

This Publisher Membership Agreement will govern your participation on the Network. By clicking the "Accept" or similar acceptance box in any other language, you agree that the effective date of this Agreement is the date on which you click "Accept". To print a copy of this Agreement, please use your browsers print command. **PLEASE BE ADVISED THAT YOU SHOULD NOT CLICK AND ACCEPT THIS AGREEMENT ON BEHALF OF AN ENTITY UNLESS YOU HAVE BEEN AUTHORIZED TO BIND THAT ENTITY TO THE TERMS OF THIS AGREEMENT.**

PLEASE BE ADVISED THAT THIS AGREEMENT IS SUPPLEMENTED BY SUPPLEMENTS ATTACHED HERETO AS APPENDICES 1 THROUGH 4. PLEASE CAREFULLY REVIEW ALL SUPPLEMENTS.

PUBLISHER MEMBERSHIP AGREEMENT

This Publisher Membership Agreement is between you ("you") and Rakuten Marketing LLC, a limited liability company organized and existing under the laws of Delaware, United States of America ("RM United States"), except that if your business is headquartered in, or, if you are an individual, you reside in:

- Any European Economic Area ("EEA") member state or Switzerland, then this Agreement is between you and Rakuten Marketing Europe Limited, a limited liability company organized and existing under the laws of the United Kingdom ("RM Europe") and for purposes of this Agreement, you will be deemed to be a "European Region Publisher.";
- Australia, then this Agreement is between you and Rakuten Marketing Australia Pty Limited ("RM Australia"), a proprietary company limited by shares organized and existing under the laws of Australia; and for purposes of this Agreement, you will be deemed to be an "Australian Region Publisher";
- Any of the following countries: China, Hong Kong, India, Indonesia, Japan, South Korea, Philippines, Malaysia, Pakistan, Singapore, Taiwan, Thailand or Vietnam, then this Agreement is between you and RM Australia and for purposes of this Agreement, you will be deemed to be an "Asian Region Publisher";
- Brazil, then this Agreement is between you and Rakuten Marketing Brazil Limitada, a limited liability company organized and existing under the laws of Brazil ("RM Brazil") and for purposes of this Agreement, you will be deemed to be a "Brazilian Region Publisher."

Each of RM United States, RM Europe, RM Australia and RM Brazil may also be referred to individually as a "Rakuten Marketing Service Provider" and collectively as "Rakuten Marketing."

If you have registered for or on behalf of an entity you are deemed to have accepted this Agreement on behalf of that entity.

This "Agreement" refers to, individually and collectively depending upon the context, this Publisher Membership Agreement and any and all Network Policies and Guidelines or region specific payment policies, such as the Brazilian Region Payment Policies (collectively, the "Network Policies") as in effect

from time to time. The Network Policies can be accessed by clicking <https://rakutenmarketing.com/legal-notices/publisher-membership-agreement.html> or such other link that we may advise you from time to time.

In consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. Joining the Network

- 1.1. *Registration.* To use (or continue to use) the Network as a Network Publisher, you must provide Rakuten Marketing with truthful, accurate and complete registration information. If any such information changes, you must immediately update your registration information.
- 1.2. *Accurate Registration Information.* Rakuten Marketing has the right to verify the truth and accuracy of any registration information at any time. Please be advised that if any information is determined by Rakuten Marketing to be misleading, inaccurate or untruthful, Rakuten Marketing may restrict, deny or terminate your account and/or your access and use of the Offerings;
- 1.3. *Participation.* To join the Network, you must be either an entity or an individual who is at least 18 years old, and must provide at your expense your own computer equipment and internet access.
- 1.4. *USE OF THE NETWORK.* IF YOU HAVE REGISTERED IN YOUR PERSONAL CAPACITY, YOU HEREBY ACKNOWLEDGE THAT SERVICES MADE AVAILABLE BY RAKUTEN MARKETING TO NETWORK PUBLISHERS ARE PROVIDED FREE OF CHARGE AND SOLELY FOR THE PURPOSE OF FACILITATING BUSINESS TRANSACTIONS AND YOU AGREE THAT YOU WILL ONLY USE THE NETWORK SOLELY FOR THE PURPOSE OF FACILITATING BUSINESS TRANSACTIONS FOR YOUR BUSINESS AND FOR NO OTHER PURPOSE. YOU FURTHER AGREE THAT WHEN USING THE NETWORK, YOU ARE ENGAGED IN BUSINESS ACTIVITY AND ARE NOT ACTING AS A CONSUMER.

2. Defined Terms

- 2.1. The following terms have the meanings indicated:

"**Advertiser**" means any person that owns or operates a Site and/or other business that can acquire customers or other types of end users by way of the internet.

"**Content**" means information, data, text, documents, software, music, sound, photographs, graphics and video.

A "**corporate affiliate**" of a person is any other person that, directly or indirectly, controls such person, is controlled by such person, or is under common control with such person, with "control" meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person.

An "**end user**" means an actual or potential consumer, customer or other natural person.

"Engagement" means any time of agreement or arrangement between you and a Network Advertiser, or in some cases, and agreement or arrangement between you and Rakuten Marketing, that can be initiated or performed on or in relation to the internet, including affiliate marketing, performance based linking and online-to-offline tracking of tracked activities.

An **"entity"** means a sole proprietorship, corporation, partnership, limited liability company, trust, government agency or instrumentality or other entity recognized by law as a legal person separate from its owners.

The words **"include," "includes"** and **"including"** shall be deemed to be followed by the phrase "without limitation."

"Intellectual Property Rights" means technology, templates, designs, Sites, domains, methodologies, processes, names, strategies, marks, logos, Content, documentation, training manuals, and other materials, as well as any and all patent, trade secret, trademark, copyright, moral rights, database rights and other intellectual property and proprietary rights, whether or not registered, therein and thereto.

A **"link"** means any software, software code, programming or other technology or method (or any combination of the foregoing) that (a) creates a hyperlink between two Sites, or (b) otherwise causes a Web access device to display to its user a "banner," "button," text-mention, word, phrase, logo or other textual or graphical material that, when activated by a person, results in a Site being served to such person or such person being able to electronically access, receive or obtain Content, products, services or other offerings from the linked Site.

"Network" means the online affiliate marketing network operated by Rakuten Marketing through which Network Publishers may enter into Engagements with Network Advertisers.

The phrase **"provided by Rakuten Marketing"** or **"Rakuten Marketing-provided"** shall, when used in relation to tools, services, resources or other offerings, encompass the provision thereof by Rakuten Marketing or Rakuten Marketing Related Parties.

