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THIS LINIO MARKETPLACE SERVICE AGREEMENT (THE "**AGREEMENT**") CONTAINS THE TERMS AND CONDITIONS THAT GOVERN YOUR ACCESS TO AND USE OF THE SERVICES AND IS AN AGREEMENT BETWEEN YOU OR THE BUSINESS YOU REPRESENT AND LINIO. BY REGISTERING FOR OR USING THE SERVICES, YOU (ON BEHALF OF YOURSELF OR THE BUSINESS YOU REPRESENT) AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT, INCLUDING THE SERVICE TERMS AND PROGRAM POLICIES THAT APPLY FOR THE COUNTRY FOR WHICH YOU REGISTER OR ELECT TO USE A SERVICE ("ELECTED COUNTRY").

As used in this Agreement, "**we**," "**us**," and "**LINIO**" means the applicable LINIO Contracting Party and any of its applicable Affiliates, and "**you**" or "**Seller**" means the applicant (if registering for or using a Service as an individual), or the business employing the applicant (if registering for or using a Service as a business) and any of its Affiliates. Capitalized terms have the meanings given to them in this Agreement. If there is a conflict among terms in this Agreement, the Program Policies will prevail over any applicable Service Terms and the General Terms, and the applicable Service Terms will prevail over the General Terms.

## **Definitions**

As used in this Agreement, the following terms have the following meanings:

"**Affiliate**" means, with respect to any entity, any other entity that directly or indirectly controls, is controlled by, or is under common control with that entity.

"**Application Form**" means, the document or form that Seller has to complete and fill out in order to be registered completely as a Seller.

"**Content**" means copyrightable works under applicable Law.

"**Excluded Offer**" means any discount, rebate, promotional offer, or other term of offer and/or sale that you: (a) have attempted to make available through a particular LINIO Sites but that we do not honor or support (but only until such time as we honor or support the same on such LINIO Sites); or (b) make available solely to Third Parties that either (i) purchase products solely for resale and who are not end users of such products (i.e., wholesale purchasers).

"**Excluded Products**" means the items described on the applicable restricted products per country, any other applicable Program Policy, or any other information made available to you by LINIO.

"**Expected Ship Date**" means, with respect to any of Your Products, either: (a) the end of the shipping availability period (which begins as of the date on which the relevant order is placed by the customer), or the shipping availability date, as applicable, specified by you in the relevant inventory/product data feed for Your Product; or (b) if you do not specify shipping availability information in such inventory/product data feed



or that Your Product is in a product category that LINIO designates as requiring shipment within two (2) business days, two (2) business days after the date on which the relevant order is placed by the customer.

**"Governing Laws"** means the applicable laws and regulations are those of the country of the Linio Contracting Party.

**"Intellectual Property Right"** means any patent, copyright, Trademark, domain name, moral right, trade secret right, or any other intellectual property right arising under any Laws and all ancillary and related rights, including all rights of registration and renewal and causes of action for violation, misappropriation or infringement of any of the foregoing.

**"Law"** means any law, ordinance, rule, regulation, order, license, permit, judgment, decision or other requirement, now or in the future in effect, of any governmental authority (e.g. on a federal, state, or provincial level, as applicable) of competent jurisdiction.

**"LINIO Associated Properties"** means any website or other online point of presence, mobile application, service or feature, other than an LINIO Site, through which any LINIO Site, any Webstore Site, or products or services available on any of them, are syndicated, offered, merchandised, advertised or described.

**"LINIO Contracting Party"** means the party outlined below.

Service	LINIO Contracting Party
Selling on LINIO Argentina	Linio Argentina, S.R.L.
Selling on LINIO Chile	Inversiones Bazaya Chile Limitada
Selling on LINIO Colombia	Linio Colombia, SAS
Selling on LINIO México	Bazaya México S. de R.L de C.V.
Selling on LINIO Peru	Linio Peru SAC
Selling on LINIO Venezuela	R-SC Services, CA

**"LINIO Refund Policies"** means the policies published on the applicable LINIO Site and applicable to products and services offered via that LINIO Site.

**"LINIO Sites"** means, as applicable, the Mexican, Colombian, Peruvian, Argentinean, Chilean, and Venezuelan LINIO Sites, or any other Site operated by LINIO, and any successor or replacement of such website.

**"LINIO Transaction Information"** means, collectively, Order Information and any other data or information acquired by you or your Affiliates from LINIO, its Affiliates,



or otherwise as a result of this Agreement, the transactions contemplated by this Agreement, or the parties' performance under this Agreement.

**"LINIO-Fulfilled Products"** means any of Your Products that are fulfilled using the Fulfillment by LINIO Service.

**"Local Currency"** means the applicable one of the following:

- Mexican Pesos (if the Elected Country is the Mexico),
- Colombian Pesos (if the Elected Country is Colombia),
- Peruvian Soles (if the Elected Country is Peru).
- Chilean Pesos (if the Elected Country is Chile).
- Argentinean Pesos (if the Elected Country is Argentina).
- Venezuelan Bolivares (if the Elected Country is Venezuela).

**"Media Product"** means any book, magazine or other publication, sound recording, video recording, software product, computer game, videogame, or other media product in any format, including any related subscription, offered through an LINIO Site.

**"Optional Coverage Plans"** means warranties, extended service plans and related offerings, in each case as determined by us, that you offer.

**"Order Information"** means, with respect to any of Your Products ordered through an LINIO Site or a Webstore Site, the order information and shipping information that we provide or make available to you.

**"Person"** means any individual, corporation, partnership, limited liability company, governmental authority, association, joint venture, division or other cognizable entity, whether or not having distinct legal existence.

