

SURPRISE.COM PARTNER AGREEMENT

Surprise.com Incorporated, a Delaware corporation (“**SDC**”), provides and manages an employee engagement and rewards software platform known as Surprise.com™ (the “**Surprise Platform**”). The Surprise Platform is an employee engagement and rewards program that is hosted and managed by SDC.

By signing up for the Surprise Platform and agreeing to the terms and conditions set forth in this **SURPRISE.COM PARTNER AGREEMENT** (this “**Agreement**”), the business organization listed in the SDC Order Form (the “**Partner**”) affirmatively agrees and consents to the terms and conditions described in this Agreement, which Agreement is entered into by and between Partner and SDC, effective as of the earlier to occur of Partner’s completion and signing of such SDC Order Form or both Parties’ execution of this Agreement (the “**Effective Date**”), as well as any additional terms and conditions posted to the Portal, Prize Website (both defined below) or SDC’s website at <https://surprisehr.com/legal>, each of which may be updated by SDC in its sole discretion from time to time without prior notice to Partner, and which are incorporated into and are deemed part of the Agreement by reference (collectively, “**Online Terms**”). Partner agrees that it bears the responsibility to check the relevant websites for updates to all applicable Online Terms. Partner also agrees that tapping the forward arrow or clicking “accept” or “agree” to the terms and conditions set forth in this Agreement has the same effect as physically signing this Agreement or a SDC Order Form and any and all applicable Online Terms. Partner and SDC shall each be referred to herein as a “**Party**” and collectively as the “**Parties**”.

AGREEMENT

In consideration of the mutual premises, covenants and agreements herein contained, and intending to be legally bound hereby, the Parties agree as follows:

1. Surprise Platform

1.1 Platform Description. Partner supplies SDC with the email addresses for its employees (or others, such as contractors, whom SDC deems to be eligible for participation). SDC then delivers periodic email messages (each a “**Platform Communication**”), at a frequency and on a date to be determined by Partner using the Platform’s customizable portal interface (the “**Portal**”) or otherwise communicated to Partner’s designated account manager. Each email message is delivered to all participating employees (each cumulative transmission a “**Delivery**”). SDC has developed a number of “appreciation messages” that can be included in the Platform Communications – one message for each Delivery. Partner may choose one of the available messages or submit its own through the Portal. Each Platform Communication within an agreed period (the “**Prize Period**”) will advise recipients that they are on their way toward becoming eligible to win one of several identified prizes. The Platform Communication in the last Delivery for that Prize Period will include instructions advising employees on how they can determine whether they have won a prize. The instructions will direct the employees to a website hosted by SDC but that may be cobranded with Partner (the “**Prize Website**”). Prizes will be awarded randomly based on SDC’s proprietary algorithm. SDC makes available one or more prize options to Partner, which Partner will select as set forth below.

1.2 Platform Customization. Partner is responsible for tailoring all customizable aspects of the Surprise Platform, including but not limited to those identified in this Section.

1.2.1 Partner shall specify through the Portal which among a SDC-predefined list of prize types and options it wishes to offer during each Prize Period and the total number of Deliveries within each Prize Period.

1.2.2 Partner also shall specify whether it wishes the Prize Website to be co-branded and, if so, shall upload or deliver to SDC any Partner logos or marks that it desires be included on the Prize Website in such format and pursuant to such specifications that SDC requires for such purpose. SDC also may offer Partner the ability to choose from a selection of custom colors or designs.

1.2.3 Partner is responsible for delivering to SDC all email addresses for all full-time employees and any other intended recipients of Platform Communications in such format and pursuant to such specifications that SDC requires for such purpose. Partner, and not SDC, is solely responsible for ensuring the accuracy of those email addresses and for ensuring that they remain current throughout the Term.

1.2.4 The Portal may contain additional terms applicable to the Surprise Platform. Those terms are incorporated into this Agreement. Because elements of the Surprise Platform must be defined by Partner, the Surprise Platform will not become active for any Partner until it has completed the required selections on the Portal.

