



## **Surge365 LLC SBA/Junior Executive Program Policies and Procedures**

For use in all countries which the company is officially open for business.

Note: As you progress through the ranks of leadership at Surge365 (Jr. Ex. Program) you are still considered an SBA and all SBA P&P and T&C apply to each level.

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## **SECTION 1 - Introduction**

### **1.1 – Code of Ethics**

Surge365 (hereinafter referred to as “Surge365” or “the Company”) is a values-based Company that prides itself on the quality and character of its Surge Business Associates (hereinafter referred to as “SBA”). The following guidelines help ensure a uniform standard of excellence throughout our organization. Every Surge365 SBA is expected to practice the following ethical behavior when acting in the name of the Company:

- a) I will be courteous, respectful, honest and fair in all my dealings while acting as an SBA and I will perform my business activities in a manner that will enhance my reputation and the positive reputation of the Company.
- b) I will not make discouraging or disparaging claims toward other Surge365 SBAs. I will ensure that in all Surge365 dealings I will refrain from engaging in negative language. I will refrain from making any type of slanderous statements.
- c) I will not engage in any deceptive or illegal practice.
- d) I will make no claim for products, services or business positions of the Company except as contained in official literature of the Company.
- e) I will correctly represent all the bonus/compensation plans available through Surge 365 and the income potential represented therein. I understand I may not use my own income as an indication of others’ potential success or use compensation checks as marketing materials. It is impossible to predict SBA incomes. The success of an SBA depends on many variables, such as amount of time and effort committed to his/her business and his/her organizational abilities.
- f) I will remain in compliance with the Policies and Procedures that apply to all vendor relationships and Company partners.

### **1.2 – Policies Incorporated into Agreement**

These Policies and Procedures, in their present form and as amended at the sole discretion of the Company, are incorporated into, and form an integral part of the Company’s Agreement with its SBAs. Throughout these Policies, when the term “Agreement” is used, it collectively refers to the Company’s SBA Application and Agreement, these Policies and Procedures, the Company’s Terms and Conditions, the Company’s general Compensation Plan, and the Company’s Business Entity Registration Form (if applicable). These documents are incorporated by reference into the Company’s SBA Agreement (all in their current form and as amended by the Company from time to time at its sole discretion). It is the responsibility of each SBA to read, understand, adhere to, and ensure that he or she is aware of and operating under the most current version of the Agreement.

### **1.3 – Purpose of Policies**

The Company is involved in direct sales, marketing its products and services through SBAs. To clearly define the relationship existing between SBAs and the Company, the Company has established the Agreement. The Company's SBAs are required to comply with all Policies and Procedures set forth in the Agreement, as well as all federal, provincial, state, and local laws governing their business and their conduct. Please review the information in this Agreement carefully. It explains and governs the relationship between you, as an independent contractor, and the Company. If you have any questions regarding any policy or rule, do not hesitate to seek an answer from the Company.

#### **1.4 – Changes to the Agreement**

Because federal, provincial, state, and local laws, as well as the business environment, periodically change, the Company reserves the right to amend the Agreement and its prices at its sole and absolute discretion. By signing the Application and Agreement, the SBA agrees to abide by all amendments that the Company elects to make. Amendments shall be effective upon notice to all SBAs that the Agreement has been modified. The Company shall provide or make available to all SBAs a complete copy of the amended provisions by one or more of the following methods: (1) posting on the Company's official web site via the Surge365 Back Office; (2) electronic mail (e-mail); (3) inclusion in Company periodicals; (4) inclusion in product orders or bonus check mailings; or (5) special mailings. The continuation of an SBA's Surge365 business or an SBA's acceptance of bonuses or commissions constitutes acceptance of any and all amendments.

#### **1.5 – Delays**

The Company shall not be responsible for delays or failures in performance of its obligations when performance is made commercially impracticable due to circumstances beyond its reasonable control. This includes, without limitation, strikes, labor difficulties, riot, war, fire, death, curtailment of a party's source of supply, telecommunications failure or government decrees or orders.

#### **1.6 – Policies and Provisions**

If any provision of the Agreement, in its current form or as may be amended, is found to be invalid or unenforceable for any reason, only the invalid portion of the provision shall be severed, and the remaining terms and provisions shall remain in full force and effect. The severed provision, or portion thereof, shall be reformed to reflect the purpose of the provision as closely as possible.

#### **1.7 – Waiver**

The Company never gives up its rights to insist on compliance with the Agreement and with the applicable laws governing the conduct of a business. No failure of the Company to exercise any right or power under the Agreement or to insist upon strict compliance by an SBA with any obligation or provision of the Agreement, and no custom or practice of the parties at variance with the terms of the Agreement, shall constitute a waiver of the Company's right to demand exact compliance with the Agreement. Waiver by the Company can be effectuated only in writing by an authorized officer of the respective Company. The Company's waiver of any particular breach by an SBA shall not affect or impair the Company's rights with respect to any subsequent breach, nor shall it affect in any way the rights or obligations of any other SBA. No delay or omission by the Company to exercise any right arising from a breach shall affect or impair the Company's rights as to that or any subsequent breach. The existence of any claim or cause of action of an SBA against the Company shall not constitute a defense to the Company's enforcement of any term or provision of the Agreement.

### **SECTION 2 – Becoming an SBA**

#### **2.1 – Requirements to become an SBA**

To become an SBA for the Company, each applicant must:

- a) Be of the age of majority in his or her state of residence or for international residents a minimum age of 18 years.
- b) Reside in the United States, a U.S. Territory, Canada, or any country which the Company has officially announced is open for business.
- c) Have and produce a valid Tax Identification Number in order to earn compensation from the Company. Residents in the United States and Canada may provide a Social Security Number ("SSN"), Federal Employer Identification Number ("FEIN"), or Social Insurance Number ("SIN"). Residents in other countries may provide a Driver's License Number, National Insurance Number, Country Personal Tax Identification Number or Passport Number. U.S. residents must be able to provide an IRS Form W-9 upon request, likewise, non-U.S. residents must be able to provide an IRS Form W8-BEN upon request.
- d) Agree to abide by the Agreement.
- e) Submit a properly completed (online) Application and Agreement to the Company, including any required documents in support of a business entity, if applicable.

#### **2.2 – New SBA Registration by the Internet and Facsimile**

A prospective SBA must self-enroll on the sponsor's website. In such event, instead of a physically signed SBA Agreement, Surge365 will accept the Agreement by accepting the "electronic signature" stating the new SBA has accepted the terms and conditions of the SBA Agreement. Please note that such electronic signature constitutes a legally binding agreement

between the SBA and Surge365.

### **2.3 – No Product Purchase Required**

No person desiring to become an SBA is required to purchase the Surge365 Travel Technology Package Ownership. To familiarize new SBAs with the Company's products, services, sales techniques, sales aids, and other matters, the Company may recommend they purchase certain marketing materials as made available from the Company from time to time.

### **2.4 – SBA Benefits**

Once the above requirements have been met, the benefits of the Compensation Plan and the Agreement are available to the new SBA. These benefits include the right to:

- a) Sell the Company's products and services
- b) Participate in the Company's Compensation Plan (receive bonuses and commissions, if eligible).
- c) Enroll other individuals as SBAs, thereby building a Marketing Organization.
- d) Receive periodic literature and other communications from the Company via email and/or telephone text messaging.
- e) Participate in the Company-sponsored support, service, training, motivational and recognition functions, upon payment of appropriate charges, if applicable.
- f) Participate in promotional and incentive contests and programs sponsored by the Company for its SBAs.

### **2.5 – Talent Release**

Each SBA hereby consents to, allows and grants the Company and its parents, subsidiaries and affiliated entities a perpetual, worldwide, royalty-free and exclusive license to use, edit, modify and otherwise exploit the name, photograph, testimonials, statements, likeness, biographical information, title, positions, voice, voices and biography and any film footage, video tapes, audio tapes, recordings and interviews when created in connection with any Company events, promotion and/or conventions, to advertise, promote and publicize the Company's business, products, events and/or services, in any form, format or media, whether now known or hereafter devised.

## **SECTION 3 – Operating Your Business**

### **3.1 – Adherence to the Company's Compensation Plan**

SBAs must adhere to the terms of the Company's Compensation Plan as set forth in the Company literature. SBAs shall not offer the Company's opportunity through, or in combination with, any other system, program, or method of marketing other than that specifically set forth in official Company literature. SBAs shall not require or encourage other current or prospective Surge365 SBAs or Travel Technology Package Owners to participate in the Company in any manner that varies from the program as set forth in official Company literature. SBAs shall not require or encourage other current or prospective Surge365 SBAs or Travel Technology Package Owners to execute any agreement or contract other than the official Company's agreements and contracts in order to become a Surge365 SBA or Travel Technology Package Owner. Similarly, SBAs shall not require or encourage other current or prospective Surge365 SBAs, Travel Technology Package Owners or Customers to make any purchase from, or payment to, any individual or other entity to participate in the Company Compensation Plan other than those purchases or payments identified as recommended or required in the Company's official literature.

### **3.2 – Advertising – General**

All SBAs shall safeguard and promote the good reputation of the Company and its products and services. The marketing and promotion of the Company, the Company's opportunity, the Compensation Plan, and the Company's products and services, must be done by using official literature and sales aids produced by the Company which can be found in the Back Office. The rationale behind this requirement is simple: The Company has carefully designed its services, products, product labels, Compensation Plan, and promotional materials to ensure each aspect of the Company is fair, truthful, substantiated, and complies with the vast and complex legal requirements of federal and state laws. If the Company's SBAs were allowed to develop their own sales aids and promotional materials, notwithstanding their integrity and good intentions, there is likelihood they would unintentionally violate any number of statutes or regulations affecting the Company's business. Accordingly, SBAs must not produce their own literature, advertisements, sales aids, promotional materials, or internet web pages. The company will limit purchases of any sales tools or aids to comply with the exemption requirements set forth in any state law regulating business opportunities, including Connecticut, Louisiana, Maine, Maryland, North Carolina, South Carolina, South Dakota, Utah and Washington. The Company does not permit SBAs to create side-businesses selling sales aids, trainings, business cards, internet websites or similar materials to other Surge365 SBAs or Travel Technology Package Owners of the Company. Additionally, the Company does not take responsibility for any products or services purchased from a third-party vendor. Should you have materials you would like the Company to review please submit a sample via email to Compliance@Surge365.com. Furthermore, the initiation, participation in or recommendation of any prize offering, guarantee, drawing, raffle, advertising pool or co-op in furtherance of SBA's own or another person's SBA business, except as otherwise set forth in the Agreement is strictly prohibited. Additionally, you are prohibited from making direct, indirect or implied medical or other claims regarding the prevention, treatment, cure or mitigation of any disease from the use of Company products. You may not:

- a) Make any representation (oral, written or otherwise) about Company products which violate the provisions of this section of

these Policies and Procedures.