**"Program Policies"** means all terms, conditions, policies, guidelines, rules and other information on the applicable LINIO Site or on Seller Center, including those shown on the "Policies and Agreements" section of Seller Center or elsewhere in the "Help" section of Seller Center. All Program Policies applicable to Webstore by LINIO also apply to LINIO Webstore, unless otherwise specifically stated.

**"Purchase Price"** means the total amount payable or paid for Your Product (including taxes and shipping and handling charges only to the extent specified in the applicable Tax Policies).

**"Remittance Calculation Date"** is defined in Section 23, regarding Account information and paymentroll.

**"Required Product Information"** means, with respect to each of Your Products in connection with a particular LINIO Site, the following (except to the extent expressly not required under the applicable Program Policies): (a) description, including as applicable, location-specific availability and options, scheduling guidelines and service cancellation policies; (b) SKU and UPC/EAN/JAN numbers, and other identifying information as LINIO may reasonably request; (c) information regarding in-stock status and availability, shipping limitations or requirements, and Shipment Information (in each case, in accordance with any categorizations prescribed by LINIO from time to

time); (d) categorization within each LINIO product category and browse structure as prescribed by LINIO from time to time; (e) digitized image that accurately depicts only Your Product, complies with all LINIO image guidelines, and does not include any additional logos, text or other markings; (f) Purchase Price; (g) shipping and handling charge (in accordance with our standard functionality); (h) any text, disclaimers, warnings, notices, labels or other content required by applicable Law to be displayed in connection with the offer, merchandising, advertising or sale of Your Product; (i) any vendor requirements, restocking fees or other terms and conditions applicable to such product that a customer should be aware of prior to purchasing the product; (j) brand; (k) model; (l) product dimensions; (m) weight; (n) a delimited list of technical specifications; (o) SKU and UPC/EAN/JAN numbers (and other identifying information as we may reasonably request) for accessories related to Your Product that is available in our catalog; (p) the state or country Your Product ships from; and (q) any other information reasonably requested by us (e.g., the condition of used or refurbished products).

**"Sales Proceeds"** means the gross proceeds from any of Your Transactions, including all shipping and handling, gift wrap and other charges, and including taxes and customs duties to the extent specified in the applicable Tax Policies.

**"Seller Center"** means the online portal and tools made available by LINIO to you, for your use in managing your orders, inventory and presence on a particular LINIO Site, a Webstore Site, or any other online point of presence.

**"Seller-Fulfilled Products"** means any of Your Products that are not fulfilled using the Fulfillment by LINIO Service.

**"Service Terms"** means the service terms applicable to each Service, which are made part of this Agreement upon the date you elect to register for or use the applicable Service, and any subsequent modifications we make to those terms.

**"Service"** means each of the following services: Selling on LINIO, LINIO Webstore, Fulfillment by LINIO, Product Ads, and, together in each case with any related services and materials we make available.

**"Shipment Information"** means, with respect to any of Your Products, the estimated or promised shipment and delivery date.

**"Street Date"** means the date(s), if any, specified by the manufacturer, distributor and/or licensor of a product as the date before which specified information regarding such product (e.g., title of a book) should not be disclosed publicly, or such product should not be delivered or otherwise made available to customers.

**"Technology"** means any: (a) ideas, procedures, processes, systems, methods of operation, concepts, principles and discoveries protected or protectable under the Laws of any jurisdiction; (b) interfaces, protocols, glossaries, libraries, structured XML formats, specifications, grammars, data formats, or other similar materials; and (c) software, hardware, code, technology or other functional item.

**"Trademark"** means any trademark, service mark, trade dress (including any proprietary "look and feel"), trade name, other proprietary logo or insignia or any other



source or business identifier, protected or protectable under any Laws.

**"URL Marks"** means any Trademark, or any other logo, name, phrase, identifier or character string, that contains or incorporates any top level domain (e.g., .com, .edu, .ca, .fr, .jp) or any variation of a top level domain (e.g., dot com, dotcom, net, or com).

**"Your Materials"** means all Technology, Your Trademarks, Content, Your Product information, data, materials, and other items or information provided or made available by you or your Affiliates to LINIO or its Affiliates.

**"Your Personnel"** means any third party warranting, administering or otherwise involved in the offer, sale, performance or fulfillment of Your Products, including any of your employees, representatives, agents, contractors, or subcontractors.

**"Your Product"** means any product or service (including Optional Coverage Plans) that: (a) you offer through the Selling on LINIO Service; (b) is made available for advertising by you through the Product Ads Service; or (c) is fulfilled or otherwise processed through the Fulfillment by LINIO Service.

**"Your Sales Channels"** means all sales channels and other means through which you or any of your Affiliates offers products or services, other than physical stores.

**"Your Taxes"** means any and all sales, goods and services, use, excise, premium, import, export, value added, consumption and other taxes, regulatory fees, levies (specifically including environmental levies) or charges and duties assessed, incurred or required to be collected or paid for any reason (a) in connection with any advertisement, offer or sale of products or services by you on or through or in connection with the Services; (b) in connection with any products or services provided for which Your Products are, directly or indirectly, involved as a form of payment or exchange; or (c) otherwise in connection with any action, inaction or omission of you or your Affiliates, or any Persons providing products or services, or your or their respective employees, agents, contractors or representatives, for which Your Products are, directly or indirectly, involved as a form of payment or exchange.

**"Your Trademarks"** means Trademarks of yours that you provide to us: (a) in non-text form for branding purposes; and (b) separate from (and not embedded or otherwise incorporated in) any product specific information or materials.