"Network Advertiser" refers to an Advertiser that participates in the Network and, through such participation and use of the appropriate Offerings, desires or seeks to recruit Network Publishers to enter into Engagements with such Network Advertiser.

"Network Publisher" means a person that participates in the Network and, through such participation and use of the appropriate Offerings, desires or makes itself available to be recruited or to enter into Engagements to display, distribute or place Qualifying Links for compensation.

"Network Publisher Account Area" means the Network Webpage(s) or other area of the Site having the URL designated from time to time by Rakuten Marketing for use by Network Publishers for the purpose of facilitating formation of qualifying links, accessing reports and otherwise participating in the Network.

"Offerings" means offerings provided by Rakuten Marketing or any Rakuten Marketing Related Parties in the form of technology, software, reports and databases, customer support, account management and other client services, symposia, summits and other educational and networking events, as well as any other tools, services, and other resources that may be provided or otherwise made available from time to time.

A **"person"** is to be broadly construed and includes any natural person or entity.

"Prohibited Activity" means any of the following activities: (a) discrimination on the basis of race, ethnicity, gender, religion, sexual orientation, age or disability or any other unlawful basis under applicable law; (b) libelous, defamatory, threatening, harassing, tortious, or similarly abusive activities; (c) obscene, pornographic, sexually explicit or similar activities; (d) illegal gambling; (e) sale, export or use of illegal substances; (f) terrorism, sedition or other illegal activities; (g) offering of any MP3, MPEG and/or other proprietary materials for download, sale or otherwise, in any case without the permission of the owner of the Intellectual Property Rights or otherwise infringing the Intellectual Property Rights of any third party (h) a conflict or violation of any law, rule, regulation, self-regulatory principles, Your privacy policy, or any Intellectual Property Rights or other rights of any person or entity; (i) harm to minors in any way; or (j) fraudulent activities or impersonation of any person, including any Rakuten Marketing (or Rakuten Marketing Related Parties) representative, or misrepresentation of affiliation with any person.

A **"Qualifying Link"** means any type or format of link that is provided or authorized by Rakuten Marketing to be displayed, distributed or placed on or by a Site pursuant to an Engagement and which, through addition and/or use of any technology and/or methodology, can be tracked so that such Rakuten Marketing or a Network Advertiser can monitor the impressions, click-throughs and/or other tracked activities achieved by the display, distribution and/or placement of such link. The term "Qualifying Link" shall also refer to any equivalent link, mechanism or technology that, upon being activated, causes the same result as clicking on a Qualifying Link.

"Rakuten Marketing Related Parties" means the corporate affiliates and contractors, licensors, licensees and suppliers of each Rakuten Marketing Service Provider.

"Site" means, as the context requires, either (a) one or more Web pages, database, computer files, emails, scripts, software or other application, or other destination, together with supporting files and programming, that are on, provided, or accessible through the Web or works on or in relation to the Web, or (b) a person owning or operating any such Site, or (c) both. A person that owns or operates a Site may have offline businesses which would not preclude it from being a Site for the purposes of this Agreement.

A **"tracked activity"** means any type of pre-agreed or predefined activity or result that is sought by an Advertiser in relation to a Qualifying Link. The kinds of tracked activities that an Advertiser may seek to complete through such arrangements may include, by way of example, the serving of an image, impressions, click-throughs, the sale of products or services, the downloading of software, files or other items, the completion of an

application, registration or other form, the opening of an account, membership enrollment, the printing of a coupon (for offline redemption) or any other kind of action, transaction or activity that can be tracked and reported upon.

"Web" or **"internet"** or **"online"** means the global computer network currently referred to as the internet, including the World Wide Web, and any and all successor networks, irrespective of what wired, wireless or otherwise connected device, platform or technology is used to access it.

3. Relationship of the Parties

In addition to and without limiting your obligations under this Agreement, your participation in the Network will require that you enter into Engagements. In such event, the terms and conditions of the relevant Engagement will govern your relationship with the contracting Network Advertiser, including your use of the Qualifying Links associated with that Network Advertiser, the tracked activities sought, the compensation that might become payable, and any limitations or restrictions that may apply to your promotion of such Network Advertiser or its Qualifying Links. Rakuten Marketing is not a party to that Engagement and has no obligation to you with respect to any such Engagement. There may be instances where you are permitted to promote the Qualifying Links of a Network Advertiser but the relationship will not be directly between you and the Network Advertiser, but rather between you and Rakuten Marketing. In those instances, Rakuten Marketing may ask, in addition to this Agreement that you enter into an Engagement directly with Rakuten Marketing which will govern your promotion of Qualifying Links for that Network Advertiser.

4. Participation

- 4.1. *Participation.* Subject to the terms and conditions in this Agreement, you have joined the Network as Network Publisher and may use the Offerings made available to Network Publishers. Your participation is purely voluntarily and you may terminate your participation at any time. Neither Rakuten Marketing nor any Network Advertiser shall be construed or deemed as having solicited, requested or procured you or your services to promote Rakuten Marketing or any Network Advertiser or its respective trade or business, or goods, products, property, or services.
- 4.2. *Not a Supplier, etc.* You are not and shall not, at any time, be deemed to be a vendor, supplier or provider of goods or services to Rakuten Marketing. Your participation in the Network, use of any Offerings or receipt of payment of any compensation under any Engagement shall not be construed or be deemed to be an inducement for, solicitation of you to provide any products or services to Rakuten Marketing.
- 4.3. *Prohibited Activities.* In respect of or in relation to any Site (or portion thereof) used by you in connection with your participation in the Network, you may not engage in any activity that is or constitutes, or that involves, facilitates, advocates or promotes any Prohibited Activity.