- b) Discuss or make warranties, representations or statements concerning Company products in a manner that violates the provisions of these Policies & Procedures.
- c) Use or distribute, for the purpose of marketing products or in promotion of the Compensation Plan, materials which violate the provisions of these Policies & Procedures.
- d) Re-label or in any manner alter the label of any Company product. Additionally, you must not repackage or refill Company products and must sell Company products in their original, unopened containers.
- e) Use third-party individuals, business entities and/ or organizations in any deceptive or misleading manner in connection with the promotion of Surge365 products.
- f) Misrepresent the benefits of any of our travel products or services. The Membership savings can only be advertised with the approved company images located in the SBA Back Office. The Travel Agent Career Path may sometimes have perks associated with being a productive, selling agent. SBA's may not use these perks as a recruiting tool. Violation may result in disciplinary action as this behavior can potentially damage supplier relationships.

### **3.3 – Internet Websites and E-Mail Communications**

No SBA may independently design or have designed a website using the names, logos, or product descriptions of the Company or otherwise promote (directly or indirectly) the Company's products or the Company's opportunity. An SBA may not use "blind" or "Help Wanted" ads (indicating a "job" or an "employment position") on the internet whether they make product or income claims which are ultimately associated with the Company's products, the Company's opportunity, or the Company's Compensation Plan.

### **3.4 – Communications – Unsolicited E-Mail**

The Company may periodically send commercial emails to SBAs (e.g. weekly email newsletters or emails with information that applies to the conducting of business). By entering into the Agreement, the SBA agrees to receive such emails, and may opt out or unsubscribe at any time by using the contact information included in every email. The Company does not permit SBAs to send unsolicited commercial e-mails unless such e-mails strictly comply with applicable laws and regulations including, without limitation, the Federal CAN SPAM Act. Any e-mail sent by an SBA that promotes the Company, the Company's opportunity, or the Company's products and services must comply with the following:

- a) There must be a functioning return e-mail to the sender
- b) There must be a notice in the e-mail advising the recipient that he or she may reply to the e-mail, via the functioning return e-mail address, to request that future e-mail solicitations or correspondence not be sent to him or her (a functioning "opt-out" notice).
- c) The e-mail must include the SBA's physical mailing address, (i.e. not a P.O. Box) and may not represent that the e-mail is originating from the Company or that the e-mail is signed by any employee or officer of the Company.
- d) The e-mail must clearly and conspicuously disclose that the message is a commercial advertisement or solicitation.
- e) The use of deceptive subject lines and/or false header information is prohibited.
- f) All opt-out requests, whether received by e-mail or regular mail, must be honored.
- g) SBAs shall not make offers or solicitations in the guise of research, surveys or informal communication, when the real intent is to sell products or services or register other SBAs or sell licenses.
- h) SBAs shall provide individual consumers the option to terminate any further communication between the SBA and the consumer and if any consumer requests an SBA cease communication, the SBA shall immediately stop communicating upon such request.
- i) SBAs must abide by all laws and regulations regarding electronic communications.
- j) SBAs may not distribute content by use of distribution lists or to any person who has not given specific permission to be included in such a process; spamming or distribution of chain letters or junk mail is not permitted.
- k) SBAs may not distribute content that (i) is unlawful, harassing, libelous, slanderous, abusive, threatening, harmful, vulgar, obscene or otherwise objectionable, (ii) could give rise to civil liability, (iii) violates any applicable local, state, federal or international law or regulation or (iv) describes the Company and any of its products and services in an inaccurate manner.
- l) SBAs may not, directly or indirectly, buy e-mail lists or send unsolicited e-mails to persons with whom he or she or their Associates have no prior or existing personal or business relationship. The Company may periodically send commercial e-mails on behalf of SBAs. By entering into the SBA Agreement, SBA agrees that the Company may send such e-mails and the SBA's physical and e-mail addresses will be included in such e-mails as outlined above. SBAs shall honor opt-out requests generated as a result of such e-mails sent by the Company.

### **3.5 – Unsolicited Faxes**

Except as provided in this section, SBAs may not use or transmit unsolicited faxes or use an automatic telephone dialing system relative to the operation of their SBA business. The term "automatic telephone dialing system" means equipment which has the capacity to: (i) store or produce telephone numbers to be called, using a random or sequential number generator; and (ii) to dial such numbers. The term "unsolicited faxes" means the transmission via telephone or computer facsimile of any material or information advertising or promoting the Company, its products, the Compensation Plan or any other aspect of the Company which is transmitted to any person, except that these terms do not include a fax: (i) to any person with that person's prior express invitation or permission; or (ii) to any person with whom the SBA has an established business or personal relationship. The term "established business or

personal relationship” means a prior or existing relationship formed by a voluntary two-way communication between an SBA and a person, on the basis of: (i) an inquiry, application, purchase or transaction by the person regarding products offered by such SBA; or (ii) a personal or familial relationship, which relationship has not been previously terminated by either party.

### 3.6 – Telemarketing Techniques

The Federal Trade Commission and the Federal Communications Commission each have laws restricting telemarketing practices. Both federal agencies (as well as several states) have “do not call” regulations as part of their telemarketing laws. Although the Company does not consider SBAs to be “telemarketers” in the traditional sense of the word, these government regulations broadly define the term “telemarketer” and “telemarketing” so that an inadvertent action of calling someone whose telephone number is listed on the federal “do not call” registry could cause an SBA to violate the law. Moreover, these regulations must not be taken lightly, as they carry significant penalties (up to \$11,000.00 per violation). Therefore, SBAs must not engage in telemarketing in the operation of their Company business. The term “telemarketing” means the placing of one (1) or more telephone calls to an individual or entity to induce the purchase of the Company’s products or services, or to register them for the Company’s opportunity. “Cold calls” made to prospective Surge365 SBAs, Travel Technology Package Owners or Vortex Customers that promote either the Company’s products or services or the Company’s opportunity constitute telemarketing and are prohibited. However, a telephone call(s) placed to a prospective customer (a “prospect”) is permissible under the following situations:

- a) If the SBA has an established business relationship with the prospect. An “established business relationship” is a relationship between an SBA and a prospect based on the prospect’s purchase, rental, or lease of goods or services from the SBA, or a financial transaction between the prospect and the SBA, within the eighteen (18) months immediately preceding the date of a telephone call to induce the prospect’s purchase of a product or service.
- b) The prospect’s personal inquiry or application to the SBA regarding a product or service offered by the Company, within the three (3) months immediately preceding the date of such a call.
- c) If the SBA receives written and signed permission from the prospect authorizing the SBA to call. The authorization must specify the telephone number(s) which the SBA is authorized to call.
- d) An SBA may call family members, personal friends, and acquaintances. An “acquaintance” is someone with whom an SBA has at least a recent first-hand relationship within the preceding three (3) months. However, if an SBA makes a habit of “card collecting” with everyone the SBA meets and subsequently calling them, the Federal Trade Commission may consider this a form of telemarketing that is not subject to this exemption.

### 3.7 – Social Media and other Online Forums

Surge365 believes social media is an important form of communication. We recognize the role social media plays in shaping public thinking about our organization and the opportunities we offer. We believe these public forums make it easier for SBAs to identify, connect and share information with customers, prospects and the Surge365 family. For purposes of this policy, social media includes all types of online media that invites, expedites or promotes conversation, comments, ratings, and/or user-generated content, as opposed to traditional media, which delivers content but does not allow readers/viewers/listeners to participate in the creation or development of content, or comment/respond to content. Examples of social media include, but are not limited to discussion forums, blogs, Facebook, Twitter, LinkedIn, Craigslist, Monster, Vine, Pinterest and YouTube. SBAs who participate in social networking or use social media should follow Surge365 Corporate pages as an additional guide to appropriate and compliant social media practices. SBAs who participate in social networking or use social media must adhere to the guidelines set forth in these Social Media Guidelines & Policies (outlined below this section) as well as in the SBA Policies & Procedures. As an SBA participating in social networking or using social media, I agree to the following statements:

- a) I will use social media such as Facebook, Twitter, LinkedIn, Instagram, Pinterest or blogs in a positive way. I will never post any negative comments about Surge365, its customers, SBAs or employees or other direct selling companies. I will not make any negative comments on behalf of Surge365.
- b) I understand I am personally responsible for my posts and all other online activity relating to Surge365.
- c) I understand I am responsible for managing all posts that appear on my blogs, discussion forums and social media sites for which I own, operate or control.
- d) I agree not to make any medical claims on social media outlets in regards or reference to Surge365.
- e) When making any sort of income or lifestyle claim I will use the required Income Disclosure Statement available in the Surge365 Back Office. I will not post pictures of my paychecks online. I will abide by sections 3.18 and 3.19 of the SBA Policies and Procedures when conducting business online or in person.
- f) I understand I may not represent myself as an employee of Surge365 or as a member of the Corporate Office on any social media outlets. I understand I may not use any non-compliant verbiage (including Surge365 and/or Travel Technology Package) as a username on any email address, URL or social media website. This includes use of Surge365 in any domain name or page title.
- g) I will disclose my first name on all social media postings and conspicuously identify myself as an SBA for Surge365 (For example: Sally Johnson, Surge365 SBA.). Use of the word Surge365 must always be followed by SBA. I understand anonymous postings or use of an alias is prohibited.
- h) I understand I may not sell on auction sites or advertise employment opportunities on classified ad sites.
- i) I understand that online sales may only be generated from my Surge365 replicated website. Likewise, I will not use any social media site to explain the Surge365 compensation plan or any component of the compensation plan.

- j) I understand the use of PayPal to accept payments for new enrollments is prohibited.
- k) I understand I am authorized to use only the Surge365 SBA logos and Approved Images available for download in the Back Office. Using these images/logos must conform to the Surge365 SBA Policies and Procedures.
- l) I understand making false, misleading or deceptive posts is prohibited. This includes, but is not limited to, false or deceptive postings relating to the Surge365 income opportunity, Surge365 products, and biographical information or credentials.
- m) I agree not to communicate with anyone who places a negative post against me, other independent marketing representatives [distributors], Surge365 or other direct selling companies.