**"Your Transaction"** means any sale of Your Product(s) through a LINIO Site.

## **1. Representations.**

You represent and warrant to us that: (a) if you are a business, you are duly organized, validly existing and in good standing under the Laws of the country in which your business is registered and that you are registering for the Service(s) within such country; (b) you have all requisite right, power and authority to enter into this Agreement, perform your obligations, and grant the rights, licenses and authorizations in this Agreement; (c) any information provided or made available by you or your Affiliates to LINIO or its Affiliates is at all times accurate and complete; and (d) you and all of your subcontractors, agents and suppliers will comply with all applicable Laws in your performance of your obligations and exercise of your rights under this Agreement; e)



marketing, commercialization and distribution of products have been purchased with funds proceeding from legal activities and have been introduced to the marketplace in a lawful manner, in strict compliance with the applicable laws and regulations.

## **2. Enrollment.**

To begin the enrollment process, you must complete the registration process for one or more of the Services. Use of the Services is limited to parties that can lawfully enter into and form contracts under applicable law (for example, the Elected Country may not allow minors to use the Services). As part of the application, you must provide us with your (or your business') legal name, address, phone number and e-mail address. We may at any time cease providing any or all of the Services at our sole discretion and without notice.

## **3. Service Fee Payments; Receipt of Sales Proceeds.**

You are responsible for all of your expenses in connection with this Agreement and in accordance to [PAYMENT POLICY](#). To use a Service, you must provide us with valid bank account information for a bank account or bank accounts acceptable by LINIO (conditions for acceptance may be modified or discontinued by us at any time without notice) ("**Your Bank Account**"). You will use only a name you are authorized to use in connection with a Service and will update all of the preceding information as necessary to ensure that it at all times remains accurate and complete. You authorize us (and will provide us documentation evidencing your authorization upon our request) to verify your information (including any updated information), to obtain credit reports about you from time to time, to obtain credit authorizations from the issuer of Your Credit Card, and to charge Your Credit Card or Debit Your Bank Account for any sums payable by you to us (in reimbursement or otherwise). All payments to you will be remitted to Your Bank Account through a banking network or by other means specified by us. For any amounts you owe us, you hereby agree that we may (a) offset any amounts that are payable by you to us (in reimbursement or otherwise) against any payments we may make to you; (b) invoice you for amounts due to us, in which case you will pay the invoiced amounts upon receipt; (c) reverse any credits to Your Bank Account; or (d) seek such payment or reimbursement from you by any other lawful means. Except as provided otherwise, all amounts contemplated in this Agreement will be expressed and displayed in the Local Currency, and all payments contemplated by this Agreement will be made in the Local Currency. If we discover erroneous or duplicate transactions, then we reserve the right to seek reimbursement or offset from you by deducting from future payments owed to you, or seeking such reimbursement from you by any other lawful means.

LINIO sales commission will be deducted from the sums to which the Seller is entitled to receive for the sale and delivery of its products (according to SKU whichever applies), with intervals provided in this document and in the Application Form and basis for calculating the total value of the products (as mentioned in the previous paragraph); with the understanding that the total value of the product includes price plus the cost of shipping it.

IF WE DETERMINE THAT YOUR ACTIONS OR PERFORMANCE MAY RESULT IN RETURNS, CHARGEBACKS, CLAIMS, DISPUTES, OR OTHER RISKS, THEN WE MAY IN OUR SOLE DISCRETION WITHHOLD ANY PAYMENTS TO YOU



UNTIL THE COMPLETION OF ANY RELATED INVESTIGATION. IF WE DETERMINE THAT YOUR ACCOUNT HAS BEEN USED TO ENGAGE IN DECEPTIVE, FRAUDULENT, OR ILLEGAL ACTIVITY, THEN WE MAY IN OUR SOLE DISCRETION PERMANENTLY WITHHOLD ANY PAYMENTS.

As a security measure, we may, but are not required to, impose transaction limits on some or all customers and sellers relating to the value of any transaction or disbursement, the cumulative value of all transactions or disbursements during a period of time, or the number of transactions per day or other period of time. We will not be liable to you: (i) if we do not proceed with a transaction or disbursement that would exceed any limit established by us for a security reason, or (ii) if we permit a customer to withdraw from a transaction because a LINIO Site or Service is unavailable following the commencement of a transaction.

You authorize LINIO or whoever represents its rights in the future, to report, process, request and disclose to any Banking and Financial Entity that handles or manages private or public databases for information, statistical financial control, supervision, management and information consolidation purposes, all the personal economic information and data, including information relative to your commercial and credit behavior.

### **3.1 In the event of claims by Seller.**

Seller agrees that LINIO may be offset any sum owed to the Seller against amounts due to the Seller is entitled to receive from the sale or delivery of its products to customer Portal.

For purposes of amounts to be delivered for sales, Seller, through Tool Seller Center (or not to have this service by electronic communication), you must update the inventory and price list of products offered with specifications provided above, Seller shall be solely responsible for the damages caused to LINIO not comply with the requirements. Similarly, the price of the Products for the Marketplace Service, will be determined by the seller, always adhere to the applicable laws, including the Federal Consumer Protection Law and the Federal Law of Economic Competition. Should any involvement by way of illegal price manipulation by the Seller, the Seller shall be liable for and shall indemnify and hold harmless LINIO for that concept.

The risk of loss of the Products shall be borne by Seller until delivery thereof to the buyer, and will pay the fee LINIO just because of the sale of the product made, until then not delivered.

Seller shall be solely responsible for issuing receipts or invoices of sales to final consumers, covering all obligations related thereto for themselves and for the consumer. LINIO only issue an invoice in respect of the Service rendered "Marketplace" that will include the same percentage of Commission agreed plus value added tax and the Seller shall only three business days after the issuance thereof to request clarification.

