the meaning in the Surge Membership Terms and Conditions;
Opening Hours	means the relevant opening hours of a Surge Studio as displayed on our Website and at a Surge Studio, and as updated from time to time;
Privacy Policy	means our privacy policy available at: https://www.surge.co.uk/privacy , and as updated from time to time;
Service Terms	has the meaning given in Clause 1.2, and are the terms attached to the confirmation email relevant to the Services you have signed up to receive from us and such confirmation email is defined within such terms;
Services	means the services provided by us to you at a Surge Studio, as more particularly described in Clause 3.1 and the relevant Service Terms;
Surge Studio	means any one of the Surge fitness studios displayed on our Website from time to time;
Surge Studio Rules	means the Surge Studio house rules available on our Website, and as updated from time to time;
Surge Trainer	means the fitness instructor delivering an EMS Trial Session or EMS Training Session;
Surge Training Gear	includes an EMS Training Device, t-shirt, shorts and any other training equipment provided to you for the use within a Surge Studio;
User	has the meaning in the Surge Trial and Consultation Terms and Conditions;
We and our	has the meaning given in Clause 1.1;
Website	means our website located at: https://www.surge.co.uk/ ;
You and your	has the meaning given in Clause 1.1; and
Your Information	has the meaning given in Clause 13.1.

3. THE SERVICES

- 3.1 These General Terms apply to your receipt of any one or more of the Services performed by us. In addition to these General Terms, such Services will be governed by the relevant terms and conditions that apply as set out below:
- 3.1.1 an Introduction to Surge with one of our Surge Trainers in accordance with the Surge Trial and Consultation Terms and Conditions; and
 - 3.1.2 a Membership, in accordance with the Surge Membership Terms and Conditions.
- 3.2 You acknowledge that time shall not be of the essence for our performance of the Services under the Agreement, and we shall perform the Services within a reasonable time.

4. TRAINING CONDITIONS

- 4.1 You must abide by the Surge Studio Rules, any instructions, advice and/or guidance from any Surge Trainers, employees or other staff of a Surge Studio, while attending a Surge Studio and/or receiving the Services.

Contraindications & Illness

- 4.2 By entering into the Agreement you agree and acknowledge that you are not, or do not have or suffer from, any Contraindications, or if you do, you have sought independent medical advice as to the suitability of the Services for use by you prior to entering into the Agreement.
- 4.3 If you are, have or suffer from any Contraindications, you must provide us with written evidence from a doctor or medical professional that you are fit to receive the Services, before we can allow you to use the EMS Training Device.
- 4.4 Subject to Clause 4.3, you must not use the EMS Training Device if you, are, have or suffer from any Contraindications.
- 4.5 Subject to Clause 4.3, if you have any Contraindications, you must consult with one of our Surge Trainers before you can book an EMS Training Session. If we do not think it is safe for you to use the EMS Training Device, we may exercise our rights to terminate the Agreement, and if applicable your Membership, and refund all amounts charged by us to your Credit or Debit Card (as applicable).
- 4.6 You must not attend a Surge Studio if you are suffering from any infection or contagious illness.

Minors

- 4.7 By entering into the Agreement you agree and acknowledge that you are over the age of sixteen (16), or if you are under the age of sixteen (16), you have obtained consent from your parent or guardian before entering into the Agreement.
- 4.8 If you are under the age of sixteen (16), we will assess you during your Introduction to Surge. If we do not think it is safe for you to use the EMS Training Device, we may exercise our rights to terminate the Agreement, and if applicable your Membership, and refund all amounts charged by us to your Credit or Debit Card (as applicable) for Services that you have not yet received from us. You agree that we may retain such amounts charged by us for Services that you have received from us.