#### **Surge365 Social Media Guidelines & Policies:**

- a) **Official Corporate Website** - The Company maintains an official corporate website. SBAs use a replicated website for promoting their individual business. These websites allow for personalization with the SBA's name, email address and telephone number.
- b) **SBAs Are Responsible for Their Posts** - SBAs are personally responsible for any of their posts and all other online activity relating to Surge365. Therefore, even if SBAs do not own or operate a blog or social media site, and if SBAs post to any such site that relates to Surge365 or which can be traced to Surge365, the SBAs are responsible for the posting. SBAs are also responsible for posts which occur on any blog or social media site for which they own, operate, or control.
- c) **Identification as a Surge365 SBA** - SBAs must disclose their first name on all social media sites and conspicuously identify as a Surge365 SBA regardless of it being a fan page or a personal page. (For example: Sally Johnson, Surge365 SBA.) Anonymous posts or use of an alias is prohibited. You must not identify yourself as a Surge365 corporate officer nor employee on any social media websites. The use of the company name Surge365 may only be used when it is followed by SBA. (For example: Sally Johnson, Surge365 SBA). SBAs may not use the trademarks of Surge365 or any derivative or abbreviation thereof as a domain name or email address. SBAs may not use the name Surge365, and/or any product names in the title of a Facebook page. Surge365 reserves the right to request the title of any Facebook page to be changed in the event it infringes on the Surge365 trade name and copyright. The only approved Surge365 logos are downloadable from the Back Office and it will identify you as a Surge365 SBA.
- d) **Spamming** - SBAs must not distribute content by use of distribution lists or to any person who has not given specific permission to be included in such a process; spamming or the distribution of chain letters is prohibited.
- e) **Social Media as a Sales and Promotion Forum** - Social Media sites are relationship building sites. While building relationships is an important part of the sales process, social media sites may not be used as a direct medium for generating sales or explaining the Surge365 income opportunity. Online sales may only be generated from an SBA's Surge365 replicated website. Likewise, SBAs shall not use any social media site to explain the Surge365 Compensation Plan or any component of the Compensation Plan. SBAs may not use auction websites such as but not limited to eBay or Amazon to publicize or sell Surge365 products. SBAs may not advertise jobs on classified ad websites such as but not limited to Monster, Craigslist or Yahoo Jobs or on the internet such as but not limited to eBay, Amazon, Craigslist, Twitter except via an SBA's website, unless media or transmission is authorized by Company. SBAs may not have a third-party act as a go between to sell products on eBay, Amazon, Craigslist or other online sales websites. No SBAs may use "blind" ads on the internet making product or income claims which are ultimately associated with Company products, services or the Company's business plans.
- f) **PayPal** - The use of PayPal to process any Surge365 purchase is strictly prohibited.
- g) **Posting Links to Replicated Websites** - Websites may not be used by SBAs in connection with their Surge365 business unless SBA's website has been authorized by Surge365 Compliance Department via written communication to Compliance@Surge365.com.
- h) **Use of Surge365 Logo** - SBAs may use the Surge365 SBA logo as one of their images or in an image that represents their account as long as it conforms to the Surge365 Policies and Procedures. The only approved Surge365 logos are downloadable from the Back Office and will identify you as a Surge365 SBA.
- i) **Posting Photos and Videos** - SBAs may not post any copyrighted photos without expressed consent from the owner. Posting photos of others without their expressed permission is prohibited. You may post or "pin" photographs or repost videos provided on our Corporate social media site, as long as you do not edit the video in any way. You may describe the video, if the description is in accordance with Surge365 Policies and Procedures.
- j) **Media Outlets** - You may not coordinate, appear in or solicit any media on behalf of Surge365 without prior written consent from the Company. All media requests must be submitted to Compliance prior to use via email to Compliance@Surge365.com.
- k) **Deceptive Postings** - Postings that are false, misleading, or deceptive are prohibited. This includes, but is not limited to, false or deceptive postings relating to the Surge365 income opportunity, products and/or your biographical information and credentials.
- l) **Use of Third-Party Intellectual Property** - If you use the trademarks, trade names, service marks, copyrights, or intellectual property of any third-party in any posting, it is your responsibility to ensure that you have received the proper license to use such intellectual property and paid the appropriate license fee if applicable. All third-party or other companies other than Surge365, as an intellectual property, must be properly referenced as the property of the third-party. You must adhere to any restrictions and conditions that the owner of the intellectual property places on the use of its property.
- m) **Respecting Privacy** - Always respect the privacy of others in your posts. SBAs must not engage in gossip or advance rumors

about any individual, company, or competitive products. SBAs may not list the names of other individuals or entities in their posts unless they have the written permission of the individual or entity that is the subject of their post.

- n) **Professionalism** - SBAs must ensure that their posts are truthful, accurate and in a professional manner. SBAs must abide by all laws and regulations regarding electronic communications. This may require fact-checking all material prior to posting online. You should also carefully check your posts for spelling, punctuation, and grammatical errors. Use of offensive language is prohibited.
- o) **Prohibited Postings** - SBAs may not make any post, link to any post, or other material that:
  - i. are sexually explicit, obscene, vulgar, or pornographic.
  - ii. are offensive, profane, hateful, threatening, harmful, defamatory, libelous, harassing or discriminatory (whether based on race, ethnicity, creed, religion, gender, sexual orientation, physical disability, employment or otherwise).
  - iii. are graphically violent, including but not limited to any violent video game images.
  - iv. makes solicitous of any unlawful behavior.
  - v. makes offers or solicitations in the name of research, surveys or informal communication, when the real intent is to sell products or sponsor [distributors].
  - vi. engages in personal attacks, demeaning content, or indirectly refers to someone or a situation, on any individual, group, or entity.
  - vii. is in violation of any intellectual property rights of the Company or any third-party.

### 3.8 – Domain Names and E-Mail Addresses

SBAs may not use or attempt to register any of the Company’s or third-party’s trade names, trademarks, service names, service marks, product names, or the Company’s name, for any internet domain name. Nor may SBAs incorporate or attempt to incorporate any of the Company’s or third-party’s trade names, trademarks, service names, service marks, product names, or the Company’s name, into any electronic mail address or social media accounts.

### 3.9 – Trademarks and Copyrights

The Company will not permit the use of its trade names, trademarks, designs, or symbols by any person, including the Company’s SBAs, without its prior, written permission. An SBA will not promote his or her SBA business or use the Company’s, any of its affiliated companies’ or any third-party’s names, trade names, logos, sales materials, trademarks, service marks or other intellectual property, except in material as provided by Company. The term “sales, advertising and training materials” includes but is not limited to; written, audio, video, CD and DVD presentations, as well as Company logo apparel and merchandise. Without limiting the generality of the foregoing, SBA understands that SBA is prohibited from (i) using the Company’s, its affiliated companies’ and third-parties’ trademarks and trade names in domain names, (ii) creating his or her own sales, advertising and training materials and/or presentations that use the names, trademarks, logos or other intellectual property of the Company, its affiliated companies or third-parties and (iii) creating any other materials that incorporate Company names, logos, trademarks or copyrighted works. SBA understands that unauthorized use or duplication of the Company’s, its affiliated companies’ and third-parties’ names, marks, sales, advertising and training materials or copyrighted materials is a violation of federal and/or state law, the Agreement, and may result in termination of the Agreement. Each of the Company’s and its affiliated companies’ names, trademarks and service marks (“Proprietary Marks”) and copyrighted materials are owned by the respective Company and/or their affiliated companies. The use of the Proprietary Marks and copyrighted materials must be in strict compliance with the Agreement. Each SBA acknowledges that any right to use the Company’s Proprietary Marks and copyrighted materials is non-exclusive, and the Company has the right and sole discretion to grant others the right to use such Proprietary Marks and copyrighted materials. Each SBA expressly recognizes that, as between such person and the Company, any and all goodwill associated with the Proprietary Marks and copyrighted materials (including goodwill arising from each SBA’s use) inures directly and exclusively to the benefit of the Company and is the property of the Company, and that, on expiration or termination of these Policies and Procedures, no monetary amount shall be attributable to any goodwill associated with SBA’s use of the Proprietary Marks or copyrighted materials.

This prohibition also extends to third-party (e.g. travel vendors’) trademarks. The Company does not allow an SBA to sell or promote any personally produced or affiliate-represented tangible or intangible merchandise or service, including but not limited to apparel, books, recordings, training material, tax services, or consulting services, with or without Company logo, at any Company (or affiliated Company) sponsored event, without prior, written permission from the Company.

### 3.10– Advertised Price

You may not advertise any of the Surge365 services at a price less than the highest Company published price of the equivalent service. No special enticement advertising is allowed. This includes but is not limited to offers of free Vortex Ownership or other such offers that grant advantages beyond those available through the Company.

### 3.11– Recordings

SBAs may not copy, produce or reproduce for sale or distribution or create derivative works of products sold by the Company or any of the Company’s produced literature, audio or video material, presentations, events or speeches, including conference calls. Video and/or audio taping meetings and conferences of the Company is strictly prohibited.

### **3.12– Media and Media Inquires**

SBA's must not attempt to respond to media inquiries regarding the Company, its products or services, or their independent business. All inquiries by any type of media must be immediately referred to the Company's Public Relations Department (by emailing Compliance@Surge365.com), without comment by the SBA. This policy is designed to ensure accurate and consistent information is provided to the public as well as a proper public image. SBA's must not utilize radio or television media for the advertising, distribution or promotion of the Company's products or opportunity without the written consent of the Company. In the event the Company does grant permission for the use of such media, the Company must have final authority on every stage of the production process with full rights to all recordings. To obtain permission for this type of advertising contact the Compliance Department by emailing Compliance@Surge365.com.

### **3.13– Bonus Buying Prohibited**

Bonus buying is strictly and absolutely prohibited. "Bonus buying" includes: (1) the registration of individuals or entities without their knowledge (2) the fraudulent registration of an individual or entity as an SBA or Travel Technology Package Owner; (3) the registration or attempted registration of non-existent individuals or entities as an SBA or Surge365 Travel Technology Package Owner ("phantoms"); (4) purchasing the Company's products or services on behalf of another SBA or Travel Technology Package Owner, or under another SBA's Customer I.D. number; (5) purchasing excessive amounts of goods or services that cannot reasonably be used or resold in a month; and/or (6) any other mechanism or artifice to qualify for advancement, incentives, prizes, commissions or bonuses that is not driven by bona fide products or services purchased by end user consumers.

### **3.14– Business Entities**

A corporation, limited liability Company (LLC), partnership or trust (collectively referred to in this section as a "Business Entity") may apply to be a Company SBA by submitting its Certificate of Incorporation, Certificate of Organization, Partnership Agreement, trust documents, FEIN, or other organizational documents requested by the Company (these documents are collectively referred to as the "Entity Documents") to the Company, along with a properly completed Business Entity Registration Form.

When an SBA registers, the Entity Documents, Business Entity Registration Form and a signed W-9 must be submitted to the Company within thirty (30) days of the request by the Company (If not received within the thirty (30) day period, the SBA Agreement shall automatically terminate). The Business Entity Registration Form must be signed by all shareholders, members, partners or trustees of the Business Entity (each a "member"). Members of the entity are jointly and severally liable for any indebtedness or other obligation to the Company. To prevent the circumvention of any portion of Section 4, if an additional partner, shareholder, member, or other Business Entity affiliate is added to a Business Entity, the original applicant must remain as a party to the original SBA Application and Agreement. If the original SBA wants to terminate his or her relationship with the Company, he or she must transfer or assign his or her business in accordance with Section 4.7 below. If this process is not followed, the business shall be canceled upon the withdrawal of the original SBA. All bonus and commission checks will be sent to the address of record on the original SBA. Please note that the modifications permitted within the scope of this paragraph do not include a change of sponsorship. The Company may, at its discretion, require notarized documents before implementing any changes to an SBA business. Please allow thirty (30) days after the receipt of the request by the Company for processing.