## **4. Term and Termination.**



The term of this Agreement will start on the date of your completed registration (which means to fully fill and submit the “**Application Form**”), and continue until terminated by either party as provided in this Agreement (the “**Term**”). We may terminate or suspend this Agreement or any Service for any reason at any time by notice to you. You may terminate this Agreement or any Service for any reason at any time by the means then specified by LINIO. Termination or suspension of a Service will not terminate or suspend any other Service unless explicitly provided. Upon termination, all rights and obligations of the parties under this Agreement will terminate, except that Sections 1, 3, 3.1, 4, 5, 6, 7, 8, 9, 10, 15, and 16 will survive termination. Any terms that expressly survive according to the applicable Service Terms will also survive termination.

## **5. Trademarks and Images.**

5.1. LINIO in strict compliance with the applicable laws in force and with the legal commercialization of the products that are published and sold through the Seller Center, prohibits without exception, from selling, publishing and/or commercializing smuggled, fake, reproduced or copied products that violate third party rights. In that sense, the Seller shall refrain from publishing, selling and commercializing products with falsified brands, products that have an exact or similar reproduction of the sign, image or characteristics of the original product; from manufacturing or publishing a third party brand, copy or imitate the label or packages used as “trademarks”.

The making of copies or imitations, without right or authorization, in order to mislead or confuse the consumer by pretending to be the trademark or registered or patented product or the original or genuine product, LINIO will sanction the Seller with the total withholding of the price of the relevant product or products and will immediately remove said products from LINIO’s Site. LINIO may request that the products of the Seller be subject to a Revision process of conditions and internal quality of possible smuggled products. LINIO will give immediate notice to the relevant authorities

5.2. Seller states that is solely responsible for the images, brands, products description and advertisement, of all products the Seller publishes and sell through Seller Tool Center under the scheme of LINIO Marketplace, and also agree to hand over to LINIO, when it is required, all that documentation evidencing the legality of the goods, their origin and their legal importation into the country, and also to have all the necessary documentation to prove the legal and valid origin of the products sold through the Marketplace platform LINIO, and local products have been legally imported or exported.

The Seller agrees to hold LINIO harmless from any claims, lawsuits or disputes that might arise against it related to the marketing of their products through the LINIO Marketplace platform, pledging to pay or compensate for any expenses LINIO incurred thereof (including fees of the attorneys) by any complaint received by the illegality of marketed products, including attorneys' fees charged with the defense of the case and the damages that might complain.

5.3. The Seller hereby declares that it is engaged, among other things, in the commercialization of products that have been acquired with resources resulting from lawful activities and that these have been introduced to the corresponding territory in a legal manner and in strict compliance with the applicable laws and regulations, being all these products original versions and in compliance with the quality controls



established by LINIO Policies and the applicable Law.

## **6. Indemnification.**

You release us and agree to indemnify, defend and hold harmless us, our Affiliates, and our and their respective officers, directors, employees, representatives and agents and pay or reimburse (authorizing offset, if applicable) any claim, loss, damage, settlement, cost, expense or other liability (including, without limitation, attorneys' fees) (each, a "Claim") arising from or related to: (a) your actual or alleged breach of any obligations in this Agreement; (b) any of Your Sales Channels other than LINIO Sites and LINIO Associated Properties, Your Products (including their offer, sale, performance and fulfillment), Your Materials, any actual or alleged infringement of any Intellectual Property Rights by any of the foregoing, and any personal injury, death or property damage related thereto; (c) any act or omission of Your Personnel; (d) by reason of, or arising in connection with, any products liability claim asserted by any Person against LINIO or the Seller; (e) any breach of any nature set forth in any applicable law or (f) Your Taxes, including but not limited to import and export taxes. You will use counsel reasonably satisfactory to us to defend each indemnified Claim. If at any time we reasonably determine that any indemnified Claim might adversely affect us, we may take control of the defense at our expense. You may not consent to the entry of any judgment or enter into any settlement of a Claim without our prior written consent, which may not be unreasonably withheld.

## **7. Disclaimer & General Release.**

a. THE LINIO SITES AND THE SERVICES, INCLUDING ALL CONTENT, SOFTWARE, FUNCTIONS, MATERIALS AND INFORMATION MADE AVAILABLE ON OR PROVIDED IN CONNECTION WITH THE SERVICES, ARE PROVIDED "AS-IS." AS A USER OF THE SERVICES, YOU USE THE LINIO SITES, THE SERVICES AND SELLER CENTRAL AT YOUR OWN RISK. TO THE FULLEST EXTENT PERMISSIBLE BY LAW, WE AND OUR AFFILIATES DISCLAIM: (i) ANY REPRESENTATIONS OR WARRANTIES REGARDING THIS AGREEMENT, THE SERVICES OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT; (ii) IMPLIED WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE OR USAGE OF TRADE; AND (iii) ANY OBLIGATION, LIABILITY, RIGHT, CLAIM OR REMEDY IN TORT, WHETHER OR NOT ARISING FROM OUR NEGLIGENCE. WE DO NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE LINIO SITES AND THE SERVICES WILL MEET YOUR REQUIREMENTS OR BE AVAILABLE, TIMELY, SECURE, UNINTERRUPTED OR ERROR FREE, AND WE WILL NOT BE LIABLE FOR ANY SERVICE INTERRUPTIONS, INCLUDING BUT NOT LIMITED TO SYSTEM FAILURES OR OTHER INTERRUPTIONS THAT MAY AFFECT THE RECEIPT, PROCESSING, ACCEPTANCE, COMPLETION OR SETTLEMENT OF ANY TRANSACTIONS.

b. BECAUSE LINIO IS NOT INVOLVED IN TRANSACTIONS BETWEEN CUSTOMERS AND SELLERS OR OTHER PARTICIPANT DEALINGS, IF A DISPUTE ARISES BETWEEN ONE OR MORE PARTICIPANTS, EACH PARTICIPANT RELEASES LINIO (AND ITS AGENTS AND EMPLOYEES) FROM



CLAIMS, DEMANDS, AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH SUCH DISPUTES.