5. Qualifying Links

- 5.1. *Use of Qualifying Links.* Each Qualifying Link used by you must include, in unaltered form, the Rakuten Marketing tracking code in the manner and format made available or otherwise dictated by Rakuten Marketing.
- 5.2. *Valid Referrals Only.* You will place or use Qualifying Links only with the intention of delivering the agreed upon tracked activities. You may not, nor knowingly permit any person to, activate or attempt to activate a Qualifying Link or inflate or attempt to inflate the amount of any sought-after or resulting tracked activities, including but not limited to the use of any method or technology that does not actually deliver an end user to the destination Site associated with such Qualifying Link.
- 5.3. *Final and Binding Determinations.* Rakuten Marketing's determination as to whether a tracked activity resulted from a Qualifying Link shall be final and binding on you.
- 5.4. *Distribution of Qualifying Links.* If you currently distribute, or plan to distribute, Qualifying Links on, to or through Sites other than those owned or operated by you, you hereby agree (i) that upon Rakuten Marketing's request from time to time, you will provide Rakuten Marketing a list of Sites that are not owned or operated by you (together with any reasonably requested information about any such Sites) where Qualifying Links (and associated materials) have been, or are planned to be distributed and/or used, and (ii) to provide prompt and reasonable cooperation to Rakuten Marketing in responding to any requests, complaints, claims or other issues raised by any Network Advertiser regarding where and how such Network Advertisers Qualifying Links are distributed and/or used, including ceasing further distribution of such Qualifying Links (and associated materials), as appropriate. You agree that you will be liable for any breach of this Agreement that results from an act or omission of any third-party Site that you use to display Qualifying Links. Rakuten Marketing reserves the right to prohibit you from distributing Qualifying Links to or displaying Qualifying Links on third party Sites.
- 5.5. *No Modification, Etc. of Qualifying Links.* You agree that you will not modify, circumvent, impair, disable or otherwise interfere with any tracking codes and/or other technology and/or methodology required or made available by Rakuten Marketing and/or the Network Advertiser to be used in connection with your use of any Offerings, including the promotion and display of Qualifying Links. You further agree that you may not create your own Qualifying Links unless specifically authorized to do so by the relevant Network Advertiser, in which case you agree to comply with any of the Network Advertisers applicable terms and conditions.
- 5.6. *Termination of Qualifying Links.* Rakuten Marketing or the relevant Network Advertiser may terminate any Qualifying Links associated with any Engagement. You must remove any Qualifying Links after being notified of any termination of the corresponding Engagement, including due to termination or expiration of a relevant Network Advertisers participation. If Qualifying Links are not so removed, Rakuten Marketing may redirect such links as it determines in its sole discretion, with or without compensation to you.

- 5.7. *No Modification of Content.* You may not modify, resize, reformat, edit or otherwise alter any Content provided by any Network Advertiser, unless expressly authorized to do so by the relevant Network Advertiser. In such event, any such modifications shall be strictly limited in accordance with such Network Advertisers specific authorization.
- 5.8. *Discontinuing Use of Qualifying Links.* You may at any time discontinue use of Qualifying Links by removing such Qualifying Links from your Site, with or without notice to Rakuten Marketing provided however you shall remain subject to the terms of the relevant Engagement and this Agreement until you separately terminate such Engagement(s) or this Agreement.

6. Reports

- 6.1. *Revisions.* You will have access to Offerings made available to Network Publishers, including reports that detail tracked activities generated by your Site and any corresponding commissions that you have earned. Rakuten Marketing reserves the right to revise any report made available to you at any time if we (or a Network Advertiser) believe that the report contains an error or omission or otherwise requires an adjustment. Since the reports Rakuten Marketing provides to you and Network Advertisers are the basis for calculating the compensation, if any, due to you from that Network Advertiser, any such revision may affect the amount of compensation to which you are entitled.
- 6.2. *Data Furnished by Network Advertisers.* In providing Offerings, including giving you reports on your Network activities, Rakuten Marketing relies on data provided or made available by Network Advertisers. Rakuten Marketing is not obligated to confirm, and does not warrant or guarantee, the accuracy, truth or completeness of any data provided by Network Advertisers.
- 6.3. *Errors.* If you believe that any of your Publisher reports for any month contains errors in the data about an Engagement you must, using the contact information provided by the Network Advertiser and Rakuten Marketing in the Network Publisher Account Area, notify that Network Advertiser (with a copy to Rakuten Marketing) within ten (10) days after the end of that month or any shorter period in relevant Engagement so that, if possible, the matter may be resolved. If any Publisher reports for any month are corrected or adjusted after the end of the month, then the period in which you must notify the Network Advertiser (with a copy to Rakuten Marketing) of errors in the corrected or adjusted data shall be ten (10) days after such correction or adjustment is posted or any shorter period in the relevant Engagement. Any dispute between you and a Network Advertiser about any error you report must be resolved by you and that Network Advertiser. In the event Rakuten Marketing is in receipt of funds from a Network Advertiser for the purpose of paying commissions to you, and a dispute arises between you and the Network Advertiser regarding the amount of the funds that are due, or regarding who is entitled to receive the funds that are due, Rakuten Marketing will be entitled to hold or return such funds to the Network Advertiser, and to decline to offer further processing services until such dispute is resolved and Rakuten Marketing is notified, in writing, by all parties, that payments should

resume. You agree that Rakuten Marketing shall have no obligation and incur no liabilities to you in connection with any such dispute.

- 6.4. *Backing-up Data and Other Precautions.* Data transfer, conversion, processing and storage may be subject to human and machine errors, delays, interruptions and losses. Rakuten Marketing shall not be liable for any such events or their consequences. You are solely responsible for adopting measures to limit the impact of such events, including backing up any reports or data provided to you. Rakuten Marketing may, from time to time, with or without notice, change the time period covered, type and/or scope of current or historical data stored by Rakuten Marketing and/or to which it provides you with access.

7. Privacy

- 7.1. *General Compliance.* You agree that you will comply with all privacy and data security laws, rules and regulations applicable to you in the regions in which you do business.
- 7.2. *Privacy Policy.* You will maintain a privacy policy on all Sites employed by you in connection with your participation in the Network that complies with any and all applicable laws, rules, regulations, and self-regulatory principles. The privacy policy, shall, at minimum, be linked conspicuously from such Site's home page, with a link that contains the word "Privacy", "Legal", "Terms" or similar language. Such privacy policy shall, in addition to the disclosures about your privacy practices, identify the collection, disclosure and use of any information of end users and such other disclosures required by applicable law and offer individuals an opportunity to exercise choice with respect to their personal information as required by any applicable law, including, the ability for users to opt-out of or opt-in to the collection or use of data on any of your Sites. Such privacy policy shall also provide information on your use of tracking devices, including cookies and tracking devices enabled by Rakuten Marketing at your request on your behalf. Your privacy policy will also include information about the removal of cookies and other tracking devices. You agree that you will provide notice of data collection and use practices and the choices (including opt-out) available to visitors to your Sites, in or around Qualifying Links and other advertising content.
- 7.3. *European Privacy Laws.* If you operate your Site from an EEA member state or Switzerland or your Site receives or targets visitors from EEA member states or Switzerland, then you are subject to the EU Privacy Laws (as defined below) and hereby agree that you will:
- a. Comply with the EU Privacy Law;
 - b. Inform end users in a prominent manner that you use tracking devices and cookies for advertising purposes; and
 - c. Obtain end users consent to place tracking devices, such as cookies (including tracking devices enabled by Rakuten Marketing at your request on your behalf) on such end users' computers and provide, where required, information regarding the option to opt-out or remove cookies/tracking devices in compliance with any applicable law;