2. LICENSE AND ACCESS

2.1 **License Grant.** SDC may provide certain aspects of the Surprise Platform or the services described herein to Partner under a “Software as a Service” model through the Portal, Prize Communications, Prize Website, and other SDC websites and related databases and servers (collectively, the “*Services*”, with the software residing on the servers referred to herein as the “*Software*”). Subject to the terms of this Agreement, SDC hereby grants to Partner for the duration of the Term a non-transferable, limited, nonexclusive license (without the right to sublicense) to access and use the Services and Software solely for the purposes described herein.

2.2 **Restrictions.** Partner acknowledges that the Surprise Platform, Services and Software contain valuable trade secrets of SDC and its suppliers. Accordingly, except as expressly permitted under Section 2.1 above, Partner agrees not to, and agrees not to assist any third party in attempting to: (i) modify, adapt, alter, translate, or create derivative works from the Surprise Platform, Services or Software; (ii) merge the Surprise Platform, Software or Services with other software or data; (iii) reverse engineer, decompile, or disassemble the Software or any other software used to provide the Surprise Platform or any aspect of the Services, or otherwise attempt to derive the source code for any object code portion of such software or attempt to gain access to any underlying code used to implement or deploy the Surprise Platform, Services or Software; or (iv) otherwise use or copy or attempt to use or copy the Surprise Platform, Services or Software. Without limiting the generality of the foregoing, Partner agrees that, for a period of three (3) years following the termination of this Agreement, Partner will not, and will not assist any third party to, create, adopt, use, market or promote any product, service or program which competes with or which offers substantially similar features and functionality as the Surprise Platform.

2.3 **Trademark License.** Subject to the terms and conditions of this Agreement, Partner hereby grants to SDC and its affiliates (“*Licensee*”) for the duration of the Term a non-exclusive, limited license to use Partner’s trademarks, service marks and logos owned by Partner (“*Partner Marks*”) solely for use in connection with the Surprise Platform as contemplated herein and to refer to Partner in connection with the Surprise Platform. It is understood and agreed that Partner shall retain all right, title and interest in and to Partner Marks.

2.4 Third Party Services and Platform Communication Delivery. Partner shall be responsible for obtaining services from third party vendors for Internet access to enable receipt of Platform Communications, access to the Prize Website, Portal and other website or Internet features (“*Third Party Services*”). The contractual relationship, including the obligation to pay for these Third Party Services, will be directly between Partner and the third party service provider(s). SDC will have no responsibility for any damages or loss that may result from interruption or delay in Third Party Services. Moreover, SDC has no responsibility if Partner firewall or server configuration or other security or system settings prevent delivery of Platform Communications. Partner is responsible for notifying SDC of non-delivery and making the necessary adjustments to permit successful delivery.

3. TERM AND TERMINATION

3.1 Term. The term of this Agreement shall begin on the Effective Date. The term of this Agreement shall continue for one year unless otherwise stated in the SDC Order Form executed by and between Partner and SDC. That term shall renew automatically ninety (90) days prior to the end of the then-current term for successive one-year terms (collectively with the initial term, the “*Term*”) unless earlier terminated as provided in Section 3.2. “Termination” as used in other sections of this Agreement (other than Sections 3.1 and 3.2) shall include expiration at the end of the Term.

3.2 Termination. The Surprise Platform may be suspended or terminated by either Party at any time upon written notice. In the event of termination by Partner, such termination will take effect upon the conclusion of the then-current Term. Upon termination of this Agreement, Partner will have no right to access or use the Surprise Platform, Services or Software under this Agreement. All provisions of this Agreement which by their nature extend beyond the termination or expiration of this Agreement will survive any termination or expiration of this Agreement.

4. COMPENSATION

4.1 Fees. The Fee for the Surprise Platform will be paid annually and calculated based on the SDC Order Form executed by and between Partner and SDC for each email address to which Platform Communications are intended to be sent. For avoidance of doubt, each email address provided to SDC for purposes of Delivery shall count toward the Fee, regardless of whether the email address is incorrect or is a duplicate address for the same recipient. All fees payable pursuant to this Agreement shall collectively be referred to as “*Fees*.”