#### **8. Limitation of Liability.**

WE WILL NOT BE LIABLE (WHETHER IN CONTRACT, WARRANTY, TORT [INCLUDING NEGLIGENCE, PRODUCT LIABILITY OR OTHER THEORY] OR OTHERWISE) TO YOU OR ANY OTHER PERSON FOR COST OF COVER, RECOVERY OR RECOUPMENT OF ANY INVESTMENT MADE BY YOU OR YOUR AFFILIATES IN CONNECTION WITH THIS AGREEMENT, OR FOR ANY LOSS OF PROFIT, REVENUE, BUSINESS, OR DATA OR PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, EVEN IF LINIO HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE COSTS OR DAMAGES. FURTHER, OUR AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS.

#### **9. Tax Matters.**

As between the parties, you will be responsible for the collection, reporting and payment of any and all of Your Taxes, except to the extent LINIO expressly agrees to receive taxes or other transaction-based charges in connection with tax calculation services made available by LINIO and used by you. You agree to and will comply with to our Tax Policies. All fees payable by you to LINIO under this Agreement or the applicable Service Terms are exclusive of any applicable taxes, and you will be responsible for paying LINIO any of Your Taxes imposed on such fees.

#### **10. Confidentiality.**

During the course of your use of the Services, you may receive information relating to us or to the Services, including but not limited to LINIO Transaction Information, that is not known to the general public ("Confidential Information"). You agree that: (a) all Confidential Information will remain LINIO's exclusive property; (b) you will use Confidential Information only as is reasonably necessary for your participation in the Services; (c) you will not otherwise disclose Confidential Information to any other Person; and (d) you will take all reasonable measures to protect the Confidential Information against any use or disclosure that is not expressly permitted in this Agreement. You may not issue any press release or make any public statement related to the Services, or use our name, trademarks or logo, in any way (including in promotional material) without our advance written permission, or misrepresent or embellish the relationship between us in any way.

#### **11. Force Majeure.**

We will not be liable for any delay or failure to perform any of our obligations under this Agreement by reasons, events or other matters beyond our reasonable control.

#### **12. Relationship of Parties.**



Subject to the Transaction Processing Service Terms, you and we are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between us. You will have no authority to make or accept any offers or representations on our behalf. This Agreement will not create an exclusive relationship between you and us. Nothing expressed or mentioned in or implied from this Agreement is intended or will be construed to give to any person other than the parties to this Agreement any legal or equitable right, remedy, or claim under or in respect to this Agreement. This Agreement and all of the representations, warranties, covenants, conditions, and provisions in this Agreement are intended to be and are for the sole and exclusive benefit of LINIO, you, and customers. As between you and us, you will be solely responsible for all obligations associated with the use of any third party service or feature that you permit us to use on your behalf, including compliance with any applicable terms of use. You will not make any statement, whether on your site or otherwise, that would contradict anything in this section.

### **13. Use of LINIO Transaction Information.**

You will not, and will cause your Affiliates not to, directly or indirectly: (a) disclose any LINIO Transaction Information (except that you may disclose that information solely as necessary for you to perform your obligations under this Agreement if you ensure that every recipient uses the information only for that purpose and complies with the restrictions applicable to you related to that information); (b) use any LINIO Transaction Information for any marketing or promotional purposes whatsoever, or otherwise in any way inconsistent with our or your privacy policies or applicable Law; (c) contact a Person that has ordered Your Product with the intent to collect any amounts in connection therewith or to influence that Person to make an alternative transaction; (d) disparage us, our Affiliates, or any of their or our respective products or services or any customer; or (e) target communications of any kind on the basis of the intended recipient being an LINIO Site user. In addition, you may only use tools and methods that we designate to communicate with LINIO Site users regarding Your Transactions, including for the purpose of scheduling, communicating, or cancelling the fulfillment of Your Products. The terms of this Section 13 do not prevent you from using other information that you acquire without reference to LINIO Transaction Information for any purpose, even if that information is identical to LINIO Transaction Information, provided that you do not target communications on the basis of the intended recipient being an LINIO Site user.

### **14. Policies on Shipments, Returns and Cancellations.**

For all of Your Products that are not fulfilled using Fulfillment by LINIO, you will accept and process cancellations, returns, refunds and adjustments in accordance with this Agreement.

The Seller agrees that LINIO will be the only point of contact with any buyer with respect to the management of any issue related to the Policies on Shipments, Returns and Cancellations and agrees not to have any contact with the buyers for any reason and under any circumstance, unless expressly authorized in writing by LINIO.

If expenses are caused due to returns of Your Product, LINIO will charge the entire



amount of the return waybill or waybills for the inverse logistics of the relevant product according to [SHIPMENTS, RETURNS & CANCELATIONS POLICY](#).

### **15. Suggestions and Other Information.**

If you or any of your Affiliates elect to provide or make available suggestions, comments, ideas, improvements, or other feedback or materials to us in connection with or related to any LINIO Site or Service (including any related Technology), we will be free to use, disclose, reproduce, modify, license, transfer and otherwise distribute, and exploit any of the foregoing information or materials in any manner. In order to cooperate with governmental requests, to protect our systems and customers, or to ensure the integrity and operation of our business and systems, we may access and disclose any information we consider necessary or appropriate, including but not limited to user contact details, IP addresses and traffic information, usage history and posted content.