You also represent, warrant, covenant, undertake and agree you that are in compliance with all of your obligations under EU Privacy Law in respect of your data and information, including obtaining

all necessary consents from end users in order for Rakuten Marketing to use your data and information. Upon Rakuten Marketing's request, you shall furnish to Rakuten Marketing proof of the applicable end users consent to such use of data and information, including consent to the use of tracking devices and cookies enabled by Rakuten Marketing and you will take all steps reasonably requested by Rakuten Marketing to ensure Rakuten Marketing's compliance with applicable data protection law, including EU Privacy Law. "EU Privacy Law" means the European Union Data Privacy Directive, the European Union Privacy Directive and any local implementing law, including any subsequent legislation replacing or amending any such laws from time to time.

7.4. *Brazilian Privacy Laws.* If you operate your Site from Brazil or your sites receives or targets end users located in Brazil, you are subject to the Marco Civil da Internet, Law No. 12.965/2014 ("Brazilian Privacy Law"), which, among other things, establishes rights for end users and creates a series of obligations for the providers of internet applications and connections, principally as a means of guaranteeing freedom of expression and privacy for users and you agree to comply with the Brazilian Privacy Law. You further agree that:

- a. You will not collect, use or store any information or data about an end user without first obtaining that end users express authorization in accordance with the Brazilian Privacy Law.
- b. Any use by you of Qualifying Links as described in this Agreement shall comply with the Brazilian Privacy Law.
- c. You will obtain the express authorization of end users to collect, use or share that end users' data, including authorization to use third parties to collect, use or share such information on your behalf.
- d. You obtain consent of end users to place tracking devices, such as cookies (including tracking devices enabled by Rakuten Marketing at your request on your behalf) on such end users' computers, including where required, information regarding the option to opt-out or remove cookies/tracking devices to the extent required under the Brazilian Privacy Law.
- e. You shall take additional measures to comply with any provisions of the Brazilian Privacy law limiting the transmission of unsolicited commercial email.

8. Your Obligations

- 8.1. *No Solicitation.* You may not use any Offerings in connection with aggregating, soliciting or recruiting Network Advertisers, Network Publishers or other Sites or other persons to form or join a marketing, advertising or similar network.
- 8.2. *No Sublicense, etc.* You may not sublicense, rent, lease, sell, resell, outsource or service bureau any Offerings, and any attempt to do so shall be null and void.
- 8.3. *No Reverse Engineering.* You will not make unauthorized modifications, reverse engineer, disassemble, decompile or attempt to derive source code of any Offerings.

- 8.4. *No Hacking, etc.* You agree not to hack, abuse, adversely interfere with, infect with viruses, worms or other malicious or destructive code, or use or cause to be used in extraordinary and unreasonable or inappropriate ways or amounts, any Offerings, including any servers, bandwidth supply, equipment, software and other technological resources provided by Rakuten Marketing.
- 8.5. *No Spam.* You may not use any Qualifying Links in any electronic message unless (a) you have received the express written authorization of Rakuten Marketing or the Network Advertiser to use email or other electronic messages to promote it or its Qualifying Link and (b) any and all such electronic messages comply in all respects with this Agreement, the Network Advertiser's terms and conditions, and any and all applicable foreign, national, federal, state, local or provincial laws prohibiting or restricting the delivery of unsolicited electronic communications, also known as SPAM. Further, no electronic message initiated or sent by you or on your behalf may identify Rakuten Marketing or, except as expressly authorized by an individual Network Advertiser, any Network Advertiser as a sender or sponsor of such electronic message.
- 8.6. *No Interference.* You may not, through downloadable or other technology, replace, intercept, redirect, block, alter or otherwise interfere with the full functioning and intended actions of any Qualifying Link that has been placed or distributed by another Network Publisher including any action that would in any way prevent the behavior or result that would occur or would have occurred had an end user activated such Qualifying Link without your interference.
- 8.7. *No Infringing Uses.* You may not use any name, trademark, service mark, domain name or other Intellectual Property Rights of any third party in connection with your use of any Qualifying Links, the Network or any other Offerings, in any way or for any purpose that infringes or violates any Intellectual Property Rights or other rights of such third party, whether for the purpose of increasing the levels of tracked activities attributable to your Qualifying Links or for any other purpose.
- 8.8. *Fraud, Abuse, etc.* You will not, and will not knowingly permit other persons to, engage in any fraudulent, abusive or illegal activity in connection with your participation on the Network or in connection with any Network Advertiser's program or Engagement.

9. Grant of License to You

- 9.1. *Your Use of Offerings.* Rakuten Marketing grants to you a personal, non-exclusive, non-transferable, non sublicenseable revocable and limited license and right, subject to the terms of this Agreement, to:
 - a. Use the Offerings, to participate in the Network as a Network Publisher;
 - b. Access the Network Publisher Account Area necessary for your participation in the Network;
 - c. Solely for your use in connection with your participation in the Network, access reports made available to you by Rakuten Marketing;

- d. Use any software code or other Content that is provided by Rakuten Marketing solely for the purpose of creating and maintaining Qualifying Links in accordance with the terms of this Agreement and your Engagements, for such purpose, and no other purpose, but only in the form so provided.
- 9.2. *Limitations.* Except as provided in this Section 9, all other use of the Offerings, including the Network, the Network Publisher Account Area, any reports made available to you by Rakuten Marketing and software code or Content, including modification, publication, transmission, transfer or sale of, reproduction, creation of derivative works, distribution, performance, display, incorporation into another Site or mirroring is prohibited. Rakuten Marketing may change the form and/or content of any report at any time without notice to you.
- 9.3. *Use of the Rakuten Marketing Name.* This Agreement does not grant to you any license or right to use Rakuten Marketing's name or any of its logos or trade or service names or marks except to the extent any trade or service name is part of any code made available to you as part of a Qualifying Link. Any proposed press release or other public announcement by you regarding this Agreement or the Network or that refers to Rakuten Marketing or any of its corporate affiliates, either directly or indirectly, shall require the prior written approval of Rakuten Marketing. You agree that you shall not disparage Rakuten Marketing, any Rakuten Marketing Related Parties, the Network or any other participants thereof.
- 9.4. *Duration of License Rights; Reservation.* The license set forth in Section 9.1 (Use of Offerings) is valid only while you remain a member of the Network as a Network Publisher and comply fully with this Agreement. Rakuten Marketing may revoke any such license at any time by giving you notice by e-mail or in writing. Rakuten Marketing reserves all rights that are not specifically granted to you by this Agreement.