### **3.15– Changes to a Business Entity**

An SBA's business may change its status under the same sponsor from an individual to a partnership, LLC, corporation or trust, or from one type of entity to another. There is a \$25.00 fee for each change requested, which must be included with the written request, completed SBA Application and Agreement and Entity Documents. Such changes shall be processed only once per year and must be submitted by November 30th to become effective on January 1st of the following year. In addition, SBA's operating their businesses utilizing a Business Entity must notify the Company of the addition or removal of any officers, directors, shareholders, managers, members or business associates of the business entity.

### **3.16– Errors in Sponsorship**

To protect the integrity of all Marketing Organizations and safeguard the hard work of all SBA's, the Company does not allow sponsor changes. Maintaining the integrity of sponsorship is critical for the success of every SBA and Marketing Organization. Errors in sponsorship as outlined below must be sent to compliance in writing by email to compliance@surge365.com or physical mail to the home office address. Should an SBA wish to re-enroll under a new sponsor they must be inactive with the Company on each subscription they hold for a period of 24 months or minimally inactive on all subscriptions for six months and written approval of the first up line director. Any question regarding this should be submitted in writing to compliance@surge365.com.

Corrections will only be made under the following circumstances: In cases in which the new SBA is enrolled by someone other than the individual he or she was led to believe would be his or her sponsor, an SBA may request he or she be transferred to another organization with his or her entire Marketing Organization intact. All requests for transfer alleging fraudulent enrollment practices shall be evaluated on a case by case basis and must be made within thirty (30) days from the date of registration. The SBA requesting the change has the burden of proving he or she was placed beneath the wrong sponsor. In cases wherein, the appropriate sponsorship change procedures have not been followed and a second business is developed by an SBA, the Company reserves the sole and exclusive right to determine the final disposition of the Marketing Organization. Resolving conflicts over the proper placement of a

downline which has developed under an organization that has improperly switched sponsors is often extremely difficult. Therefore, SBAs waive any and all claims against the Company that relate to or arise from the Company's decision regarding the disposition of any marketing organization which develops below an organization that has improperly changed lines of sponsorship.

### **3.17– Unauthorized Claims – Indemnification**

An SBA is fully responsible for all his or her verbal and written statements made regarding the Company's products, services, and the Compensation Plan which are not expressly contained in the official Company's material. SBAs agree to indemnify the Company, its parents, subsidiaries and affiliates, employees and the Company's directors, officers, shareholders, employees, and agents, and hold them harmless from any and all claims, demands, liabilities, losses, damages, costs or expenses, liability including judgements, civil penalties, refunds, attorney fees, investigation costs, court costs, or lost business incurred by the Company resulting from or in any way connected with, directly or indirectly, an SBA's activities. This includes an SBA's unauthorized representations or actions, breach of the terms of the Agreement, or violation or failure to comply with any applicable federal, state or local law or regulation. The Company shall have the right to offset any amounts owed to the SBA hereunder against the amount of any commission, bonuses or other amounts owed to the SBA from the Company. This provision shall survive the termination of the SBA Agreement.

### **3.18– Income or Lifestyle Claims**

When registering prospective SBAs or selling Travel Technology Package Ownerships, the SBA may not make income claims or earning representations to demonstrate the inherent power of network marketing. Because the Company's SBAs do not have the data necessary to comply with the legal requirements for making income claims, an SBA, when presenting or discussing the Company's opportunity or Compensation Plan to a prospective SBA, may not make income projections, income claims, or disclose his or her own income (including the showing of checks, copies of checks, bank statements, or tax records.) unless in compliance with Section 3.19 "Income Disclosure Statement".

### **3.19– Income Disclosure Statement**

In order to conduct the best business practices, Surge365 has developed the Income Disclosure Statement ("IDS"). The Surge365 IDS is designed to convey truthful, timely, and comprehensive information regarding the income that Surge365 SBAs earn.

In order to accomplish this objective, a copy of the IDS must be presented to all prospective SBAs (someone who is not a party to a current Surge365 SBA Agreement) any time the Compensation Plan is presented or discussed, or any type of income claim, or earnings representation is made. In any meeting that is open to the public in which the Compensation Plan is discussed, or any type of income claim is made, the SBA must provide every prospective SBA with a copy of the IDS. Copies of the IDS may be printed or downloaded without charge from the SBA Back Office Resources section.

### **3.20– Commercial Outlets**

SBAs may not sell the Company's services or products from a commercial outlet, nor may SBAs display or sell the Company's services, products or literature in any retail or service establishment.

### **3.21– Trade Shows, Expositions and other Sales Forums**

SBAs may display and/or sell the Company's products at trade shows and professional expositions. Before submitting a deposit to the event promoter, SBAs must contact the Compliance Department in writing for conditional approval (by email at [Compliance@Surge365.com](mailto:Compliance@Surge365.com)), as the Company's policy is to authorize only one (1) SBA business per event. Should there be more than one (1) SBA interested in the same event, final approval will be granted to the first SBA who submits an official advertisement of the event, a copy of the contract signed by both the SBA and the event official, and a receipt indicating that a deposit for the booth has been paid. Approval is given only for the event specified. Any requests to participate in future events must again be submitted to the Compliance Department. The Company further reserves the right to refuse authorization to participate at any function which it does not deem a suitable forum for the promotion of its products, services, or the Company's opportunity. Approval will not be given for swap meets, garage sales, flea markets or farmer's markets as these events are not conducive to the professional image the Company wishes to portray.

### **3.22– Conflicts of Interest**

The Company's SBAs are free to participate in other multilevel or network marketing business ventures or marketing opportunities (collectively "network marketing"). However, during the term of this Agreement, SBAs may not directly or indirectly attempt to register the Company's SBAs, or Surge365 Travel Technology Package Owners for any other network marketing business. Following the cancellation of an SBA's Agreement, and for a period of one (1) year thereafter, with the exception of an SBA who was personally sponsored by the former SBA, a former SBA may not recruit any of the Company's SBAs, Surge365 Travel Technology Package Owners, or Vortex Customers for another network marketing business. SBAs and the Company recognize because network marketing is conducted through networks of independent contractors dispersed across the entire United States and internationally, with business commonly conducted via the internet and telephone, an effort to narrowly limit the geographic scope of this non-solicitation provision would render it wholly ineffective. Therefore, SBAs and the Company agree that this non-solicitation provision shall apply to all markets in which the Company conducts business. SBAs must not sell, or attempt to sell, any competing programs, products or services to the Company's Surge365 SBAs, Travel Technology Package Owners or Vortex Customers.

Any program, product or service in the same generic categories as the Company's products or services are deemed to be competing, regardless of differences in cost, quality, or distinguishing factors. If an SBA is engaged in another direct selling program, it is the responsibility of the SBA to ensure that his or her Company's business is operated entirely separate and apart from any other program in which the SBA participates. To this end, the following must be adhered to:

- a) The SBA shall not display the Company's promotional materials, sales aids, products or services with or in the same location as any other network marketing Company's promotional materials, sales aids, products or services including personal websites.
- b) The SBA may not offer the Company's opportunity, products or services to prospective or existing Surge365 SBAs or Travel Technology Package Owners in conjunction with any other network marketing Company's program, opportunity, product or service.
- c) The SBA may not offer any other network marketing Company's opportunity, products, services, or opportunity at any Company meeting, seminar or convention, or within two (2) hours and a five (5) mile radius of the Company's event. If the Company meeting is held telephonically or via the internet, any other network marketing Company's meeting must be at least two (2) hours before or after the Company's meeting, and on a different conference telephone number or internet web address from the Company's meeting.
- d) Downline Activity Reports are available for SBA access and viewing in the SBA's Back Office. Access to these reports are password protected. All Downline Activity Reports and the information contained therein are confidential and constitute proprietary information and business trade secrets belonging to the Company. Downline Activity Reports are provided to SBAs in strictest confidence and are made available to SBAs for the sole purpose of assisting SBAs in working with their respective Marketing Organization in the development of their Company business. SBAs should use their Downline Activity Reports only to assist, motivate, and train their downline SBAs. The SBA and the Company agree that, but for this agreement of confidentiality and nondisclosure, the Company will not provide Downline Activity Reports to the SBA. An SBA shall not, on his or her own behalf, or on behalf of any other person, partnership, association, corporation or other entity.
- e) Directly or indirectly use, sell or disclose any information contained in any Downline Activity Report to any third-party.
- f) Directly or indirectly disclose the password or other access code to his or her Downline Activity Report.
- g) Use the information contained in any Downline Activity Report to compete with the Company or for any purpose other than promoting or supporting his or her business.
- h) Solicit any Surge365 SBA, Travel Technology Package Owner, or Vortex Customer listed on any Downline Activity Report or in any manner attempt to influence or induce their business relationship with the Company.

Upon demand by the Company, any current or former SBA will return the original and all copies of Downline Activity Reports to the Company. If an SBA attempts to cross recruit Company's other SBAs or Travel Technology Package Owners to a competing network marketing entity utilizing contacts gained from the proprietary information contained in the Company's Downline Activity Reports, the SBA agrees that for each occurrence of a documented attempt (i.e. e-mail solicitation, recorded phone call, letter, personalized brochure or business card) liquidated damages will be due the Company in the amount of \$10,000 per person, per occurrence.

### **3.23– Targeting Other Direct Sellers**

The Company does not condone SBAs specifically or knowingly targeting the sales force of another direct sales company to sell the Company's products or to become SBAs for the Company, nor does the Company condone SBAs' solicitation or enticement of Travel Technology Package Owners of the sales force of another direct sales company to violate the terms of their contract with such other company. Should SBAs engage in such activity, they bear the risk of being sued by the other direct sales company. If any lawsuit, arbitration or mediation is brought against an SBA and/or the Company alleging that the SBA engaged in inappropriate recruiting activity of its sales force or customers, (i) the Company will not pay any of SBA's defense costs or legal fees, nor will the Company indemnify the SBA for any judgment, award, or settlement and (ii) SBA shall indemnify and hold Surge365 and its parents, subsidiaries, or affiliates and its and their officers, directors, employees and agents harmless from and against any such claim, obligation, demand, lawsuit, arbitration, mediation, loss, damages or costs, including attorneys' fees, cost of defense or cost of settlement.

### **3.24– Cross Sponsoring**

Actual or attempted cross sponsoring is strictly prohibited. "Cross sponsoring" (sometimes called Cross Lining) is defined as the registration or attempted registration of an individual who, or entity that, already has a current Surge365 SBA or Travel Technology Package Ownership Agreement on file with the Company, or who has had such an agreement within the past 24 months, within a different line of sponsorship. The use of a spouse's or relatives name, trade names, DBAs, assumed names, corporations, partnerships, trusts, Federal ID Numbers, fictitious ID numbers or any other artifice to circumvent this policy is strictly prohibited. SBAs shall not demean, discredit or defame other Company's SBAs in an attempt to entice another SBA to become part of the first SBA's Marketing Organization. If Cross Sponsoring is discovered, it must be brought to the Company's attention immediately. The Company may take disciplinary action against the SBA who changed organizations and/or those SBAs who encouraged or participated in the Cross Sponsoring. The Company may also move all or part of the offending SBA's Marketing Organization to his or her original Marketing Organization if the Company deems it equitable and feasible to do so. However, the Company is under no obligation to move the Cross Sponsored SBA's Marketing Organization, and the ultimate disposition of the organization remains within the sole discretion of

the Company. SBAs waive all claims and causes of action against the Company arising from or relating to the disposition of the Cross Sponsored SBA's Marketing Organization.