### **16. Modification.**

We may amend any of the terms and conditions contained in this Agreement at any time and at our sole discretion. Any changes will be effective upon the posting of such changes on Seller Center or on the applicable LINIO Site, and you are responsible for reviewing these locations and informing yourself of all applicable changes or notices. All notice of changes to the General Terms and the Service Terms will be posted for at least 10 (ten) natural days. Changes to Program Policies may be made without notice to you. You should refer regularly to Seller Center to review the current Agreement (including the Service Terms and Program Policies) and to be sure that the items you offer can be offered via the applicable Service. YOUR CONTINUED USE OF A SERVICE AFTER LINIO'S POSTING OF ANY CHANGES WILL CONSTITUTE YOUR ACCEPTANCE OF SUCH CHANGES OR MODIFICATIONS.

### **17. Password Security.**

Any password we provide to you may be used only during the Term to access Seller Center (or other tools we provide) to use the Services, electronically accept Your Transactions, and review your completed transactions. You are solely responsible for maintaining the security of your password. You may not disclose your password to any third party (other than third parties authorized by you to use your account in accordance with this Agreement) and are solely responsible for any use of or action taken under your password. If your password is compromised, you must immediately change your password.

### **18. Selling on LINIO Service Terms.**

The Selling on LINIO Service ("**Selling on LINIO**") is a Service that allows you to offer certain products and services directly on the LINIO Sites.

These Selling on LINIO Service Terms are part of the Agreement, but, unless specifically provided otherwise, concern and apply only to your participation in Selling on LINIO. BY REGISTERING FOR OR USING THE SELLING ON LINIO SERVICE, YOU (ON BEHALF OF YOURSELF OR THE BUSINESS YOU REPRESENT) AGREE TO BE BOUND BY THE AGREEMENT INCLUDING



THESE SELLING ON LINIO SERVICE TERMS.

**19. Products and Product Information.** You will provide in the format we require accurate and complete Required Product Information for each product or service that you offer through any LINIO Site and promptly update that information as necessary to ensure it at all times remains accurate and complete. You will also ensure that Your Materials, Your Products (including packaging) and your offer and subsequent sale of any of the same on any LINIO Site comply with all applicable Laws (including all minimum age, marking and labeling requirements) and do not contain any sexually explicit (except to the extent expressly permitted under our applicable Program Policies), defamatory or obscene materials. You may not provide any information for, or otherwise seek to offer any Excluded Products on any LINIO Sites; or provide any URL Marks for use, or request that any URL Marks be used, on any LINIO Site.

**19.1 Product Listing; Merchandising; Order Processing.** We will enable you to list Your Products on a particular LINIO Site, and conduct merchandising and promote Your Products as permitted by us (including via the LINIO Associated Properties or any other functions, features, advertising, or programs on or in connection with the applicable LINIO Site). We may use mechanisms that rate, or allow shoppers to rate, Your Products and your performance as a seller and LINIO may make these ratings and feedback publicly available. We will provide Order Information to you for each order of Your Products through the applicable LINIO Site. We will also receive all Sales Proceeds on your behalf for each of these transactions and will have exclusive rights to do so, and will remit them to you in accordance with these Selling on LINIO Service Terms.

**19.2 Shipping and Handling Charges.** For those of Your Products ordered by customers on or through an LINIO Site that are not fulfilled using Fulfillment by LINIO, you will determine shipping and handling charges via and subject to our standard functionality and categorizations for the applicable LINIO Site and further subject to any shipping and handling charge Program Policies for that LINIO Site, we will determine the shipping and handling charges (and in either case you will accept the charges as payment in full for your shipping and handling of such products). For Your Products that are fulfilled using Fulfillment by LINIO, please refer to the Fulfillment by LINIO Service Terms.

**19.3 Credit Card Fraud.** We will bear the risk of credit card fraud (i.e., a fraudulent purchase arising from the theft and unauthorized use of a third party's credit card information) occurring in connection with Your Transactions except in connection with Seller-Fulfilled Products that are not fulfilled strictly in accordance with the Order Information and Shipment Information. You will bear all other risk of fraud or loss. We may in our sole discretion withhold for investigation, refuse to process, restrict shipping destinations for, stop and/or cancel any of Your Transactions. You will stop or cancel orders of Your Products if we ask you to do so. If you have already transferred Your Products to a carrier or shipper when we ask you to stop or cancel an order, you will use commercially reasonable efforts to stop or cancel delivery of that order. You will refund any customer that has been charged for an order that we stop or cancel.

## **20. Sale and Fulfillment; Refunds and Returns.**

**20.1 Sale and Fulfillment.** Other than as described in the Fulfillment by LINIO Service Terms, and if applicable, for each LINIO Site for which you register or use the Selling on LINIO Service, you will: (a) source, offer, sell and fulfill your Seller-Fulfilled Products, and source and, offer and sell your LINIO-Fulfilled Products, in each case in accordance with the terms of the applicable Order Information, this Agreement, and all terms provided by you or us and displayed on the applicable LINIO Site at the time of the order and be solely responsible for and bear all risk for those activities; (b) package each of Your Products in a commercially reasonable manner according to the [PACKAGING POLICY](#); (c) retrieve Order Information at least once each business day; (d) only cancel Your Transactions as permitted pursuant to your terms and conditions appearing on the applicable LINIO Site at the time of the applicable order or as may be required under this Agreement; (e) fulfill Your Products throughout the Elected Country (except to the extent prohibited by Law or this Agreement); (f) provide to LINIO information regarding fulfillment and order status and tracking (to the extent available), in each case as requested by us using the processes designated by us, and we may make any of this information publicly available; (g) comply with all Street Date instructions; (h) ensure that you are the seller of each of Your Products; (i) include an order-specific packing slip, and, if applicable, any tax invoices, within each shipment of Your Products; (j) identify yourself as the seller of each of Your Products on all packing slips or other information included or provided in connection with Your Products and as the Person to which a customer may return the applicable product; and (k) except as expressly permitted by this Agreement, not send customers emails confirming orders or fulfillment of Your Products. If any of Your Products are fulfilled using Fulfillment by LINIO, the Fulfillment by LINIO Service Terms for the applicable LINIO Site will apply to the storage, fulfillment and delivery of such LINIO-Fulfilled Products.