10. Grant of Licenses to Rakuten Marketing

- 10.1. *Use of Your Content.* Other than as provided below, in order to participate in the Network, you are not required to provide Rakuten Marketing with any Content or other materials. Should you do so, by way of uploading, delivering or otherwise making available to Rakuten Marketing any Content and/or other materials (including any Intellectual Property Rights therein and thereto), you hereby grant, to Rakuten Marketing a non-exclusive, worldwide, royalty-free, sublicenseable perpetual license to use and store the same including in relation to Rakuten Marketing's conduct of its business or performance of any services in relation to the Network.
- 10.2. *Use of Your Personal Information.* Rakuten Marketing and Rakuten Marketing Related Parties may use your personal information (a) for the purpose of facilitating your participation in the Network, which may include, indexing your name and relevant information about your business in the Network Publisher database, (b) making such information available to Network Advertisers in furtherance of possible business relationships, (c) to facilitate payments to you, (d) to contact you generally regarding your use of the Network (and you agree to receive email and other communications regarding

the Network and your participation in the Network from Rakuten Marketing and any Rakuten Marketing Related Parties), (e) for overall benchmarking and analysis of the Network and (f) to conduct an investigation to determine if you have violated any provision of this Agreement and as part of such investigation Rakuten Marketing may share your personal information with a third party or a law enforcement agency that needs such information in order to support such investigation. If you live or if you are a business that is headquartered in Europe, you hereby acknowledge and agree that your personal data may be transferred or stored outside the Europe in order to facilitate your use of the Offerings, including processing commission payments owed to you by Network Advertisers.

- 10.3. *Use of your Name.* You agree that Rakuten Marketing may refer to you by name in connection with the Network and/or the performance or provision of any Offerings, including in communications sent to actual or prospective participants of the Network.
- 10.4. *Disclosure of Business Relationship.* Nothing in this Agreement shall prevent Rakuten Marketing from making any public or private statements about your business relationship with Rakuten Marketing and/or any Network Advertiser and/or your participation in the Network.
- 10.5. *Use of your Logo.* Rakuten Marketing will not use any of your logos and/or other trademarks without your prior written approval, except as expressly provided in this Agreement. Any and all uses of your logos and/or other trademarks shall be in accordance with your specified usage and/or brand guidelines.

11. Representations and Warranties

You hereby represent, warrant, covenant, undertake and agree follows:

- a. You have the legal right to conduct any business conducted by you including in respect of any Site(s) participating in the Network and to the extent that you are an individual, you are at least eighteen years of age; and
- b. Any and all information you provided as part of the registration process or otherwise is and shall be truthful, accurate and complete, irrespective of any independent verification or other determination made by Rakuten Marketing; and
- c. This Agreement has been duly and validly authorized, accepted, executed and delivered by you (or your authorized representative) and constitutes your legal, valid, and binding obligation, enforceable against you in accordance with its terms; and
- d. The performance by you of this Agreement and any Engagement to which you are or become a party does not and will not conflict with or violate (i) any law, rule, regulation, order, judgment, decree, agreement or instrument applicable to you, and (ii) if you are an entity, any provision of your certificate of incorporation or other organizational documents.

12. Non-Disclosure

- 12.1. *Confidential Information.* You acknowledge that in connection with your participation in the Network and/or in one or more Engagements you will be provided with confidential and proprietary data and information from time to time. Such confidential and proprietary data and information may be owned variously by Rakuten Marketing or Network Advertisers and/or its or their suppliers or contractors. You will retain ownership of any data and information that you independently collect through your Sites without the use of Offerings, provided that any data and information that may be provided by you to Rakuten Marketing shall be deemed to be covered by the licenses granted to Rakuten Marketing under this Agreement. Confidential information of Rakuten Marketing includes but is not limited to information about tracked activities contained in reports, non-public information about Advertisers and software code made available to you by Rakuten Marketing to facilitate your participation in the Network.
- 12.2. *Duty of Care.* You will keep confidential information, including reports, data and other information provided to you through the Network Publisher Account Area or otherwise strictly confidential. Without Rakuten Marketing's prior written consent, you will not disclose any such confidential information to any third party or use any such confidential information other than solely as and to the extent required for you to perform under this Agreement and/or your Engagements.
- 12.3. *Need to Know Basis.* You may disclose any such confidential information only to your employees, officers, directors, lawyers or business advisors who need to know such information in order to perform their respective duties; provided that each such person has a legal or contractual obligation to maintain the confidentiality of such information.
- 12.4. *Legally Required Disclosures.* If you receive any document request, interrogatory, subpoena or other legal process ("Request") that would, by its terms, require the disclosure of any confidential information protected by this Agreement, then promptly upon receipt thereof, and prior to making any response thereto, you will, unless otherwise prohibited by law or an order of a competent court, notify Rakuten Marketing in writing of your receipt of such Request, and shall provide a copy thereof. Upon receipt of such notice, Rakuten Marketing may seek to intervene in the matter in which the Request was issued to seek protection of the confidentiality provided for by this Section. Absent written agreement signed by Rakuten Marketing, you may not make such disclosure absent an order or directive from the tribunal from which a Request was issued. Rakuten Marketing will be entitled to seek and obtain injunctive relief preventing any breach of your obligations under this Section, without the need to show irreparable harm, and without the need to post a bond or undertaking.

13. Payment; Fees

- 13.1. *Network Advertiser Responsible for Payment.* You acknowledge that your entitlement to any compensation reported with respect to any tracked activity (including if reported) is solely a function of the terms of your Engagement with the relevant Network Advertiser

and that such Network Advertiser is solely responsible for its payment. Rakuten Marketing is not liable or responsible for payment or collection even if Rakuten Marketing performs the function of processing payments to you on behalf of Network Advertisers. You further acknowledge that your entitlement to any compensation reported with respect to any tracked activity is subject to Rakuten Marketing's receipt of funds from the Network Advertiser associated with the Engagement giving rise to the purported compensation. If your Engagement to promote the advertising content of a Network Advertiser is with Rakuten Marketing (and not directly with the relevant Network Advertiser) then, you acknowledge and agree that any compensation due to you is ultimately determined, and payable, by the Network Advertiser and Rakuten Marketing will not be liable or responsible for paying out compensation under any Engagement with you unless and until it receives the funds from the Network Advertiser associated with the Engagement between you and Rakuten Marketing which gives rise to the purported compensation.