4.2 Payment of Fees. SDC will invoice Partner annually, in advance, based on the number of email addresses Partner reasonably projects will be included in the Surprise Platform for the current Term. Partner shall pay the invoiced amount and any and all other outstanding amounts due to SDC within fourteen (14) days receipt of such invoice. In the event the actual number of email addresses in any given Term differs from the projection on which the fee was calculated, a revised statement will be generated and a credit applied or invoice submitted, as applicable, during the subsequent Term. If an invoice is submitted, payment will be made by Partner within fourteen (14) days of receipt. In no event shall a refund be provided. In the event of overpayment, a credit will be applied against the successive Terms’ payments until the credit is exhausted.

Partner may not withhold any Fees owed unless it submits on or before the due date a statement of goodfaith dispute, which statement sets out a detailed explanation of the basis for the dispute. Any amount not contested within thirty (30) days of receipt of the invoice may not be subsequently disputed by

Partner, unless due to fraud or willful misconduct of SDC that prevented discovery of the basis for the dispute.

4.3 Taxes. All Fees exclude any sales, use, excise, import, export, income, value added, universal service charge, withholding or other similar taxes or governmental charges, including any related penalties and interests however designated, with respect to the products and services provided hereunder, other than taxes based on net income of SDC (collectively, “*Taxes*”). Partner will pay any Taxes with respect to the products and services provided by SDC to Partner under this Agreement, including but not limited to the award of the prizes. Taxes reflected on the invoice will be paid in the same manner and subject to the same terms as Fees. For avoidance of doubt, SDC will not be responsible for Taxes owed in connection with the award to or receipt of prizes by winners. Partner will reimburse, indemnify and hold harmless SDC for all liabilities for Taxes.

4.4 Late Fees. In the event Partner fails to make any payments when due under this Agreement, Partner may be charged a late fee on any amount that is not paid when due at a rate of one and one-half percent (1.5%) per month or the maximum rate allowed by applicable law, whichever is lower, calculated from the due date until the date paid. SDC will also be entitled to recover from Partner any out-of-pocket expenses SDC incurs in collecting payments due. These expenses may include, without limitation, any bank charges for returned checks, collection agency fees, and legal expenses, including court costs and attorneys’ fees. Without limiting SDC’s other rights under this Agreement, if a payment is late and not cured within ten (10) days after notice, SDC may suspend Partner’s access to the Surprise Platform, Services and Software until all amounts due and late fees are paid in full, without in any way affecting its rights under this Agreement. SDC may enforce the foregoing rights without waiving any and all other rights or remedies it may have for any breach of this Agreement.

5. PRIZES

5.1 Prizes. Prizes may consist of gift or prepaid cards or merchandise, travel, lodging or other services. SDC makes no representation regarding the cost of the prizes and retains sole discretion regarding the sourcing of prizes (including any brands or varieties to be offered) and method and price of purchase.

5.2 Delivery of Prizes to Winners. Subject to the terms and conditions of this Agreement, SDC shall use commercially reasonable efforts to deliver prizes to winners as soon as is reasonably practicable but within one (1) year of their award. Winners will be notified of their prize eligibility by email communication to the email address utilized for Platform Communications and will be directed to visit the Prize Website to claim their prize. Prizes may be delivered electronically if the nature of the prize permits electronic delivery, mailed via U.S. mail to the address provided by the prize winner at the Prize Website or by such other reasonable means that SDC may elect.

6. INTELLECTUAL PROPERTY OWNERSHIP; DATA AND SECURITY

6.1 SDC Intellectual Property Ownership. The Surprise Platform, Services and Software (including their “look and feel,” graphics, editorial content, images, designs, logos and buttons, excluding any Partner Marks), and all other intellectual property rights therein and relating thereto (collectively, the “*SDC IP*”), are the exclusive property of SDC, its affiliates and their respective suppliers. This Agreement does not grant Partner title to, or any ownership interest in, any SDC IP. All rights in and to the SDC IP not expressly granted to Partner, and all other rights not expressly granted, are reserved by SDC, its affiliates, and their respective suppliers. There are no implied licenses granted under this Agreement. Without limiting the generality of the foregoing, it is understood and agreed that SDC and its

