

## Host Agreement

THIS HOST AGREEMENT (“**Agreement**”) is entered into by and between Surfline/Wavetrak, Inc. (“**Surfline**”) and \_\_\_\_\_ (“**Authorized Party**”).

Surfline owns, operates and maintains Internet-based streaming high-definition cameras and video equipment and weather stations (collectively, the “**Equipment**”) for the purpose of providing, via the Internet and mobile applications, images and video of surf and weather conditions to its users. Authorized Party is the owner, agent of owner, occupier, or otherwise authorized party of the Properties (defined as the title and address below) and subject to the terms and conditions of this Agreement agrees to provide Wavetrak with the necessary facilities and assistance to install, operate and maintain the Equipment on the Properties (the “**Services**”).

### “**Properties**”:

1. The Bandstand Pavilion, Esplanade Park, Capitola, CA 95010
2. Capitola Wharf, 1400 Wharf Road, Capitola, CA 95010

“**Consideration**”: \$339.00 Monthly Cam Host Fee. Host Text Link displayed on the dedicated camera pages on Surfline website and apps. Host Ad Banner displayed on the dedicated camera pages on Surfline website. A Capitola Wharf Camera for live monitoring of the Wharf Reconstruction. This camera will be relocated and renamed Capitola State Beach after the Wharf Construction has been completed. Ad-free Live Embed Camera Streams from the Capitola, Capitola Jetty, and Capitola Wharf cameras with timeout for display on Authorized Party’s websites. Camera Rewind File Access, Retrieval, and Removal upon request. Surfline VIP Premium Subscriptions Redeem Codes (amount TBD).

**Estimated Installation Date(s)**: September 2023

In consideration of the mutual obligations set out in these conditions the parties agree as follows:

### **1. Installation and Ownership**

**1.1. Installation and Removal.** (a) Surfline will select the Equipment to be installed at the Properties. (b) Authorized Party grants permission to Surfline (including any employee, agent or subcontractor appointed by them) to enter onto the Properties on a mutually agreed-upon installation date for the purpose of installing the Equipment at a mutually agreed-upon location on the Properties. Authorized Party must ensure that such access is provided safely to Surfline and that Authorized Party is present on the installation date, or someone who can give Surfline instructions on their behalf (and is 18 years old or over) is present. (c) Installation may require the consent of someone else, for example the occupier or owner of the Properties, the landlord, the local council or authority, and it is the absolute responsibility of Authorized Party to obtain written consent from such person for the Equipment to be installed and remain installed at the Properties and Authorized Party must provide that written consent to Surfline on or before the installation date. Authorized Party will indemnify and hold harmless Surfline from and against any losses in the event that such consent has not been provided. (d) Within seven (7) days of the date of installation, Surfline will provide written confirmation of the items of Equipment that were installed. (e) Following the termination or expiration of this Agreement Surfline will remove the Equipment within a reasonable period.

**1.2. Ownership of the Equipment.** All Equipment is and will at all times remain the absolute and exclusive Properties of Surfline. Authorized Party, and anyone else associated with the Properties, will not assert any right, title or interest in or to the Equipment.

**1.3. Ownership of Images and Data.** Any and all other materials or information concerning the business, operations or plans of Surfline, including, but not limited to, images, photographs, audio or video recordings and data captured by the Equipment (collectively, “**Company Materials**”), is and will at all times remain the absolute and exclusive Properties of Surfline. Authorized Party will not assert any right, title or interest in or to the Company Materials. Authorized Party agrees that, immediately upon Surfline’s request and in any event upon the termination of this Agreement, Authorized Party shall promptly deliver to Surfline all Company Materials in Authorized Party’s possession.

### **2. Surfline Obligations**

**2.1. Installation and Operation.** Surfline will provide, install, operate and maintain the Equipment. Unless otherwise agreed to, Surfline will be solely responsible for all costs associated with the installation, operation and maintenance of the Equipment.

**2.2. Consideration.** Surfline agrees to provide, and Authorized Party agrees to accept the “**Consideration**” for the provision of the Services hereunder as of the date the Equipment is installed. Authorized Party shall be responsible for paying all required local, state and federal taxes related to compensation earned by Authorized Party under this Agreement.

**2.3. LIMITATION OF LIABILITY (PLEASE READ CAREFULLY).** SURFLINE WILL BE LIABLE FOR ANY DAMAGE TO THE PROPERTIES THAT OCCURS AS A DIRECT RESULT OF THE INSTALLATION, MAINTENANCE, OR REMOVAL OF THE EQUIPMENT UP TO \$100,000. EXCEPT AS EXPRESSLY PROVIDED HEREIN, SURFLINE WILL NOT BE LIABLE FOR ANY OTHER LOSSES THAT ARE CONSEQUENTIAL OR INDIRECTLY SUFFERED BY AUTHORIZED PARTY (OR ANY THIRD PARTY) AS A RESULT OF THE SERVICES. SURFLINE’S TOTAL AGGREGATE LIABILITY TO AUTHORIZED PARTY FOR ALL LIABILITY ARISING OUT OF THIS HOST AGREEMENT WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE AT LAW OR IN EQUITY IS LIMITED TO \$1,000 (USD).

### **3. Authorized Party Obligations**

**3.1. Due Authorization and Facilities.** Authorized Party represents and warrants that it is duly authorized to enter into this Agreement. Authorized Party will provide: (i) a suitable, stable and secure location and space for the Equipment; and (ii) a suitable and stable electrical connection and electricity for the Equipment, each as determined in the sole discretion of Surfline.

**3.2. Access.** Authorized Party hereby grants to Surfline permission to enter the Properties upon no less than twenty-four (24) hours’ notice (such notice to be provided by email or writing) to Authorized Party, for the purpose of replacing or maintaining the Equipment.