- 13.2 *Facilitating Payments.* Network Advertisers may remit payments for commissions or other payment obligations owed to you through Rakuten Marketing. Rakuten Marketing, as a service to Network Advertisers, has agreed to remit such monies to you or, in the case of any adjustments for errors or otherwise under the Engagement with the Network Advertiser, return all or a portion of the monies to the Network Advertiser. You acknowledge and agree that such payments are made to and for the benefit of you only, and not to, or for the benefit of, or for the account of Rakuten Marketing, and not for or on account of any debt of the Network Advertiser to Rakuten. You also acknowledge and agree that that Rakuten Marketing is merely facilitating payments between the Network Advertiser and you and that Rakuten Marketing is merely a conduit for such Network Advertiser payments to you. Rakuten Marketing agrees that it will not use any monies for such payments to you for Rakuten Marketing's own use or purposes except for the charges and/or offsets that you have agreed to in this Agreement. You agree that Rakuten Marketing shall have no liability to you for performing the function of processing payments from Network Advertiser and you under Engagement.
- 13.3. *Affiliate Programs of Brazilian Network Advertisers.* If you participate in the affiliate marketing program of a Brazilian Network Advertiser, then you may be subject to and required to comply with applicable Brazilian tax and other laws. You hereby agree to comply with all applicable Brazilian laws, rules and regulations, including any applicable tax laws. You also acknowledge and agree that you will comply with the Network Policies as they relate to working with Brazilian Advertisers, including the requirement that you submit an invoice for payment to RM Brazil for commissions earned in connection with Engagements with Brazilian Advertisers.
- 13.4. *European Region Publishers.* If you are a European Region Publisher or operate your business from a location or in a manner that subjects you to the tax laws of any EEA member state or Switzerland, then you hereby agree that Rakuten Marketing, as a limited commercial agent, is authorized to invoice and collect in your name and on your behalf, the compensation due to you pursuant to this Agreement or and your Engagements with any Network Advertisers. Rakuten Marketing will pay over to you any such sums collected in

your name and on your behalf. In order to enable Rakuten Marketing to collect sums on your behalf from an Advertiser you must provide Rakuten Marketing with all necessary financial and tax information, including your Value Added Tax (VAT) and company registration numbers, if applicable. You acknowledge and agree that you have access to copies of all invoices issued by Rakuten Marketing in your name and on your behalf. You may raise any objections to the content of the invoices issued in your name and on your behalf with Rakuten Marketing within ten (10) days after the date of issue of the invoice. You acknowledge and agree that You retain full responsibility for: (a) fulfilling your obligations with respect to VAT, if applicable; (b) paying the VAT, if applicable, on the commissions collected and paid to you by Rakuten Marketing on your behalf; (c) immediately reviewing all invoices and requesting copies of any reports or invoices not received from Rakuten Marketing; (d) advising Rakuten Marketing of any changes to your company's tax identification information; and (e) otherwise complying with all applicable tax laws, rules and regulations.

- 13.5. *Australian Region Publishers.* If you are an Australian Region Publisher or operate your business from a location or in a manner that would subject you to compliance with Australian tax law, then you hereby agree to comply with any applicable tax laws, rules or regulations, including A New Tax Systems (Goods and Service Tax) Act 1999 ("GST Law"). You acknowledge and agree that Rakuten Marketing is entitled to rely (without further inquiry) on any representations made by you in relation to your compliance, with the GST Law, including in relation to your GST status.
- 13.6. *Payment Terms.* The fact that a compensation amount is reported for any tracked activity does not necessarily mean that a payment is due to you from the relevant Network Advertiser under the applicable Engagement, since payment may be subject to conditions established by that Network Advertiser, including policies regarding order cancellation, returned merchandise, receipt of pending credit card authorizations and/or chargebacks and minimums for earned compensation before payment is made.
- 13.7. *Disputes.* Rakuten Marketing is under no obligation to investigate or resolve any claim or dispute involving you and any Network Advertiser or other third party person. If Rakuten Marketing, in its sole discretion, elects to investigate or otherwise become involved in any such claim or dispute, it shall not thereby undertake, assume or have any duty, obligation or liability to you or any other party to the claim or dispute.
- 13.8. *Inactivity.* If your Publisher account is inactive for more than twelve (12) consecutive months, Rakuten Marketing reserves the right to debit your Publisher account balance in accordance with the schedule below to cover the cost of account maintenance until (a) you reactivate your account by generating a commissionable activity through a Qualifying Link associated with your account, or (b) your account balance is zero. If the balance in your inactive account is or becomes zero, Rakuten Marketing reserves the right close the account permanently and cease to maintain your account records and Publisher program access. The inactive account maintenance charge will not cause your account balance to become negative and will not cause you to owe money to Rakuten Marketing. Your Publisher account becomes "Inactive" when you have failed to generate commissionable activity

through a Qualifying Link associated with your account for a period of 12 consecutive months.

Inactivity Fee Schedule:

- (i) If your account balance is greater than 100 currency units, a monthly fee the lesser of (a) 50 currency units or (b) 10% of the outstanding balance will be assessed;
- (ii) If your account balance is less than 100 currency units, a monthly fee of 10 currency units will be assessed;
- (iii) If your account balance is less than 10 currency units, a fee equivalent to the full balance in your account will be assessed.

A "currency unit" is the standard unit of monetary value used to calculate commissions in your account. For example, if you have selected to be paid in US Dollars in your account, then the applicable currency unit is US Dollars.

13.9. *Right to Assess Fees.* Rakuten Marketing may, at any time upon prior written notice to you as described below, commence charging or assessing fees in relation to any or all Offerings made available to you including your participation on the Network(s). Except as otherwise expressly provided in this Agreement, in the event Rakuten Marketing elects to charge or assess fees, you will be notified at least fourteen (14) days in advance in writing by email or posting through the Network Publisher Account Area or via the email address provided in your account registration. You may elect not to pay any such fees by discontinuing your participation in all Offerings prior to the commencement of such fees.