### **3.25– Errors or Questions**

If an SBA has questions about or believes any errors have been made regarding commissions, bonuses, Downline Activity Reports, or charges, the SBA must notify the Company in writing within sixty (60) days of the date of the purported error or incident in question. The Company will not be responsible for any errors, omissions or problems not reported to the Company within sixty (60) days.

### **3.26– Governmental Approval or Endorsement**

Neither federal, provincial, nor state regulatory agencies approve or endorse any direct selling or network marketing companies or programs. Therefore, SBAs shall not Represent or imply the Company or the Company's Compensation Plan has been "approved," "endorsed" or otherwise sanctioned by any government agency.

### **3.27– Holding Applications or Orders**

SBAs must not manipulate registrations of new applicants and purchases of services or products. Paper applications received must be submitted to the Corporate Office and not retained by the sponsoring SBA.

### **3.28– Identification**

All SBAs are required to provide valid Tax ID information (in accordance to their country or region) to the Company prior to receiving any earned compensation. Upon registration, the Company will provide a unique Identification Number by which he or she will be identified. This number will be used to place orders, for information and reporting and to track commissions and bonuses. The failure to supply valid Tax ID information shall result in held compensation.

### **3.29– Income Taxes**

Each SBA is responsible for paying local, provincial, state and federal taxes on any income generated as an Independent SBA. If an SBA business is tax exempt, the Federal Tax Identification Number must be provided to the Company. Every year, the Company will provide an IRS Form 1099 MISC (Non-employee Compensation) earnings statement to each U.S. resident who: (1) Had earnings of over \$600 in the previous calendar year; or (2) Made purchases during the previous calendar year in excess of \$5,000.

### **3.30– Independent Contractor Status**

SBAs are independent contractors and are not purchasers of a franchise or a business opportunity. The Agreement between the Company and its SBAs does not create an employer/employee relationship, agency, partnership, or joint venture between the Company and the SBA. SBAs shall not be treated as an employee for his or her services or for federal, provincial or state tax purposes. An SBA is not an employee of Surge365 and is not entitled to workers' compensation, unemployment benefits or any other employee type benefit from the Company or by virtue of his or her SBA status with the Company. The SBA has no authority (expressed or implied) to bind the Company to any obligation. Each SBA shall establish his or her own goals, hours, and methods of sale, so long as he or she complies with the terms of the SBA Agreement and applicable laws. The name of the Company and other names as may be adopted by the Company are proprietary trade names, trademarks and service marks of the Company. Use of the Company name on any item not produced by the Company is prohibited.

### **3.31– SBA's Name**

All SBAs may list themselves as an "Independent Surge365 SBA" in the white or yellow pages of the telephone directory under their own name. No SBA may place telephone directory display ads using the Company's name or logo. SBAs may not answer the telephone by saying the Company name, or in any other manner that leads the caller to believe he or she has reached corporate offices of the Company.

### **3.32– International Marketing**

Because of critical legal, monetary and tax considerations, the Company must limit the resale of the Company's products and services, and the presentation of the Company's business to prospective customers and SBAs located within the United States, U.S. Territories and the other countries that the Company has announced are officially open for business. Furthermore, it is the SBA's responsibility to adhere to the specific Policies and Procedures of their country or territory. SBAs are authorized to sell the Company products and services and register Surge365 SBAs or Travel Technology Package Owners only in the countries in which the Company is authorized to conduct business, as announced in official Company literature. The Company's products or sales aids cannot be shipped into or sold in any other foreign country. SBAs may only distribute the Company's printed sales aids in the countries which are officially open for business. In addition, no SBA may, in any unauthorized country: (1) conduct sales, registration or training meetings; (2) register or attempt to register Surge365 SBAs or Travel Technology Package Owners; or (3) conduct any other activity for the purpose of selling the Company's products, establishing a Marketing Organization, or promoting the Company opportunity.

### **3.33– Confidentiality**

"Confidential Information" means any and all information the Company designates as being confidential or which, under the

circumstances surrounding disclosure, would reasonably be expected to be or should be treated as confidential. Confidential Information includes, without limitation, SBA customer lists and data, information relating to genealogical or downline reports, pricing, technical information, research, development, procedures, algorithms, data, designs, know-how, the marketing or promotion of any of the Company's products or services, the Company's business policies, practices or operations, information received from others that the Company is obligated to treat as confidential and information regarding the Company's respective parents, subsidiaries and affiliated agents.

Confidential Information also includes commercial secrets, trade secrets, supplier commission percentages and related information, and any internal information of the Company. Confidential Information is proprietary and confidential to the Company. It is provided to the SBA in strictest confidence.

- a) Lists and data are for the limited use of the SBA to facilitate training, support and to further the SBA's business only. Each SBA agrees that the use of the Company's Surge365 SBA or Travel Technology Package Owner customer lists or other lists or data constitutes a nonexclusive license between the SBA and the Company for the SBA's limited use thereof, as more fully set forth below.
- b) Lists, data and information relating to Surge365 SBAs, Travel Technology Package Owners or Vortex Customers remain, at all times, the exclusive property of the Company and must be returned to the Company upon request. An SBA receiving such a list, data or information, whether from the Company or from another source, agrees:
  - i. To limit the use of a list to the intended scope of the list and to exclusively advance an SBA's business.
  - ii. To hold confidential and not disclose any portion thereof to any third-party, including, but not limited to; existing SBAs, competitors, and the general public. Any use or disclosure of lists, outside of those authorized, constitutes misuse, misappropriation, and a violation of the Agreement, and will cause irreparable harm to the Company.
  - iii. That, upon any violation of this section, the SBA agrees (1) the Company shall be entitled to in addition to any other rights and remedies available to the Company at law or in equity, injunctive relief, enjoining such use under applicable national or local law, and (2) he or she will retrieve and return to the Company all existing lists previously provided to the SBA.
  - iv. That intended or unintended misuse of a list, data or information may be cause for termination of an SBA.
  - v. That the obligations under this section will survive the termination or expiration of the Agreement.
- c) The Company reserves the right to pursue all appropriate remedies under applicable federal, state or local laws to protect its rights to the Confidential Information, proprietary information and trade secrets of the Company, any failure to pursue such remedies in one instance will not constitute a waiver of those rights by the Company in any other circumstances. Each SBA agrees he/she will not use such lists, data or information to compete with the Company or for any other purpose other than to promote his/her Company-related business activities. Any SBA who is found to be in violation of this section may be subject to disciplinary action and, in addition to all other rights and remedies available to the Company at law or in equity, the Company may seek remedies for compensatory and punitive damages, injunctive relief exclusive of the remedies available in Section 9 below, for specific performance to the fullest extent that the law makes available.

### **3.34– Promotion of Tax Advantages of an Independent Business**

No SBA may imply that a Surge365 SBA or Travel Technology Package Owner may take tax deductions by being a Surge365 SBA or Travel Technology Package Owner based on monies spent on personal travel or by being an independent business person.

### **3.35– Change of Secondary**

A secondary can be changed at a maximum of every 4 months on your business account and/or Wholesale Travel subscription.

## **SECTION 4 – Requirements**

### **4.1 – Adherence to Laws and Ordinances**

SBAs shall comply with all federal, state, and local laws and regulations in the conduct of their businesses. Many cities and counties have laws regulating certain home-based businesses. In some cases, these ordinances are not applicable to SBAs because of the nature of their business. However, SBAs must obey those laws that do apply to them. If a city or county official tells an SBA an ordinance applies to him or her, the SBA shall be polite and cooperative, and immediately send a copy of the ordinance to the Compliance Department of the Company for review. In the case of joint ownership, the Company shall deal exclusively with the listed primary SBA in all matters relating to the Agreement. Secondary applicants are still subject to all the obligations and Policies and Procedures as set forth in this Agreement. The primary SBA applicant shall be responsible for the compliance with the Agreement by his or her secondary applicant if the SBA chooses to have one.

### **4.2 – One (1) Business per SBA and Per Household**

An SBA may operate or have an ownership interest, legal or equitable, as a sole proprietorship, partner, member, shareholder, trustee, or beneficiary, in only one business as an SBA. No individual may have, operate or receive compensation from more than one (1) SBA business. Individuals of the same family unit may not enter into or have an interest in more than one (1) Company business. A "family unit" is defined as spouses and dependent children living at or doing business at the same address. In order to maintain the integrity of

the Company's Compensation Plan, husbands and wives or common-law couples (collectively "spouses") who wish to become SBAs must be jointly sponsored as one (1) business entity. Spouses, regardless of whether one or both are signatories to the SBA Application and Agreement, may not own or operate any other Company business, either individually or jointly, nor may they participate directly or indirectly (as a shareholder, partner, trustee, trust beneficiary, or any other legal or equitable ownership) in the ownership or management of another Company business in any form. Any household other than those of a parent/child relationship or landlord/renter cannot have more than one (1) SBA ownership connected to the same address. An email to Compliance@Surge365.com must be submitted to approve the registration of more than one SBA in the same household.

#### **4.3 – Marriage**

SBAs who choose to marry may maintain their separate SBA positions.

#### **4.4 – Divorce or Dissolution**

- a) If married persons or partners who share ownership in an SBA business obtain a divorce or wish to dissolve their partnership, corporation or limited liability Company, the Company will continue to treat them pursuant to the controlling party being the designated primary applicant at the time of filing of a petition in a court of jurisdiction for divorce or dissolution, until such time as the Company receives written notice from both parties or an appropriate court order directing otherwise. The written notice must be signed by all parties.
- b) Divorced persons or dissolved partnerships, corporations or limited liability companies must submit to the Company a certified copy of any legal judgment or decree, or jointly specify in writing to the Company, as to ownership and/or how future commission and bonus checks should be paid.

#### **4.5 – Actions of Household Members or Affiliated Individuals**

If any member of an SBA's immediate household engages in any activity which would violate any provision of the Agreement, such activity will be deemed a violation by the SBA and the Company may take disciplinary action pursuant to the Agreement against the SBA. Similarly, if any individual associated in any way with a corporation, partnership, trust or other entity (collectively "affiliated individual") violates the Agreement, such action(s) will be deemed a violation by the entity, and the Company may take disciplinary action against the entity.