affiliates shall retain all right, title and interest in and to their respective trademarks, service marks, and logos, including, without limitation, the marks “SURPRISE.COM” and “SURPRISE.COM CELEBRATE” (collectively, the “*SDC Marks*”). Partner will not adopt, use or register any SDC Marks or any other trademarks, service marks, logos or name that is identical to or confusingly similar with any trademarks of SDC. Nothing contained in this Agreement will give Partner any interest in SDC Marks. Partner agrees that it will not, at any time during or after the Term, assert or claim any interest in or do anything which may adversely affect the validity or enforceability of any SDC Marks.

6.2 Partner Intellectual Property Ownership. As between Partner and SDC, Partner Marks are the exclusive property of Partner. This Agreement does not grant SDC title to, or any ownership interest in, any Partner Marks. All rights in and to the Partner Marks not expressly granted to SDC, and all other rights not expressly granted, are reserved by Partner. There are no implied licenses granted under this Agreement. Without limiting the generality of the foregoing, it is understood and agreed that Partner shall retain all right, title and interest in and to the Partner Marks.

6.3 Data. SDC will receive email addresses of Partner employees and other intended recipients of Platform Communications in connection with the Surprise Platform. SDC acknowledges and agrees that it will not use those email addresses for any purpose other than the delivery of Platform Communications, prize notifications or in connection with other SDC services and will not use any other information obtained from Partner employees or other intended recipients of Platform Communications except in connection with the Platform (including delivery of any prizes) or other SDC services. SDC will not publicize the names or likenesses of any prize winners without their express permission. Receipt or redemption of prizes will not be conditioned on such permission. Notwithstanding the foregoing, Partner agrees SDC will be the sole and exclusive owner of all data obtained through the Surprise Platform concerning or relating to employee participation, preferences and use of the Surprise Platform. SDC retains the right to retain, use and disclose, solely in aggregated, anonymized form, all data obtained through the Surprise Platform.

7. REPRESENTATIONS AND WARRANTIES; DISCLAIMER

7.1 Representations and Warranties. Partner hereby represents, warrants and covenants to SDC and its affiliates that: (a) Partner is eligible to become a partner in the Surprise Platform and has the right, power and ability to enter into and perform under this Agreement; (b) the name identified by Partner when Partner registered for its account with SDC and entered into this Agreement is Partner’s full legal name; (c) Partner and Partner’s performance hereunder will comply with all federal, state and local laws, rules and regulations applicable to Partner’s business and Partner’s performance hereunder, including any applicable tax laws and regulations; (d) Partner will not use the Surprise Platform, Services or Software, directly or indirectly, for any fraudulent or illegal undertaking, or in any manner so as to interfere with the normal operation of thereof; and (e) the Partner Marks, email addresses for purposes of Platform Communications, any Partner-supplied messages and any other materials provided or otherwise made available to SDC hereunder by or on behalf of Partner and the use thereof as contemplated in this Agreement do not and will not infringe upon, misappropriate or otherwise violate any law governing transmission or receipt of email communications or any intellectual property right or other proprietary right of a third party.

7.2 DISCLAIMER. PARTNER ACKNOWLEDGES THAT SDC, ITS AFFILIATES AND THEIR RESPECTIVE SUPPLIERS MAKE NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE Surprise Platform, SERVICES, SOFTWARE OR ANY PRIZES. THE Surprise Platform, SERVICES, SOFTWARE AND PRIZES ARE PROVIDED "AS IS" AND WITH ALL FAULTS. SDC,

ITS AFFILIATES AND THEIR RESPECTIVE SUPPLIERS DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY WARRANTY OF TITLE OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, SDC, ITS AFFILIATES AND THEIR RESPECTIVE SUPPLIERS DO NOT WARRANT THAT THE INFORMATION THEY PROVIDE OR THAT IS PROVIDED THROUGH THE Surprise Platform OR THE SERVICES IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICES WILL MEET PARTNER'S REQUIREMENTS; THAT THE Surprise Platform, SERVICES OR SOFTWARE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, THAT THE Surprise Platform, SERVICES OR SOFTWARE WILL FUNCTION IN AN UNINTERRUPTED MANNER OR BE SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE Surprise Platform, SERVICES OR SOFTWARE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY SUBJECT MATTER DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE Surprise Platform OR THE SERVICES IS DOWNLOADED AT PARTNER'S OWN RISK – PARTNER IS SOLELY RESPONSIBLE FOR ANY DAMAGE TO ITS PROPERTY OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD.