For all of Your Products that are not fulfilled using Fulfillment by LINIO, you will accept and process cancellations, returns, refunds and adjustments in accordance with this Agreement and the LINIO Refund Policies.

## **21. Problems with Your Products.**

**21.1 Delivery Errors and Nonconformities; Recalls.** LINIO will charge commission for all sales generated for any order cancelled by Seller due to stock out, pricing mistakes, non-performance, non-delivery, misdelivery, theft or other mistake or act in connection with the fulfillment of Your Products or all other that are directly imputable to You. Seller will be responsible for any non-conformity or defect in, or any public or private recall of, any of Your Products or other products provided in connection with Your Products.

Given the above, LINIO will not charge the commission by: (a) purchase cancelled by the customer prior to delivery date; (b) mistakes in LINIO's system or because payment was not successfully completed; (c) credit card fraud for which we are responsible under [Section 19.3](#); or (d) our failure to make available to you Order Information as it was received by us or resulting from address verification.

Notwithstanding the previous sentence, for those of Your Products that are fulfilled using Fulfillment by LINIO, if any, the Fulfillment by LINIO Service Terms for the applicable LINIO Site will apply to non-delivery, misdelivery, theft or other mistake or

act in connection with the fulfillment of those of Your Products.

You will notify us promptly as soon as you have knowledge of any public or private recalls of Your Products or other products provided in connection with Your Products.

**21.2 Guarantee and Chargebacks.** If we inform you that we have received a claim or any chargeback or other dispute, concerning one of Your Transactions, you will deliver to us within seven (7) days after request by us: (a) proof of fulfillment of Your Product(s) (as applicable); (b) the applicable LINIO order identification number; (c) a description of Your Product(s) (as applicable); and (d) any terms provided by you or us and displayed on the LINIO Site at the time of the transaction in question. If you fail to comply with the prior sentence, or if the claim, chargeback, or dispute is not caused by: (i) credit card fraud for which we are responsible under Section 19.3; or (ii) our failure to make your Order Information available as the same was received by us or resulting from address verification, then you will promptly reimburse us in accordance with the Service Fee Payments section of this Agreement for the amount of the customer purchase (including the Purchase Price, all associated shipping and handling charges and all taxes, but excluding any associated Referral Fees retained and not subject to refund by LINIO) and all associated credit card association, bank or other payment processing, re-presentment and/or penalty fees associated with the original purchase and any chargeback or refund, in each case to the extent paid or payable by us or our Affiliates.

### **21.3 Parity with Your Sales Channels.**

You are free to determine which of Your Products you wish to offer on a particular LINIO Site. You will maintain parity between the products you offer through Your Sales Channels and the products you list on any LINIO Site by ensuring that : (a) the Purchase Price and every other term of offer or sale of Your Product (including associated shipping and handling charges, Shipment Information, any "low price" guarantee, rebate or discount, any free or discounted products or other benefit available as a result of purchasing one or more other products, and terms of applicable cancellation, return and refund policies) is at least as favorable to LINIO Site users as the most favorable terms upon which a product is offered or sold via Your Sales Channels (excluding consideration of Excluded Offers); (b) customer service for Your Products is at least as responsive and available and offers at least the same level of support as the most favorable customer services offered in connection with any of Your Sales Channels (this requirement does not apply to customer service for payment-related issues on Your Transactions, which we will provide); and (c) the Content, product and service information and other information under Section 19.1 regarding Your Products that you provide to us is of at least the same level of quality as the highest quality information displayed or used in Your Sales Channels. If you become aware of any non-compliance with (a) above, you will promptly compensate adversely affected customers by making appropriate refunds to them in accordance with Section - 21.2. For LINIO-Fulfilled Products, if the shipping and handling charges associated with the sale and fulfillment of any of Your Products offered on an LINIO Site are included (and not separately stated) in the item price listed for Your Product (collectively a "Shipping Inclusive Purchase Price"), then the parity obligation in (a) above will be satisfied if the Shipping Inclusive Purchase Price and each other term of offer or sale for the product on the LINIO Site are at least as favorable to LINIO Site users as the purchase price and each other term of offer or sale for the product





(including any and all separately stated shipping and handling charges) pursuant to which the product or service is offered or sold via any of Your Sales Channels.

## **22. Seller's Performance.**

LINIO may evaluate the performance on sales, compliance in delivery, delivery time, product quality, product stock and in general any situation related to you performance.

The above will be undertaken at the discretion of LINIO and depending on the results of the evaluation, LINIO may grant benefits to the Seller that would be informed through any written or electronic communication.

## **23. Compensation.**

You will pay us: (a) the applicable Referral Fees; (b) the applicable subscription Fees-, (c) any applicable Variable Closing Fee; and (d) any other applicable fees described in this Agreement (including any applicable Program Policies). With respect to each of Your Transactions: (i) **"Sales Proceeds" has the meaning set out in this Agreement;** (ii) "Variable Closing Fee" means the applicable fee, if any, as specified on the applicable LINIO Site; and (iii) **"Referral Fee"** means the applicable fee based on the Sales Proceeds from Your Transaction through the applicable LINIO Site specified on the Application Form for that LINIO Site at the time of Your Transaction, based on the categorization by LINIO of the type of product that is the subject of Your Transaction; provided, however, that Sales Proceeds will not include any shipping charges set by us in each of the following two cases: (1) in the case of Your Transactions that consist solely of products fulfilled using Fulfillment by LINIO; and (2) in the case of Media Products.