**3.3. Exclusivity.** During the Term (as defined below), Authorized Party shall not enter into any agreement with any other party with regards to the installation of cameras or video equipment on the Properties and shall not permit (unless already present on the Properties) any weather station, webcam or other similar equipment (collectively, “**Additional Equipment**”) to be located on the Properties for the purpose of recording, streaming or transmitting images or video of surf or weather conditions for or to any party other than Surfline. Notwithstanding the foregoing, the installation of Additional Equipment for purposes that do not compete with the Surfline business shall be permissible, provided that Authorized Party notifies Surfline in writing at least thirty (30) days prior to the installation of any Additional Equipment along with an explanation of the purpose for such installation.

**3.4. Confidential Information.** During the Term, Authorized Party will have access to confidential, proprietary, or trade secret information of Surfline, whether or not marked as “**confidential**” or “**proprietary**”, including information which is not generally known to the public including, without limitation, business methods and plans, Equipment make and model and installation methods, and network configurations (collectively, the “**Confidential Information**”). Confidential Information includes not only information belonging to Surfline which existed before the date of this Agreement but also information obtained by Authorized Party during the Term and thereafter. Please be advised, information about Surfline employees or contractors, including names and contact information, is Confidential Information. Any third party inquiries regarding the Equipment or subject matter of this Agreement can be directed to Surfline Customer Service at [support@surfline.com](mailto:support@surfline.com). Authorized Party agrees that its use of Confidential Information is subject to the following restrictions during the Term and for an indefinite period thereafter so long as the Confidential Information have not become generally known to the public. Authorized Party will not publish or disclose or allow to be published or disclosed, Confidential Information to any third party or person who is not an employee of Surfline. Upon termination of this Agreement for any reason, Authorized Party will surrender to Surfline all documents and materials in its possession or control which contain Confidential Information. Authorized Party will not use any Confidential Information to engage in competition with Surfline at any time during the Term or after the termination of this Agreement.

**3.5. Management of Equipment.** Authorized Party will not move, relocate, access or otherwise interfere with the Equipment except at the direction of Surfline.

**3.6. Authorized Party Indemnity.** Authorized Party indemnifies and will continue to indemnify and hold harmless Surfline from all direct and indirect expenses, costs, damages and losses (including legal costs on a solicitor and own client basis) that are suffered or incurred by Surfline arising directly or indirectly from any negligent or other wrongful act or omission of Authorized Party, or its other employees, agents, subcontractors in relation to the Equipment.

### **4. Term & Termination**

**4.1. Term.** This Agreement will commence as of the Execution Date and will continue in effect for three (3) years (the “**Initial Term**”), unless terminated earlier pursuant to this Section 4, provided, however, that unless otherwise agreed to in writing by the Parties upon 60 days prior notice, this Agreement will automatically renew for successive terms of one (1) year each (each a “**Renewal Term**” and, together with the Initial Term, the “**Term**”).

**4.2. Termination for Cause.** Either party may terminate this Agreement upon written notice if the other party materially breaches any of the terms or conditions of this Agreement and, if the breach is capable of remedy, fails to promptly remedy that breach within thirty (30) business days of written notice of such breach. Notwithstanding the foregoing, the Parties acknowledge and agree that a breach of Section 3.4 is not curable and, therefore, no cure period is extended and this Agreement may be terminated immediately for a breach of Section 3.

**4.3. Termination for Convenience.** Either party may terminate this Agreement at any time and for any reason by giving other party thirty (30) days prior notice.

**4.4. Effects of Termination.** Upon the termination of this Agreement for any reason, Surfline shall have the right to, and Authorized Party hereby grants permission to Surfline to enter the Properties to remove the Equipment upon no less than 24 hours prior notice. Authorized Party hereby grants Surfline a right of first right of refusal with respect to any future contract of a similar nature regarding installation of Internet-based streaming cameras or video equipment on the Properties for a period of one (1) year following termination of this Agreement.

**5. Insurance.** During the Initial Term and each Renewal Term, Surfline will maintain a policy of comprehensive general liability insurance, including personal injury and broad form Properties damage liability coverage with a minimum combined single limit of \$2,000,000 per occurrence.

**6. Notices.** Any notices that are permitted or required under the terms of this Agreement shall be sent by overnight courier, postage prepaid, to the addresses specified in this agreement or by email provided that proof of transmission is retained to the email address set forth below the signature block or, or to such other address as a Party may specify by notice in accordance with this provision. Notice is effective upon receipt at the Party’s last designated address.

**7. Governing Law.** This Agreement shall be interpreted, construed, governed and enforced in accordance with the laws of the State of California.

**8. Assignment.** Authorized Party shall not have the right or ability to assign or transfer any rights or obligations under this Agreement without the written consent of Surfline. Any attempt to do so shall be void. Surfline may fully assign and transfer this Agreement in whole or part without the prior written notice or consent of Authorized Party. Where Authorized Party wishes to sell or vacate the Properties then they shall contact Surfline immediately and Surfline shall be entitled to terminate this Agreement or to assign to an assignment of this Agreement to the new occupant/owner of the Properties. This Agreement shall inure to the benefit of the parties and their successors and permitted assigns.

In witness whereof, the Parties have executed this Agreement as of \_\_\_\_\_ (“**Execution Date**”).

Authorized Party Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Email for Notice: \_\_\_\_\_

Address for Notice: \_\_\_\_\_

Surflife Signature: \_\_\_\_\_

Name: John Marcon

Title: Vice President of Operations

Email for Notice: [camera@surflife.com](mailto:camera@surflife.com)

Address for Notice: 300 Pacific Coast Hwy., Suite 310, Huntington Beach, CA 92648