EMS Trial Session & EMS Training Sessions

- 4.9 Before participating in an EMS Training Session you must have received an Introduction to Surge pursuant to Clause 3.1.1.
- 4.10 You must arrive at the Surge Studio at least ten (10) minutes before the start of the EMS Trial Session you booked, otherwise we may cancel your place in the EMS Trial Session, and if we do and unless we inform you otherwise in writing or re-book an alternative EMS Trial Session for you (at a time agreed between you and us), you will lose your right to re-book an alternative EMS Trial Session.
- 4.11 You must arrive at the Surge Studio at least ten (10) minutes before the start of an EMS Training Session, otherwise we may cancel your place in the EMS Training Session you booked. If we cancel your place in the EMS Training Session, we may re-book an alternative EMS Training Session for you (at a time agreed between you and us), or you will (at our sole discretion) either:
 - 4.11.1 be unable to reuse your Surge Credit to book an alternative the EMS Training Session, and the Surge Credit you used to book the EMS Training Session will expire; or
 - 4.11.2 be entitled to re-book the next available EMS Training Session (only if we notify you of your right to do so in writing).
- 4.12 You must wear the Surge Training Gear during an EMS Trial Session or EMS Training Session.
- 4.13 You must not operate the EMS Training Device yourself, including changing any features or settings of the EMS Training Device, or changing the training levels or intensity. Only a Surge Trainer may operate the EMS Training Device on your behalf.
- 4.14 You must inform us immediately, stop using the EMS Training Device, and seek independent medical advice if:
 - 4.14.1 you feel any pain or discomfort while using the EMS Training Device; or
 - 4.14.2 you develop any Contraindications at any time during the term of the Agreement (as described in the relevant Service Terms).
- 4.15 You must not use the Surge Training Gear under the influence of alcohol nor under the influence of any other drugs.
- 4.16 You must book EMS Training Sessions via our Website (if applicable).
- 4.17 If we need to cancel an EMS Trial Session or EMS Training Session, we will notify you, and you will be entitled to re-book an EMS Training Session during the term of the Agreement (as described in the relevant Service Terms).
- 4.18 You must not abuse the training facilities at the Surge Studio, the Surge Trainers or any other Member or User.
- 4.19 You must not use the EMS Training Device more than once within any consecutive period of ninety-six (96) hours during the Membership Period.

5. USE OF OUR PROPERTY

- 5.1 You acknowledge that the Surge Training Gear shall remain our property at all times.
- 5.2 Your use of the Surge Training Gear is limited to use during your Introduction to Surge or an EMS Training Session (as applicable) and must be returned to us at the end of your Introduction to Surge or each EMS Training Session (as applicable). The Agreement does not grant you any right of ownership of the Surge Training Gear.

- 5.3 We may undertake routine checks of lockers after the Surge Studio Opening Hours and we will remove any property found within the lockers and store it for a maximum period of forty-eight (48) hours (excluding any wet items). If you do not claim property left in one of our lockers within forty-eight (48) hours, we may dispose of such property.

6. YOUR SAFETY

- 6.1 Our Surge Trainers and staff are not medically trained or qualified and we strongly recommend that you take independent medical advice before entering into the Agreement and/or receiving the Services.

7. RESERVATION OF RIGHTS

- 7.1 You acknowledge that all Intellectual Property Rights, title to and interests in the Services belong to either us or our suppliers and third party providers. These rights are protected by laws and treaties around the world and all such rights are reserved.
- 7.2 You acknowledge that you have no rights in, or to, the Services other than the limited right to use the Services, in accordance with the Agreement.

8. MAINTENANCE, REFURBISHMENTS AND/OR REPAIRS

- 8.1 You acknowledge that we may need to carry out maintenance, refurbishments and/or repairs of a Surge Studio or the EMS Training Devices from time to time, and if we do, we may need to close a Surge Studio, which may disrupt your receipt of the Services.
- 8.2 If we close a Surge Studio pursuant to Clause 8.1 you are entitled to use an alternative Surge Studio, and you agree that this will not be considered a material breach by us of the Agreement.

9. OUR LIABILITY

- 9.1 We will be liable to you for any loss: (i) causing death or personal injury arising from our negligence; (ii) caused by our fraud or fraudulent misrepresentation; or (iii) which cannot be restricted by law.
- 9.2 Subject to clause 9.1:
- 9.2.1 if you use the Services for personal use, we will not be liable to you for any loss or damage that was not foreseeable to you and us at the time you entered into the Agreement with us or that does not flow directly and naturally from our breach; and
- 9.2.2 if you use the Services for commercial or business use, we will not be liable to you for any loss or damage, whether in contract, tort (including negligence), and whether foreseeable or not, arising under or in connection with the Services, that does not flow directly and naturally from our breach.
- 9.3 Subject to clause 9.1 and 9.2, our liability to you will be limited to a maximum of £50.00 or the amount payable by you under the Agreement (whichever is lower) per claim for:
- 9.3.1 any breach of any implied statutory duty owed to you by us, including that we must provide the Services to you with reasonable care and skill and in accordance with the information provided by us about the Service;
- 9.3.2 loss of, or damage to, your property because of our negligence, wilful conduct or failure to provide reasonable care and skill, provided that you have taken steps to protect your property by using one of our lockers (note that we will not be liable where you have not used one of our lockers); or

- 9.3.3 any other loss that flows directly and naturally from our breach.
- 9.4 Subject to Clause 9.1, by attending a Surge Studio and receiving the Services, you acknowledge and accept that we will not be liable for any theft or unauthorised use by a third party of any data you submit to us, provided that we have taken reasonable precautions to keep such data secure.