Rakuten Marketing may withhold and offset any fees or other charges owing to Rakuten Marketing against any and all compensation and/or other fees that are then unpaid to you. Following assessment of any fees or other charges owing to Rakuten Marketing, and subject to Rakuten Marketing holding any amount it determines in its sole discretion to be needed to support any of your indemnification and/or other obligations and/or liabilities under this Agreement, Rakuten Marketing may refund any remaining monies to any of the Network Advertisers with which you had entered into an Engagement. Such withholding of such compensation and/or other fees is in addition to any other rights and remedies that Rakuten Marketing or any Network Advertiser may have in contract, at law or in equity.

13.10. *Tax.* You agree that you are solely responsible for any and all tax obligations, if any, due to all taxing authorities arising from or in connection with any compensation earned by you as a result of your participation in any Offerings, the Network or any Engagement.

13.11. *Exchange Rate Risk.* In the event that Rakuten Marketing is retained by a Network Advertiser to process payments on its behalf, you may be permitted, at Rakuten Marketing's sole discretion, to elect to receive payment in a currency other than the default currency for the applicable the Network Advertiser. You agree that, should you choose to do so, you will bear all risk of any fluctuations in the applicable currency exchange rate.

14. Compliance with Laws

Without limiting any other provision of this Agreement, you and your corporate affiliates, officers, directors, employees, consultants, agents and representatives, and the activities of your business, your performance under any Engagements, and your use of the Network and/or Offerings shall comply at all times with all applicable federal, state, provincial and foreign laws, ordinances, rules, regulations, orders, judgments and decrees.

15. Termination of Network Advertisers

Any Network Advertiser's participation in the Network may end or be suspended for a number of reasons, including expiration or early termination of its advertiser agreement with Rakuten Marketing, and you may not necessarily receive any prior notice that such Network Advertiser's participation has been suspended or terminated. If that happens, Rakuten Marketing may, without notice to you, terminate or suspend all Qualifying Links that you have with that Network Advertiser immediately or, in Rakuten Marketing's discretion, at any time thereafter. Rakuten Marketing shall have no obligation or liability to you because of any such termination of Qualifying Links or the termination or suspension of any Network Advertiser.

16. DISCLAIMER OF WARRANTIES

- 16.1. AS-IS. THE NETWORK AND ANY RAKUTEN MARKETING OFFERINGS ARE PROVIDED "AS IS", "WHERE IS" AND "AS AVAILABLE."
- 16.2. *DISCLAIMER.* EACH RAKUTEN MARKETING SERVICE PROVIDER AND EACH OF THE RAKUTEN MARKETING RELATED PARTIES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, HEREBY DISCLAIMS ANY AND ALL WARRANTIES , EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AS TO ACCURACY, ADVERTISERABILITY, COMPLETENESS, CURRENTNESS, SECURITY, NON-INFRINGEMENT, TITLE, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE NETWORK OR ANY OFFERINGS OR THAT YOUR USE OF THE SAME WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY QUALIFYING LINKS OR NETWORK ADVERTISER WILL BE AVAILABLE OR CAN OR WILL BE WILLING TO ENTER INTO ANY ENGAGEMENT WITH YOU.

17. LIMITATION OF LIABILITY

- 17.1. *LIMITATION.* YOU AGREE THAT THE TOTAL LIABILITY OF RAKUTEN MARKETING AND RAKUTEN MARKETING RELATED PARTIES, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND REPRESENTATIVES, TO YOU FOR ANY CLAIMS MADE UNDER THIS AGREEMENT WILL NOT, IN THE AGGREGATE, EXCEED AN AMOUNT EQUAL TO THE LESSER OF (A) THE AVERAGE OF COMMISSION FEES PAYABLE TO YOU BY NETWORK ADVERTISERS DURING THE THREE (3) MONTH PERIOD PRIOR TO ANY SUCH CLAIM, AND (B) USD\$1,000 (USD ONE THOUSAND DOLLARS). YOU RECOGNIZE AND ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY IS FAIR AND REASONABLE, IN LIGHT OF THE FACT THAT RAKUTEN MARKETING IS PROVIDING THIS SERVICE AT NO CHARGE TO YOU.
- 17.2. *NO CONSEQUENTIAL DAMAGES.* NONE OF RAKUTEN MARKETING AND RAKUTEN MARKETING RELATED PARTIES WILL BE LIABLE TO YOU (WHETHER IN CONTRACT OR BASED

ON WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING LOSS OF REVENUE OR PROFITS, EVEN IF SUCH ENTITY WAS AWARE THAT SUCH DAMAGES COULD RESULT.

- 17.3. *APPLICABILITY.* SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR LIMITATION OF CERTAIN LIABILITIES. ACCORDINGLY, SOME OF THE ABOVE LIMITATIONS OF THIS SECTION 17 MAY NOT APPLY TO YOU.

18. Indemnification

- 18.1. *Indemnification.* You agree to defend, indemnify and hold harmless Rakuten Marketing and Rakuten Marketing Related Parties, and its and their directors, officers, employees, agents, subcontractors and representatives for and against any and all claims, actions, demands, liabilities, losses, damages, penalties, interest, judgments, settlements, costs and expenses (including reasonable attorneys' fees) that directly or indirectly arise out of or are based on (a) any breach of any representation, warranty, or covenant made by you in this Agreement, (b) you engaging in any Prohibited Activity (c) any breach by you of any Engagement, (d) any violation by you of any law, regulation or rule, (d) your inappropriate use of any other Offerings, (e) your negligence or willful misconduct, and/or (f) any actual or alleged infringement by you of any Intellectual Property Rights or other rights of any person.
- 18.2. *Control of Defense.* Rakuten Marketing may, at its election in its sole discretion, assume the exclusive defense and control of any matter otherwise subject to indemnification by you. Rakuten Marketing may participate in the defense of all claims as to which it does not assume defense and control, and you shall not settle any such claim without Rakuten Marketing's prior written consent.