#### **4.6 – Sale, Transfer or Assignment of your Business**

Although an SBA business is a privately owned, independently operated business, the sale, transfer or assignment of such a business entity is subject to certain limitations. If an SBA wishes to sell his or her business, the following criteria must be met:

- a) Protection of the existing line of sponsorship must always be maintained so the Company's business continues to be operated in that line of sponsorship. The buyer or transferee must become qualified as an SBA and may not currently or previously be an SBA or Member.
- b) Before the sale, transfer or assignment can be finalized and approved by the Company, any debt obligations the selling SBA has with the Company must be satisfied.
- c) The selling SBA must be in good standing and not in violation of any of the terms of the Agreement in order to be eligible to sell, transfer or assign an SBA's business.
- d) The sale, transfer or assignment must occur six (6) months after the business was obtained by the SBA.
- e) The Company's administrative fee for this type of business transfer is equal to the Initial Set Up Fee paid to open the account by the customer and must be submitted to the Company with the appropriate supporting documentation.
- f) The additional type of transfer would be from a primary holder to a secondary. The primary must have listed the secondary on the account for a total of 4 consecutive months. After this period has passed the transfer can be made with appropriate paperwork filed to the Company and a fee of \$25 fee has been paid.

Prior to selling a Company business, the selling SBA must notify the Company's Compliance Department of his or her intent to sell their business. Upon completed execution of the purchase and sale agreement, the parties must submit copies of same to the Compliance Department for review, along with the above business transfer fee. The Company reserves the right to request additional documentation that may be necessary to analyze the transaction between the buyer and seller. The Compliance Department will, in its sole and absolute discretion, approve or deny the sale, transfer or assignment within thirty (30) days after its receipt of all necessary documents from the parties. If the parties fail to obtain the Company's approval for the transaction, the transfer shall be voided at the Company's option and the business transfer fee will be returned. If the sale is allowed, the purchaser of the existing business will assume all the obligations of that position of the selling SBA. An SBA who sells his or her business shall not be eligible to re-apply as an SBA for a period of at least four (4) full calendar months after the date of the sale. No changes in line of sponsorship can result from the sale or transfer of a business.

#### **4.7 – Separation of an SBA's Business**

The Company's SBAs sometimes operate their business as husband-wife partnerships, regular partnerships, corporations, LLCs or trusts. At such time as a marriage may end in divorce or a corporation, partnership or trust (the latter four (4) entities are collectively referred to herein as "entities") may dissolve, arrangements must be made to ensure any separation or division of the business is accomplished so as not to adversely affect the interests and income of other businesses up or down the line of sponsorship. If the

separating parties fail to provide for the best interests of other SBAs and the Company in a timely fashion, the Company will involuntarily terminate the SBA Agreement. During the divorce or entity dissolution process, the parties must adopt one of the following methods of operation:

- a) One of the parties may, with consent if the other(s), operate their business pursuant to an assignment in writing whereby the relinquishing spouse, shareholders, partners or trustees and authorize the Company to deal directly and solely with the remaining spouse or non-relinquishing shareholder, partner or trustee.
- b) The parties may continue to operate their business jointly on a “business-as-usual” basis, whereupon all compensation paid by the Company will be paid according to the status quo as it existed prior to the divorce filing or dissolution proceedings.
  - i. This is the default procedure if the parties do not agree on the format set forth above. Under no circumstances will the Marketing Organization of divorcing spouses or a dissolving business entity be divided. Similarly, under no circumstances will the Company split commission and bonus checks between divorcing spouses or members of dissolving entities. The Company will recognize only one (1) Marketing Organization and will issue only one (1) commission check per the Company’s business per commission cycle.

Commission checks shall always be issued to the same individual or entity. If parties to a divorce or dissolution proceeding are unable to resolve a dispute over the disposition of commissions and ownership of the business in a timely fashion as determined by the Company, the SBA Agreement shall be involuntarily canceled. If a former spouse has completely relinquished all rights in the original business pursuant to a divorce, he or she is thereafter free to register under any sponsor of his or her choosing without waiting four (4) calendar months. In the case of business entity dissolutions, the former partner, shareholder, member, or other entity affiliate who retains no interest in the business is thereafter free to register under any sponsor of his or her choosing without waiting four (4) calendar months. In either case, however, the former spouse or business affiliate shall have no rights to any SBAs in their former organization or to any former retail customer. They must develop the new business in the same manner as would any other new SBA.

#### **4.8 – Registering SBAs**

All active SBAs in good standing have the right to register others into the Company. Each prospective Surge365 SBA and Travel Technology Package Owner has the ultimate right to choose his or her own Sponsor. If two (2) SBAs claim to be the Sponsor of the same new SBA or Travel Technology Package Owner, the Company shall regard the first registration as controlling.

#### **4.9 – Succession**

Upon the death or incapacitation of an SBA his or her business may be passed to his or her heirs. Appropriate legal documentation must be submitted to the Company to ensure the transfer is proper. Accordingly, an SBA should consult an attorney to assist him or her in the separation of a will or other testamentary instrument. Whenever a business is transferred by a will or other testamentary process, the beneficiary acquires the right to collect all bonuses and commissions of the deceased or incapacitated SBA’s Marketing Organization provided the following qualifications are met. The successor(s) must:

- a) Complete and execute an SBA Agreement
- b) Complete and submit a signed copy of the Account Continuation Form located in Resources section of the Back Office
- c) Comply with terms and provisions of the Agreement
- d) Meet all the qualifications for the deceased or incapacitated SBA’s status

### **SECTION 5 – Ongoing Responsibilities of SBAs**

#### **5.1 – Change of Address or Telephone**

To ensure timely delivery of products, support materials, and commission checks, it is critically important that the Company’s files are current. Street addresses are required for shipping marketing materials as UPS cannot deliver to a Post Office Box. SBAs planning to move must update their personal information via the SBA’s Back Office or send their new address and telephone numbers to the Company’s Corporate Offices to the attention of the Customer Support Department as applicable. To guarantee proper delivery, two (2) weeks advance notice must be provided to the Company on all changes.

#### **5.2 – Continuing Development Obligations Ongoing Training**

Any SBA who sells a travel subscription or sponsors an SBA into the Company must perform a bona fide assistance and training function to ensure his or her Marketing Organization is properly operating. SBAs must have ongoing contact and communication with the SBAs in their Marketing Organizations. Examples of such contact and communication may include, but are not limited to; newsletters, written correspondence, personal meetings, telephone contact, voice mail, text messaging, social media forums, electronic mail, and the accompaniment of downline SBAs to the Company’s meetings, training sessions, and other functions. Upline SBAs are also responsible to motivate and train new SBAs in the Company’s product and service knowledge, effective sales techniques, the Company’s Compensation Plan, and compliance with the Company’s Agreement. Communication with and the training of downline SBAs must not, however, violate Section 3.2 (regarding the development of SBA-produced sales aids and promotional materials). SBAs must monitor the SBAs and Travel Technology Package Owners in their Marketing Organizations to ensure that downline SBAs and Travel Technology Package Owners do not make improper claims or engage in any illegal or inappropriate conduct. Upon request, every SBA should be able to provide documented evidence to the Company of his or her ongoing fulfillment of the

responsibilities of a Sponsor. Additionally, SBAs may not charge more than \$25 to attend a training session or meeting. The cost to attend must be line with the cost to host. If there is not a cost to the host there should not be a cost to attend either.

### **Increased Training Responsibilities**

As SBAs progress through the various levels of leadership, they will become more experienced in sales techniques, product knowledge, and understanding of the Company program. They will be called upon to share this knowledge with lesser experienced SBAs within their organization.

### **Ongoing Sales Responsibilities**

Regardless of their level of achievement, SBAs have an ongoing obligation to continue to personally promote sales through the generation of new SBAs and through servicing their existing SBAs.

### **5.3 – Non-Disparagement**

The Company wants to provide SBAs with the best products, compensation plan, and service in the industry. Accordingly, the Company values your constructive criticisms and comments. All such comments should be submitted in writing to the Customer Support Department by email to [compliance@surge365.com](mailto:compliance@surge365.com). To best serve you, the Company must hear from you. While the Company welcomes constructive input, negative comments and remarks made in the field by SBAs about the Company, its products, or Compensation Plan serve no purpose other than to dampen the enthusiasm of the Company's SBAs. For this reason, and to set the proper example for their Marketing Organization, SBAs must not disparage, demean, or make negative remarks about the Company, other Company's SBAs, the Company's products, the Compensation Plan, or the Company's directors, officers, or employees. Any such remarks can result in Disciplinary Sanctions.

### **5.4 – Reporting Policy Violations**

SBAs observing a Policy violation by another SBA should submit a written report of the violation directly to the attention of the Company's Compliance Department at the Corporate Office address. Details of the incidents such as dates, number of occurrences, persons involved, and any supporting documentation should be included in the report. Alternatively, these Reports may be emailed into the Compliance Department by submitting a statement documenting the names and facts involved to [Compliance@Surge365.com](mailto:Compliance@Surge365.com). All reports made to the Compliance Department are held in strict confidence and the reporting SBA will remain anonymous.

### **5.5 – Vendor Confidentiality/Communications**

The Company's business relationships with its marketing alliances, vendors, suppliers, Company associates or former employees within or outside the corporate workplace are confidential, proprietary, and not to be circumvented by either the SBA or the vendor. An SBA shall not contact, directly or indirectly, speak to or communicate with any Representative of any supplier or manufacturer of the Company except at a Company sponsored event at which the representative is present at the request of the Company or as otherwise expressly permitted in writing by the Company. Violation of this regulation may result in termination of the SBA and possible claims of damages against the SBA and/or the vendor. Questions regarding any of these businesses should be directed to the Compliance Department. SBAs shall not negotiate with vendors or suppliers in any industry on behalf of the Company, including, but not limited to, attempting to negotiate with any vendor or supplier for broker's fees, finder's fees or any other fees for arranging a possible transaction between the vendor and/or supplier and the Company. Notwithstanding the foregoing, in the event an SBA does arrange a transaction between the Company and a third-party, such SBA will not be entitled to any brokers, finders, commission or other fee from the Company or any of its affiliated entities.

## **SECTION 6 – Sales Requirements**

### **6.1 – Product Sales**

The Company's Compensation Plan is based on the sale of the Company's products and services to end consumers. SBAs must fulfill personal and Marketing Organization sales requirements (as well as meet other responsibilities set forth in the Agreement) to be eligible for bonuses, commissions and/or advancement to higher levels of achievement. The requirements outlined in section 2.1 (Becoming an SBA) must be satisfied for SBAs to be eligible for commissions.

### **6.2 – No Territory Restrictions**

There are no exclusive territories granted to anyone.

## **SECTION 7 – Bonuses and Commissions**

### **7.1 – Bonus and Commission Qualifications**

An SBA must be active and in compliance with the Agreement to qualify for bonuses and commissions. As long as an SBA complies with the terms of the Agreement, the Company shall pay commissions to such SBA in accordance

with the Compensation Plan. Once an SBA has achieved the rank of Marketing Director they will be subject to the current Marketing Director Agreement. In order to participate in the Director Compensation plan, the qualified SBA must sign and adhere to the current Marketing Director Agreement. The minimum amount for which the Company will issue a check is \$10.00. If an SBA's bonuses and commissions do not equal or exceed \$10.00, the Company will accrue the commission and bonuses until they total \$10.00. A check will be issued once the \$10.00 has been accrued.