8. PARTNER INDEMNIFICATION. Partner agrees to indemnify and hold SDC, its affiliates, and any of their respective executives, officers, employees, agents, suppliers and customers (including Users) (collectively, "*Indemnitees*") harmless from and against any and all claims, damages, losses, liabilities, costs and expenses (including, but not limited to, court costs and reasonable attorneys' fees) arising out of, or in connection with, (a) Partner's use of the Surprise Platform, Services or Software, (b) Partner's breach of any terms and conditions set forth in this Agreement, (c) any death, injury, harm or other loss arising out of or in connection with the award, delivery or use of prizes, and (d) any claim that the Partner Marks, Partner's systems or any information, data, technology or other materials provided or otherwise made available to SDC hereunder by or on behalf of Partner or the receipt or use thereof by any Indemnitee (directly or indirectly) infringes upon, misappropriates or otherwise violates any intellectual property right or other proprietary right of a third party.

9. SDC INDEMNIFICATION AND LIMITATION ON LIABILITY. SDC EXPRESSLY ASSUMES ALL RESPONSIBILITY FOR AND AGREES TO INDEMNIFY PARTNER AGAINST ANY AND ALL CLAIMS THAT FUNDS ASSOCIATED WITH PRIZES THAT SDC IS RESPONSIBLE FOR DELIVERING PURSUANT TO SECTION AND HAS RETAINED IN ACCORDANCE WITH SECTION 5.2 SHOULD BE ESCHEATED UNDER APPLICABLE STATE LAWS. EXCEPT AS JUST STATED, IN NO EVENT WILL SDC, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE SUPPLIERS, OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO PARTNER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF USE, LOST PROFITS OR LOSS OF DATA ARISING OUT OF OR RELATED TO THE Surprise Platform, SERVICES, SOFTWARE, PRIZES OR THIS AGREEMENT, HOWEVER CAUSED AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, EVEN IF SDC, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS EXCLUSION INCLUDES ANY LIABILITY THAT MAY ARISE OUT OF THIRD-PARTY CLAIMS AGAINST PARTNER. IN NO EVENT WILL AGGREGATE LIABILITY OF SDC, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE SUPPLIERS FOR ANY CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE Surprise Platform, SERVICES OR SOFTWARE, WHETHER UNDER BREACH OF CONTRACT, NEGLIGENCE OR OTHER LEGAL OR EQUITABLE THEORY, EXCEED FIVE HUNDRED DOLLARS. THE Surprise Platform AND SERVICES ARE CONTROLLED AND OPERATED FROM FACILITIES IN THE UNITED STATES. SDC MAKES NO REPRESENTATIONS THAT THE Surprise Platform, SERVICES OR

SOFTWARE ARE APPROPRIATE OR AVAILABLE FOR USE IN OTHER LOCATIONS. THOSE WHO ACCESS OR USE THE Surprise Platform, SERVICES OR SOFTWARE FROM OTHER JURISDICTIONS, OR WHO RECEIVE PLATFORM COMMUNICATIONS IN OTHER JURISDICTIONS, DO SO AT THEIR OWN VOLITION AND ARE ENTIRELY RESPONSIBLE FOR COMPLIANCE WITH ALL APPLICABLE UNITED STATES, FOREIGN AND LOCAL LAWS AND REGULATIONS, INCLUDING BUT NOT LIMITED TO EXPORT AND IMPORT REGULATIONS. PARTNER MAY NOT USE THE Surprise Platform, SERVICES OR SOFTWARE FROM (NOR DIRECT THAT DELIVERY OF PLATFORM COMMUNICATIONS BE MADE TO) A COUNTRY EMBARGOED BY THE UNITED STATES, OR IF PARTNER IS A PERSON OR ENTITY BLOCKED, DENIED OR OTHERWISE SUBJECT TO PROHIBITION UNDER UNITED STATES SANCTIONS OR EXPORT REGULATIONS.