10. YOUR LIABILITY

- 10.1 In addition to any liability as set out in the terms and conditions applicable to any of the Services, you will be liable to us (whether caused by your negligence or wilful conduct) for any damage caused by you to:
- 10.2 the Surge Training Gear before, during or after an EMS Trial Session or EMS Training Session (as applicable); or
- 10.3 our training facilities at the Club.
- 10.4 You are responsible for your own safety while using the training facilities and you must ensure that you operate any training equipment correctly, and if you are unsure of how to do so, you must ask a Surge Trainer or member of our staff before using the training equipment.

11. CHANGES TO THE SERVICES

- 11.1 Subject to Clause 11.3, we may make improvements and/or changes to the Services at any time and we will notify you of these changes in accordance with Clause 12.2.
- 11.2 Between receipt of the notice pursuant to Clause 11.1, and the proposed date of an improvement and/or change, if you notify us in writing that you do not accept the improvement and/or change, we may decide (in our sole discretion) to either: (i) continue the Agreement (including your Membership, if applicable) without implementing the improvement and/or change, and the Services you receive will remain unchanged; or (ii) terminate the Agreement (including your Membership, if applicable).
- 11.3 By continuing to receive the Services from the date an improvement or change takes effect, you are accepting such improvements or changes.
- 11.4 We are under no obligation to notify you of any improvements and/or changes to the Services that result in minor adjustments or corrections to the Services.

12. CHANGES TO THE AGREEMENT

- 12.1 We may make changes to the Agreement, including introducing new terms, which are the result of: (i) a change in the law or our business; (ii) necessary for the provision of the Services; or (iii) any improvements to the Services.
- 12.2 Subject to Clause 12.5, if we make any changes (including any changes to our policies), we will: (i) give six (6) weeks prior written notice to you by email; and (ii) make available a copy of the new terms and conditions on our Website, which will take effect from the date we publish such terms on our Website.
- 12.3 Between receipt of the notice pursuant to Clause 12.2, and the proposed date of a change, if you notify us in writing that you do not accept the change, we may decide (in our sole discretion) to either: (i) continue the Agreement (including your Membership, if applicable) without implementing the change, and the terms of your Agreement will remain unchanged; or (ii) terminate the Agreement (including your Membership, if applicable).

- 12.4 By continuing to receive the Services from the date a change takes effect, you are accepting such changes.
- 12.5 We are under no obligation to notify you of any changes to the Agreement that result in minor adjustments or corrections to the Agreement.

13. HOW WE USE YOUR INFORMATION

- 13.1 You agree that information provided to us by you, or collected by us about you (“**your Information**”) is governed by our Privacy Policy, and we agreed to process, use and store your Information in accordance with Data Protection Laws.
- 13.2 You acknowledge and agree that we may use your Information to provide you with information about our Services or services similar to the Services.
- 13.3 We reserve the right to take photographs of our training facilities at a Surge Studio for press and promotional purposes, in which you may or may not be included, provided that we provide notice in advance to you.
- 13.4 If you contact us via telephone, you acknowledge that we may record telephone calls for training and/or monitoring purposes.

14. DISPUTES, COMPLAINTS AND HOW TO CONTACT US

- 14.1 The laws of England govern the Agreement. In the event of a dispute in connection with the Agreement (“**Dispute**”), you agree that the courts of England will deal exclusively with such Dispute.
- 14.2 If you have a complaint or query about anything in connection with the Agreement, you may contact us at info@surge.co.uk. We have procedures in place to make sure that we handle your complaint fairly and quickly.

15. OTHER IMPORTANT TERMS

- 15.1 You must provide us with an email and postal address and phone number and let us know if any of these change during the term of the Agreement (as described in the relevant Service Terms).
- 15.2 You must send all written notices to the address mentioned in the confirmation email relevant to the Services you have signed up to receive.
- 15.3 We may transfer our rights or obligations under the Agreement or arrange for any other person to carry out our rights or obligations under the Agreement, and will provide you with notice in writing (which includes email) if this happens. You may not transfer any of your rights or obligations under the Agreement.
- 15.4 Subject to Clause 14.1, if any court considers any clause of the Agreement is illegal, invalid, or unenforceable, such clause will not apply to you or us (as applicable), and will not affect the validity or enforceability of the remainder of the terms of the Agreement.
- 15.5 If you or we fail to enforce any of our rights under the Agreement, it will not mean that you or we (as applicable) have waived our ability to enforce such rights.
- 15.6 Only you and we may enforce the terms of the Agreement, and the Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce the terms of the Agreement.
- 15.7 The language of the Agreement is English and all notices and information given under the Agreement will be in English.