### **7.2 – Adjustments to Bonuses and Commissions for Returned Products and Services**

SBA's receive bonuses and commissions based on the actual sales of products and services to end consumers. When a product is returned to the Company for a refund or a service is cancelled and the customer is entitled to a refund, the following may occur at the Company's discretion: the bonuses and commissions attributable to the returned or refunded service will be deducted in the month in which the refund is given and continuing every pay period thereafter until the bonuses and commissions are recovered from the SBA's who received bonuses and commissions on the sales of the refunded product or cancelled service. The Company will deduct a check issuance/data processing fee of \$1.50 from all bonus and commission checks issued to an SBA.

### **7.3 – Replacement Checks**

Upon request, Surge365 will issue a replacement check for a lost or stolen check; however, a \$15.00 service fee will be assessed on any request made within twenty-one (21) business days of the issue date of the check. Conversely, after twenty-one (21) business days a replacement check may be reissued at no cost to the SBA.

### **7.4 – Returned Commission Checks**

The Company makes reasonable efforts to ensure SBA's receive their commission checks. However, when a check is returned to the Company because an SBA has moved without providing the Company with a forwarding address or is not presented for payment for some other reason beyond the control of the Company, the check will be rescinded and remain the property of the Company if not claimed within one (1) year of issuance.

### **7.5 – Reports**

All information provided by Surge365, including but not limited to personal sales volume (or any part thereof), and downline sponsoring activity is believed to be accurate and reliable. Nevertheless, due to various factors including but not limited to the inherent possibility of human and mechanical error; the accuracy, completeness, and timeliness of order; denial of credit card and electronic check payments, an SBA whose SBA Agreement is cancelled shall receive commissions and bonuses only for the last full pay period he or she worked prior to cancellation (less any amounts withheld during an investigation preceding an involuntary cancellation).

## **SECTION 8 – Refunds and Inventory Returns**

### **8.1 – Cancellation Guarantee**

- a) An SBA in this multilevel marketing plan has a right to cancel at any time, regardless of the reason. Cancellation can be submitted in writing to the Company at its principal business address, by submitting a Support Ticket in their Back Office or by calling our Customer Support Department (618-655-2431).
- b) An SBA who makes an initial fee payment, monthly fee payment, marketing material purchase or more, has five (5) business days after the sale or execution of a contract to cancel the order and receive a full refund.
- c) MONTANA RESIDENTS: A Montana resident may cancel his or her SBA Agreement within fifteen (15) days from the date of registration and may return purchased products for a full refund within such time period.
- d) CANADA RESIDENTS: A Canadian resident may cancel his or her SBA Agreement within ten (10) business days of registration and may return purchased products for a full refund within such time period.
- e) ROMANIAN RESIDENTS: A Romanian resident may cancel his or her SBA Agreement within fourteen (14) business days of registration and may return purchased products for a full refund within such time period.

### **8.2 – Returns for Residents of other States and Puerto Rico**

The following only applies to SBA's who are residents of Puerto Rico, Georgia, Louisiana, Maryland, Massachusetts, Wyoming and any other state that may require the following: Upon cancellation of an SBA's Agreement, the SBA may return his or her sales aids held in his or her inventory for a refund. SBA's may only return marketing material and sales aids that he or she personally purchased from the Company (purchases from other SBA's or third-parties are not subject to refund) and which are in resalable condition (see Definition of "Resalable" in Glossary below) and which have been purchased within one (1) year prior to the date of cancellation. Shipping charges incurred by an SBA when the sales aids were purchased will not be refunded. If the purchases were made through a credit card, the refund will be credited back to the same account. If an SBA was paid a bonus or commission based on a product that he or she purchased, and such product is subsequently returned for a refund, the commission that was paid to the SBA based on that product purchase will be deducted from the amount of the refund.

## **SECTION 9 – Dispute Resolution and Disciplinary Proceedings**

### **9.1 – Disciplinary Sanctions**

Violation of the Agreement or violation of any common law duty, including but not limited to any applicable duty of loyalty, any illegal, fraudulent, deceptive or unethical business conduct, or any act or omission by an SBA that, in the sole discretion of the Company may damage its Reputation or goodwill (such act or omission need not be related to the SBA's business), may result, at the Company's discretion, in one (1) or more of the following corrective measures:

- a) Issuance of a written warning or admonition.
- b) Requiring the SBA to take immediate corrective measures.
- c) Imposition of a fine, which may be withheld from bonus and commission checks.
- d) Loss of rights to one (1) or more bonus and commission checks.
- e) The Company may withhold from an SBA all or part of the SBA's bonuses and commissions during the period that the Company is investigating any conduct allegedly violating the Agreement. If a SBA's business is canceled for disciplinary reasons, the SBA will not be entitled to recover any commissions withheld during the investigation period.
- f) Suspension of the individual's SBA Agreement for one (1) or more pay periods.
- g) Probationary period during which time any further infractions of the Agreement will result in termination of the SBA's business. During probation, an SBA may continue to represent the Company and build his or her Marketing Organization, can receive commissions, but will not be paid bonuses or be eligible for promotions to higher levels.
- h) Termination of the offender's SBA Agreement. Upon written notice to terminate in the event SBA breaches the Agreement, SBA shall (i) lose all rights to purchase products and/or services from Company, (ii) cease from representing himself or herself as an SBA, (iii) lose all rights to SBA's participation and position in the Compensation Plan, including all future commissions and earnings and (iv) take all other actions reasonably required by Company, including the discontinuance of Company's names, marks and other intellectual property.
- i) Transfer of a portion or all of the SBA's Marketing Organization or downline.
- j) Any other measure expressly allowed within any provision of the Agreement or which the Company deems practicable to implement and appropriate to equitably resolve injuries caused partially or exclusively by the SBA's policy violation or contractual breach.
- k) In situations deemed appropriate by the Company, the Company may institute legal proceedings for monetary and/or equitable relief exclusive of the procedures outlined in Sections 9.4 and 9.5 below.
- l) Company reserves the right to accept or deny any application or terminate anyone for any reason such as past or current felony convictions, acts of moral turpitude or other actions which, at the sole discretion of Company, would harm the Reputation of Company or its current share or stakeholders.

### **9.2 – Grievances and Complaints**

When an SBA has a grievance or complaint with another SBA regarding any practice or conduct in relationship to their respective businesses, the complaining SBA should first report the problem to his or her Sponsor who should review the matter and try to resolve it with the other party's upline Sponsor. If the matter involves interpretation or violation of the Company's policies, it must be reported in writing to the Compliance Department at the Company (Compliance@Surge365.com). The Compliance Department will review the facts and attempt to resolve it. If it is not resolved, it will be referred to the Dispute Resolution Board for final review and determination.

### **9.3 – Dispute Resolution Board**

The purpose of the Dispute Resolution Board ("DRB") is to: (1) review appeals of disciplinary sanctions; and (2) review matters between the Company's SBAs. After the response or settlement instituted by the Compliance Department has been denied or otherwise remains unresolved, upon written request, the DRB reviews evidence, deliberates, and responds to current outstanding issues on a collective basis. An SBA may submit a written appeal within fifteen (15) business days from the date of: (1) the written notice by the Company of disciplinary action; or (2) the written decision of Compliance Department, as applicable, regarding disputes between SBAs. All communication with the Company and the SBA seeking resolution of a dispute must be in writing and sent via U.S. Mail. It is within the DRB's discretion whether a claim is accepted for review. If the DRB agrees to review the matter, it shall schedule a hearing within ten (10) business days of receipt of the SBA's written request. All evidence (e.g., documents, exhibits, etc.) that an SBA desires to have considered by the DRB must be submitted to the Company with the written request for a review with the DRB. The DRB will review and reconsider the sanction, consider any other appropriate action, and notify the SBA in writing of its decision.

### **9.4 – Mediation**

Prior to instituting any arbitration as provided in Section 9.5 below, the parties shall meet in good faith and attempt to resolve any dispute arising from or relating to the Agreement through non-binding mediation. One (1) individual who is mutually acceptable to the parties shall be appointed as mediator. The mediator's fees and costs, as well as the costs of holding and conducting the mediation, shall be divided equally between the parties. Each party shall pay its portion of the anticipated fees and costs at least ten (10) days in advance of the mediation. Each party shall pay its own attorney fees, costs, and individual expenses associated with conducting and

attending the mediation. Mediation shall be held in Edwardsville, Illinois and shall last no more than two (2) business days.

### **9.5 – Arbitration**

If mediation is unsuccessful, any controversy or claim arising out of or relating to the Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. SBAs waive all rights to trial by jury or by any court. All arbitration proceedings shall be held in Edwardsville, Illinois, unless the laws of the state in which an SBA resides expressly require the application of its laws.

### **9.6 – Governing Law, Jurisdiction and Venue**

Jurisdiction and venue of any matter not subject to arbitration shall reside exclusively in Madison County, State of Illinois. The Federal Arbitration Act shall govern all matters relating to arbitration. The law of the State of Illinois shall govern all other matters relating to or arising from the Agreement. Notwithstanding the foregoing, and the arbitration provision in Section 9.5, residents of the State of Louisiana shall be entitled to bring an action against the Company in their home forum and pursuant to Louisiana law.

## **SECTION 10 – Payments**

### **10.1– Returned Checks**

All checks returned by an SBA’s bank for insufficient funds will be re-submitted for payment. A \$25.00 returned check fee will be charged to the account of the SBA. After receiving a returned check from a customer or an SBA, all future orders must be paid by credit card, money order or cashier’s check. Any outstanding balance owed to the Company by an SBA for non-sufficient funds (NSF) checks and returned check fees will be withheld from subsequent bonus and commission checks.

### **10.2– Restrictions on Third-Party Use of Credit Cards and Checking Account Access**

An SBA shall not permit other Surge365 SBAs, Travel Technology Package Owners, or Vortex Customers to use his or her credit card, or permit debits to his or her checking accounts, to register or to make purchases from the Company. An SBA may only pay for his or her own account with the only exceptions being a parent/child relationship. In the event SBA violates this Section, SBA hereby agrees to be personally liable for the sum of a full six (6) months of fees, for any individual in which the SBA paid a fee for.

### **10.3– Sales Tax**

SBAs will pay sales tax based on the suggested retail price of the product.

### **10.4– Payment Descriptor**

Charges on your statement will appear as Surge365 618-655-2431, Travel Services 618-655-2431, or Surge365LLC 618-655-2431.

## **SECTION 11 – Inactivity and Cancellation**

### **11.1– Effect of Cancellation**

In the event of cancellation, SBAs agree to waive all rights they may have, including but not limited to property rights, their former downline organization and to any bonuses, compensation or other remuneration derived from the sales and other activities of his or her former downline organization.