10. ADDITIONAL IMPORTANT LIMITATION. PARTNER IS RESPONSIBLE FOR ALL CUSTOMIZATIONS MADE ON THE PORTAL USING PARTNER'S ACCESS CREDENTIALS, WHETHER OR NOT MADE BY PARTNER OR AT PARTNER'S DIRECTION. IN NO EVENT WILL SDC, ITS AFFILIATES OR ANY OF THEIR RESPECTIVE SUPPLIERS, OFFICERS, DIRECTORS, EMPLOYEES OR AGENTS BE LIABLE TO PARTNER OR TO ANY THIRD PARTY IN ANY MANNER OR RESPECT WHATEVER FOR ADMINISTERING THE Surprise Platform OR OTHERWISE ACTING OR REFRAINING FROM ACTION IN ACCORDANCE WITH THE CUSTOMIZATIONS OR OTHER DIRECTIONS SET OUT IN THE PORTAL. **IF PARTNER SUSPECTS THAT THERE HAS BEEN AN UNAUTHORIZED ACCESS OR CHANGE MADE TO THE PORTAL AT ANY TIME, PARTNER MUST NOTIFY SDC IMMEDIATELY PURSUANT TO SECTION 13 OF THIS AGREEMENT. SUCH NOTICE SHOULD BE CAPTIONED "URGENT – PORTAL ERROR" OR WORDS TO SUBSTANTIALLY THE SAME EFFECT.** UPON RECEIPT OF SUCH NOTICE, AND WITHOUT DEROGATING FROM THE FOREGOING DISCLAIMER OF LIABILITY, SDC WILL UTILIZE REASONABLE EFFORTS TO HALT THE PLATFORM UNTIL THE PROBLEM IS CORRECTED OR OTHERWISE TO CONFER WITH PARTNER AS TO HOW PARTNER WANTS TO PROCEED.

11. CONFIDENTIALITY. Partner acknowledges that it will be exposed to data and information, including product, technology, business and strategy information that is confidential and proprietary to SDC (collectively, "**Confidential Information**"), and that the Surprise Platform, Services, Software and the terms and conditions of this Agreement will be considered Confidential Information. All Confidential Information shall be sole and exclusive property of SDC and may be used by Partner only for purposes of performing its obligations and exercising its rights under this Agreement. Partner may not reveal, publish or otherwise disclose the Confidential Information to any third party without the prior written consent of SDC, and shall protect the Confidential Information from disclosure using the same degree of care Partner uses to protect its own Confidential Information of like kind, but in no event using less than reasonable care.

12. GOVERNING LAW AND ARBITRATION; CLASS ACTION WAIVER. This Agreement and performance by the Parties hereunder shall be construed in accordance with the laws of the State of Delaware, U.S.A., without regard to provisions on the conflicts or choice of laws, but subject to the Federal Arbitration Act. Before either Party may initiate any legal action or proceeding or make a demand for arbitration, such Party must notify the other Party in writing of the dispute or controversy and make one or more of its executives available to meet with executives of the other Party to attempt in good faith to resolve the dispute or controversy. If the dispute or controversy has not been resolved thirty (30) days after such notice is given, either Party may initiate a legal action or proceeding or make a demand for arbitration in accordance with this Section, as applicable. Any dispute or controversy arising from or relating to this Agreement or the enforcement of any provision of this Agreement (other than any claim