## **24. Remittance of Sales Proceeds & Refunds.**

Except as otherwise stated in this Agreement, we will remit to you on a bi-weekly (14 day) (or at our option, more frequent) basis, which may vary for each Elected Country, any Sales Proceeds received by us or our Affiliates but not previously remitted to you as of the date that is two (2) business days prior to the date of remittance (the **"Remittance Calculation Date"**) (which you will accept as payment in full for Your Transactions), less: (a) the Referral Fees; (b) the applicable Variable Closing Fee; (c) any Selling on LINIO Subscription Fees; and (d) any other applicable fees described in this Agreement (including any applicable Program Policies). When you either initially provide or later change Your Bank Account information, the Remittance Calculation Date may be deferred by up to 14 days.

## **25. Control of LINIO Sites.**

We have the right in our sole discretion to determine the content, appearance, design, functionality and all other aspects of the LINIO Sites, including by redesigning, modifying, removing or restricting access to any of them, and by suspending, prohibiting or removing any listing.

## **26. Effect of Termination.**

Upon termination of these Selling on LINIO Service Terms in connection with a particular LINIO Site, all rights and obligations of the Parties under these Selling on LINIO Service Terms with regard to such LINIO Site will be extinguished, except that the rights and obligations of the Parties with respect to Your Transactions occurring during the Term will survive the termination or expiration of the Term.

## **27. Source of Income and other Assets.**

Seller declares that its income and other assets come from lawful activities; that it is not included or listed in the lists of restricted entities or international sanction lists; that it is not in one of the two categories of money laundering (conversion or movement) and that as a consequence, undertakes to answer before LINIO for all the damages that might be caused to it or third parties related therewith.

For all purposes, “money laundering” is the set of procedures used to change the nature of the assets obtained in an unlawful way, in order to pretend that they have been obtained from lawful sources. These procedures include concealing the origin and real ownership of the funds.

## **28. Miscellaneous.**

28.1 This Agreement is to be governed by and construed in accordance with the internal laws of New York, without regard to its principles of conflicts of laws. The parties agree that any Dispute between them shall be finally settled by arbitration as provided in this Section.

28.2 For purposes of this Agreement, the term “Dispute” means any controversy or dispute which satisfies each of the following criteria:

- (a) The controversy or dispute is solely between the parties;
- (b) The controversy or dispute directly or indirectly concerns this Agreement, the breach hereof or the subject matter hereof; and
- (c) The controversy or dispute concerns only whether or not one party owes the other an amount of money.

28.3. For all other controversies or disputes, any party may file an action in a court of competent jurisdiction seeking such equitable or legal relief as is necessary to preserve and enforce its rights under this Agreement.

28.4. In the event a Dispute is to be submitted to arbitration:

- (a) The Dispute shall be resolved by arbitration in New York City, Borough of Manhattan, and judgment upon the award rendered may be entered in any court having jurisdiction thereof;
- (b) The arbitration shall proceed in accordance with the laws of New York;
- (c) The party requesting arbitration shall give a written demand for arbitration to the other party by registered or certified mail;
- (d) The demand shall set forth a statement of the nature of the Dispute and the amount of the payment sought;
- (e) No later than 30 calendar days after the demand for arbitration is served, the parties shall jointly select and appoint a mutually acceptable person to act as the arbitrator;
- (f) If the parties do not agree on the selection of an arbitrator within such 30-day period, the party seeking arbitration may apply at any time thereafter to the New York State Unified Court System for the appointment of a person to serve as the arbitrator;



- (g) Both parties agree to an expedited and limited discovery process lasting no longer than 60 calendar days;
- (h) Both parties agree that the arbitration process shall be limited to 120 calendar days from the selection of the arbitrator.

You may not assign this Agreement, by operation of law or otherwise, without our prior written consent. Subject to that restriction, this Agreement will be binding on, inure to, and be enforceable against the parties and their respective successors and assigns. We may perform any of our obligations or exercise any of our rights under this Agreement through one or more of our Affiliates. Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to enforce such provision or any other provision of this Agreement subsequently.

We have the right in our sole discretion to determine the content, appearance, design, functionality and all other aspects of the Services, including by redesigning, modifying, removing, or restricting access to any of them.

Because LINIO is not your agent (except for the limited purpose set out in the Transaction Processing Service Terms), or the customer's agent for any purpose, LINIO will not act as either party's agent in connection with resolving any disputes between participants related to or arising out of any transaction.

We will send all notices and other communications regarding this Agreement to you at the e-mail addresses you designated for notifications and updates in your program application or within Seller Center, or by any other means then specified by LINIO. We may also communicate with you electronically and in other media, and you consent to such communications regardless of any "E-mail Preferences" (or similar preferences or requests) you may have indicated on the applicable LINIO Site, on Seller Center, or by any other means. You may change your e-mail addresses and certain other information in Seller Center. You will ensure that all of your information is up to date and accurate at all times. You must send all notices and other communications relating to LINIO to our Merchant Services Team by using the Application form.

This Agreement incorporates and you accept the applicable Service Terms and Program Policies, which LINIO may modify from time to time. If any provision of this Agreement is deemed unlawful, void, or for any reason unenforceable, then that provision will be deemed severable from these terms and conditions and will not affect the validity and enforceability of any remaining provisions. This Agreement represents the entire agreement between the parties with respect to the Services and related subject matter and supersedes any previous or contemporaneous oral or written agreements and understandings.