So long as an SBA remains active, as defined by this Agreement, and complies with the terms of the SBA Agreement, the Company shall pay commissions to such SBA in accordance with the Compensation Plan. An SBA’s bonuses and commissions constitute the entire consideration for the SBA’s efforts in generating sales and all activities related to generating sales (including building a Marketing Organization). Following an SBA’s cancellation for inactivity, or voluntary or involuntary cancellation of his or her SBA Agreement (all of these methods are collectively referred to as “cancellation”), the former SBA shall have no right, title, claim or interest to the Marketing Organization he or she operated, or any compensation or bonuses from the sales generated by the organization. An SBA whose business is cancelled will lose all rights as an SBA. This includes the right to sell the Company products and services and the right to receive future compensation, bonuses, or other income resulting from the sales and other activities of the SBA’s former downline sales organization. In the event of cancellation, SBAs agree to waive all rights they may have, including but not limited to property rights, to their former downline Organization and to any bonuses, compensation or other remuneration derived from the sales and other activities of his or her former downline Organization. Following an SBA’s cancellation of his or her SBA Agreement, the former SBA shall not represent themselves as a Surge365 SBA and shall not have the right to sell Surge365 products or services. An SBA whose SBA Agreement is canceled shall receive compensation and bonuses only for the last full pay period he or she was active prior to cancellation (less any amounts withheld during an investigation preceding an involuntary cancellation).

If an SBA account is cancelled for any reason the SBA must immediately discontinue the use of the Company name, trademarks, service marks and other intellectual property and all derivatives of this property. This includes any Social Media platforms, written

materials or other areas where SBA indicated their affiliation with the Company.

### **11.2– Cancellation Due to Inactivity**

There may be a time when the company may decide to purge an SBA account if an SBA fails to personally generate commissions by selling at least one (1) Travel Technology Package Ownership within twelve (12) consecutive months or fails to earn any commissions from any and all marketing resources (including personal sales and downline sales) for four (4) consecutive months.

If an SBA account is cancelled all future commissions will be forfeited.

### **11.3– Exceptions to Cancellation Due to Inactivity**

- a) Maternity/Paternity – An SBA who is expecting a child shall be exempt from generating the personal commission’s quota (as defined in Section 11.2) for an additional four (4) months following the birth of their child.
- b) Military Deployment – Military personnel shall be exempt from generating their personal commission’s quota (as defined in Section 11.2) for six (6) months while deployed into a foreign country.
- c) Company must be notified prior to your leave.

### **11.4– Involuntary Cancellation**

An SBA’s violation of any of the terms of the Agreement, including any amendments that may be made by the Company at its sole discretion, may result in any of the sanctions listed in Section 9, including the involuntary cancellation of his or her SBA Agreement. Cancellation shall be effective on the date on which written notice is mailed, e-mailed, faxed, or delivered to an express courier for delivery to the SBA’s last known address, email address, fax number, or his or her attorney, or when SBA received actual notice of cancellation, whichever occurs first. The Company reserves the right to terminate all SBA Agreements upon thirty (30) days written notice in the event it elects to: (i) cease business operations; (ii) dissolve as a corporate entity; (iii) merge or sell substantially all of its assets and the successor desires to cease existing business operations; or (iv) terminate distribution of its services via direct selling.

### **11.5– Voluntary Cancellation**

A participant in this network marketing plan has a right to cancel at any time, regardless of reason. Cancellation requests must be made by calling 618-655-2431 or by submitting a Support Ticket from the Back Office.

## **SECTION 12 – International Residents**

### **12.1– United States Law & Venue**

All contracts, agreements and sales of Surge365 products are provided to international residents under United States (U.S.) laws and regulations. Acceptance of contracts and sale of goods occurs at Surge365 Company Headquarters in Wood River, Illinois unless a specific Surge365 office and legal entity is established in the international residents’ country, whereupon venue would change. In the event of establishment of an office and legal entity in a country other than the U.S., Surge365 will ensure compliance with all local laws and regulations as required.

### **12.2– International Enrollment/Participation**

All international enrollments/participants, defined as those outside of the U.S. and its territories, are made via referral by SBA over the internet or by fax to the Corporate Headquarters. Applications for enrollment/participation will only be accepted if the country is officially open for business, as declared by Surge365. SBAs must use true and accurate information related to identity and residence on applications. In lieu of a U.S. Social Security Number or Federal Employer Identification Number, a valid Tax ID (i.e. Driver’s License Number, National Insurance Number, Country Personal Tax Identification Number or Passport Number) will be required for identification for all international enrollments/participants, with the same address stated on the application. In addition, a completed and current US IRS W-8BEN form is required to be made available and on file, upon request, with Surge365, in order to receive commission payments.

### **12.3– International Product Purchase and Shipments**

All Surge365 SBAs, Travel Technology Package Owners and Vortex Customers must be referred to Surge365 for direct purchase. Shipment and supply will come directly from Surge365 in the U.S. As such referral sales are made, SBAs will receive appropriate credit as if they had made the sale directly. Quantity limits of physical products may be placed on purchases by Surge365. Shipments shall be made directly to SBAs at their shipping address. Any customs duties, import taxes or sales taxes (i.e. VAT, GST, etc.) will be the sole responsibility of the SBA or recipient, upon delivery.

### **12.4– International Currency**

Whenever prices, commissions, or fees of any type are stated in Surge365 literature, forms or on any website, the currency stated is always in U.S. dollars, unless specifically stated otherwise with the official currency abbreviation following the value; for example: CDN for Canadian Dollar.

### **12.5– International SBA Benefits**

SBA benefits may be slightly altered, from the U.S. and from country to country, dependent upon local requirements. Promotional and incentive contests/programs may provide a dollar value for the prize or program, rather than the actual prize itself. In addition, the dollar value for such a prize may be capped at a specific level for international residents.

### **12.6– International Restrictions**

In addition to standard U.S. policies & procedures, Surge365 may provide additional information for specific countries as to prohibitions and other guidelines related to product claims, advertising and other matters related to competitive company products. Please contact Surge365 for specifics for your country.

International SBAs may not display and/or sell the Company’s products at trade shows and professional expositions without contacting the Compliance Department in writing for conditional approval (by email at Compliance@Surge365.com.) In some circumstances authorization may be granted to allow displays for the sole purpose of providing information to interested individuals. Referral of such parties shall be made directly to Surge365 Corporate Office or website. The Company reserves the right to refuse authorization to participate at any function which it does not deem suitable for the promotion of its products, services, or the Company’s opportunity.

### **12.7– International Income Taxes**

International residents are responsible for reporting their income and paying their own income taxes in the country where they claim residence. It is required to make available, upon request, a current U.S. IRS W-8 BEN form with Surge365, in order to receive commissions. With such a form on file, commissions will be paid without U.S. tax withholding.

### **12.8– International Commission Payments**

Surge365 may elect to establish and/or increase a minimum amount of commissions earned in order to issue payment for international residents. Payment may be in the form of a U.S. dollar check, debit card, or electronic payment. Please consult your specific country’s information for details.

### **12.9– International Acceptable Payment for Purchases**

Credit cards are the only form of payment accepted. All payments are processed in USD through the Company’s United States based Corporate Office. As other payment methods become available, they will be noted on the sign-up website for the applicable Country.

## **SECTION 13 – Glossary of Terms**

### **Active SBA**

An SBA who is in compliance with the Surge365 SBA Agreement.

### **Downline Leg**

Each individual registered immediately underneath an SBA and those individuals’ respective Marketing Organization represents one (1) “leg” in a SBAs Marketing Organization.

### **Immediate Household**

Heads of household and dependent family members residing in the same house.

### **ID Number**

The identification number assigned by the Company for all Company identification purposes.

### **Marketing Organization**

The Surge365 SBAs and Travel Technology Package Ownerships sponsored below a particular SBA.

### **Official Material**

Literature, audio or video tapes, disks, and other materials developed, printed, published and distributed by the Company.

### **Register**

For purposes of the Company’s Conflict of Interest Policy (Section 3.22), the term “register” means: (a) The actual or attempted solicitation, registration, encouragement, or effort to influence in any other way, either directly, indirectly, or through a third-party, another person or customer to register or participate in another multi-level marketing, network marketing or direct sales opportunity; and (b) The conduct described in (a) above constitutes registering even if the SBA’s actions are in response to an inquiry by another SBA or Customer. This subsection (b) shall not be applicable in California.

**SBA**

Independent Marketing Representative who sells Surge365 Travel Technology Package Ownerships and sponsors other SBAs.

**Surge365 Travel Technology Package Owner**

Person who purchases one of the Surge365 Travel Technology Package products and pays an ongoing monthly fee (plus any applicable fees or taxes including a processing fee of 5.99% per month).

**Agreement**

The contract between the Company and each SBA includes the SBA Application and Agreement, the Company Policies and Procedures, the Company Compensation Plan, the Business Entity Registration Form (where appropriate), and all in their current form and as amended by the Company at its sole discretion. These documents are collectively referred to as the “Agreement”.

**Cancel**

The termination of an SBA’s business. Cancellation may be either voluntary, involuntary, through non-renewal or inactivity.

**Commissions and Bonuses**

All compensation paid to a qualified SBA.

**Downline Activity Report**

Available in SBA’s Back Office, any Report generated by the Company that provides critical data relating to the identities of SBAs, sales information, and registration activity of each SBA’s Marketing Organization. These Reports contain confidential and trade secret information which is proprietary to the Company.

**Upline**

This term refers to SBAs above a particular SBA in a sponsorship line up to the Company. Conversely states, it is the line of sponsors that links any particular SBA to the Company.

**Vortex Customer**

A Customer who purchases retail travel from a Vortex Owners online booking engine.

The Agreement may be signed via electronic signature or transmitted by facsimile machine and, if so, is intended by SBA to and will be treated as an original document with original signatures and considered to have the same binding effect as an original document with original signatures.

The Agreement constitutes the entire agreement between SBA and Surge365, supersedes all prior agreements and no other promises, representations, guarantees or agreements of any kind shall be valid unless in writing and signed by both parties.

SBA hereby represents and warrants to Surge365 that SBA’s execution and performance of the Agreement does not and will not violate the legal or contractual rights of any third-party, SBA has the power and authority to execute, deliver and perform the Agreement and all information and materials submitted to Company are true and correct, including but not limited to SBA’s Tax ID Number. Ownership of the Vortex website is not required of the SBA for participation as a Surge365 SBA. SBA further acknowledges and agrees that SBA is not guaranteed any income, profits or success by virtue of SBA’s position with Company, and SBA hereby certifies that no such representations or warranties have been made to SBA.

SIGNATURE BELOW IF SUBMITTING PAPER APPLICATION, OR ELECTRONICALLY VIA ELECTRONIC CHECK BOX, INDICATES THAT OWNER HAS READ, UNDERSTANDS AND AGREES TO THESE TERMS AND CONDITIONS CONTAINED IN THIS AND PREVIOUS 22 PAGES.

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

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

Date: \_\_\_\_\_

ID Number: \_\_\_\_\_