based on unauthorized use or disclosure of Confidential Information or infringement or misappropriation of intellectual property rights (an “*IP Claim*”) (collectively, a “*Dispute*”), must be arbitrated in Wake County, North Carolina, before a single arbitrator experienced in the financial technology industry who is jointly selected and mutually approved by the Parties or, if the Parties are unable to or fail to agree on the selection of the arbitrator within fifteen (15) days of the demand for arbitration being served, who is appointed by Judicial Arbitration and Mediation Services (JAMS) in accordance with its rules. The arbitrator shall serve as a neutral, independent and impartial arbitrator. The arbitration will be administered by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures (and in accordance with the expedited procedures in those rules). The arbitrator will require the non-prevailing Party to pay for the costs of arbitration, including reasonable attorneys’ fees incurred by the prevailing Party in connection with the arbitration. The results of the arbitration procedure will be considered confidential information of both Parties. Any arbitration decision rendered will be final and binding, and judgment thereon may be entered in any court of competent jurisdiction. Notwithstanding the above, neither Party will be required to arbitrate an IP Claim. With respect to an IP Claim only, Partner and SDC consent to the exclusive jurisdiction of, and venue in, the state and federal courts of Wake County, North Carolina, U.S.A. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Each Party agrees that any proceeding to resolve or litigate any dispute hereunder, whether in arbitration or in court, will be conducted solely on an individual basis, and neither Party will seek to have any dispute heard as a class action, a representative action, a collective action, a private attorney-general action or in any proceeding in which either Party acts or proposes to act in a representative capacity. The Parties further agree that no arbitration or proceeding will be joined, consolidated or combined with another arbitration or proceeding without the prior written consent of all Parties to such other arbitration or proceeding.

13. **NOTICE.** All notices under this Agreement must be in writing and will be effective (i) upon personal delivery, (ii) one (1) business day after sending by overnight air courier or electronic means, or (iii) three (3) business days after deposit in the U.S. Post Office, certified mail, return receipt requested, to the following address (if the notice is to SDC) and to the address provided in the registration information for Partner’s SDC account (if the notice is to Partner) or another address designated by the recipient Party. All notices to SDC will be sent to Surprise.com Incorporated, 434 Fayetteville Street Ste 1740, Raleigh, NC, 27601 Attention: Legal. Invoices (in the event invoicing is utilized) will be provided electronically to the email address supplied by Partner for such purpose.

14. **ASSIGNMENT.** Partner may not sell, assign, transfer or delegate any of its rights, duties or obligations under this Agreement, or assign or transfer this Agreement (in whole or in part), without the prior written consent of SDC. SDC reserves the right to assign or transfer this Agreement or any of its rights, duties and obligations to any third party, without the prior written consent of Partner.

15. **EQUITABLE RELIEF.** Partner agrees that any actual or threatened breach of Sections 2.2, 6.1 or 11 would cause irreparable injury to SDC and its suppliers for which no adequate remedy at law exists; therefore, Partner agrees that in addition to all other remedies available to SDC, and notwithstanding the provisions of Section 12, SDC may seek temporary equitable relief from the state or federal courts located in Wake County, North Carolina, U.S.A., without need to post bond, to enjoin any such violation until an arbitrator can be empaneled and determine whether such relief should be extended, modified or discontinued. If the arbitrator determines that the injunctive relief was appropriate, the arbitrator shall award SDC its out-of-pocket expenses incurred in seeking and enforcing any such equitable remedies, including without limitation any legal expenses, including court costs and attorneys’ fees.

16. **GENERAL PROVISIONS.** This Agreement does not create any relationship of association, partnership, joint venture or agency between the Parties. Neither Party will have any right or authority to assume, create or incur any liability or obligation of any kind against or in the name of the other Party. This Agreement (including the applicable Online Terms and any terms on the Portal) set forth the entire agreement and understanding between the Parties with respect to the subject matter in this Agreement. This Agreement merges all previous discussions and negotiations between the Parties and supersedes and replaces any and every other agreement, which may have existed between the Parties with respect to the contents of this Agreement. Except to the extent and in the manner specified in this Agreement, any modification or amendment of any provision of this Agreement must be in writing and bear the signature of the duly authorized representative of each Party. The failure of either Party to exercise any right granted under this Agreement, or to require the performance by the other Party of any provision of this Agreement, or the waiver by either Party of any breach of this Agreement, will not prevent a subsequent exercise or enforcement of such provisions or be deemed a waiver of any subsequent breach of the same or any other provision of this Agreement. If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.