19. Amendments

- 19.1. *Amendments.* Upon at least fourteen (14) days prior written notice, Rakuten Marketing may, at any time, add to, remove or otherwise amend any or all terms, conditions and/or other provisions of this Agreement, including any Network Policies and Guidelines. YOUR CONTINUED USE OF THE NETWORK AND/OR RAKUTEN MARKETING OFFERING AFTER EXPIRATION OF ANY APPLICABLE PRIOR NOTICE PERIOD SHALL CONSTITUTE YOUR BINDING AND LEGALLY ENFORCEABLE AGREEMENT TO SUCH AMENDMENT. IF YOU DO NOT WISH TO ACCEPT ANY SUCH AMENDMENT, THEN YOU MUST TERMINATE YOUR ACCOUNT IN THE NETWORK AND CEASE USING THE NETWORK AND ANY ASSOCIATED OFFERING OR ENGAGEMENT.
- 19.2. *Changes in Service.* Upon prior written notice, Rakuten Marketing may add, remove, suspend or discontinue any aspect of the Network or any other Rakuten Marketing Offering. YOUR CONTINUED USE OF THE NETWORK AND/OR RAKUTEN MARKETING OFFERING AFTER EXPIRATION OF ANY APPLICABLE PRIOR NOTICE PERIOD SHALL CONSTITUTE YOUR BINDING AND LEGALLY ENFORCEABLE AGREEMENT TO SUCH CHANGE. IF YOU DO NOT WISH TO ACCEPT ANY SUCH CHANGE, THEN YOU MUST TERMINATE YOUR ACCOUNT IN THE

NETWORK AND CEASE USING THE NETWORK AND ANY ASSOCIATED OFFERING OR ENGAGEMENT.

20. Termination, etc.

- 20.1. *Termination.* You or Rakuten Marketing may, at any time, with or without cause, terminate this Agreement and your participation in the Network or use of any other Rakuten Marketing Offering. You may affect such termination through your Network Publisher Account Area or by written notice to Rakuten Marketing subject to actual receipt thereof.
- 20.2. *Restricted Use.* Alternatively, Rakuten Marketing may, at any time, with or without notice, in its sole discretion, suspend, limit, restrict, condition or deny your access to or use of all or any part of the Network or any Rakuten Marketing Offering.

21. Effects of Termination

- 21.1. *Termination.* Upon any termination of this Agreement and/or your participation on the Network:
- a. You shall immediately cease to use and remove from any and all Site(s), whether or not owned or operated by you, any and all Qualifying Links and all other Content or materials provided to you in connection with your participation in the Network or your use of any other Offerings.
 - b. Any and all licenses and rights granted to you under this Agreement shall immediately cease and terminate.
 - c. Rakuten Marketing may terminate or, in its sole discretion, direct or redirect to any destination Site any and all Qualifying Links continued to be used by you without Rakuten Marketing or any Network Advertiser incurring any further liability or obligation to you.
 - d. Any and all confidential or proprietary information of Rakuten Marketing (including as applicable any confidential or proprietary information of Network Advertisers as and to the extent originally provided by Rakuten Marketing) that is in your possession or control must be immediately returned or destroyed, at Rakuten Marketing's sole discretion. If requested, you will certify in a writing signed by you or an authorized officer as to the return or destruction of all such confidential or proprietary information.
- 21.2. *Survival.* All rights or remedies arising out of a breach of any terms of this Agreement shall survive any such termination of this Agreement. Sections 1.4, 4.2, 5.3, 5.5, 6.2, 6.3, 6.4, 8, 9.2 10, 12 and Sections 16 through 22, respectively and any provision which by its terms are intended to survive any expiration or termination of this Agreement, will survive any expiration or termination of this Agreement.

22. Miscellaneous

- 22.1. *Independent Contractors.* The parties are independent contractors and not partners, joint venturers. Other than in respect of the obligation of Rakuten Marketing to pay over promptly to you any payments Rakuten Marketing receives from a Network Advertiser as agent for payment to you, nothing in this Agreement shall confer upon either party any authority to obligate or bind the other in any respect or cause either party to have a fiduciary relationship to the other.
- 22.2. *Force Majeure.* Rakuten Marketing shall not be liable to you by reason of any failure or delay in the performance of its obligations hereunder on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, strikes, lockouts or other industrial disputes, earthquakes, interruptions in telecommunications services or internet facilities, or any other cause which is beyond the reasonable control of Rakuten Marketing, whether or not similar to the foregoing.
- 22.3. *Assignability.* You shall not assign or delegate any of the rights or obligations under this Agreement, and any such attempted assignment or delegation shall be void. Subject to the preceding sentence, this Agreement is binding on and inures to the benefit of the respective successors, heirs and assigns of each party.
- 22.4. *Severability.* If any portion of this Agreement is held by a court with jurisdiction to be invalid or unenforceable, the remaining portions hereof, shall remain in full force and effect. If any provision of this Agreement shall be judicially unenforceable in any jurisdiction, such provision shall not be affected with respect to any other jurisdiction.
- 22.5. *UN Convention.* This Agreement shall not be governed by the provisions of the 1980 United Nations Convention on Contracts for the International Sale of Goods.
- 22.6. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York, U.S.A., without regard to its conflicts of law principles.
- 22.7. *Informal Dispute Resolution.* In the event of any dispute, controversy or claim arising out of or relating to this Agreement, the parties agree, at the request of either party, to appoint representatives to meet in good faith within thirty (30) days of such request, in order to resolve the dispute.
- 22.8. *Arbitration.* Except for actions seeking equitable or injunctive relief, any dispute, controversy or claim arising out of or relating to this Agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to this Agreement, that is not resolved pursuant to Section 22.7 (Informal Dispute Resolution) shall be referred to and finally resolved by arbitration administered by the International Institute for Conflict Prevention and Resolution ("CPR"), in accordance with the CPR Rules for Administered Arbitration by a panel of three (3) arbitrators, of whom each party shall designate one, with the third arbitrator to be designated by the two party-appointed arbitrators. Such arbitration shall be conducted in New York, New York in the English language. The

arbitrators shall establish procedures under which each party will be entitled to conduct discovery and shall award to the prevailing party in any such dispute the costs and expenses of the proceeding, including reasonable attorney's fees. The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. 1 et. seq., and except as set forth below, the arbitral award shall be final, binding and incontestable and judgment thereon may be entered in any court of competent jurisdiction. The arbitrators shall award only such damages as are permitted to be awarded pursuant to this Agreement. The arbitrators must render their award within 30 days following the last hearing scheduled by the arbitrators and at that time state the reasons for their award in writing. An appeal may be taken under the CPR Arbitration Appeal Procedure from any final award of an arbitral panel in any arbitration arising out of or related to this Agreement that is conducted in accordance with such procedure. Unless otherwise agreed by the parties and the appeal tribunal, the appeal shall be conducted at the place of the original arbitration. Notwithstanding the foregoing, either party shall be entitled to apply to any court of competent jurisdiction for injunctive relief, without bond, to restrain any actual or threatened conduct in violation of this Agreement or to specifically enforce any party's obligations under this Agreement.

- 22.9. *Entire Agreement; Third Party Beneficiaries.* This Agreement is the entire agreement between the parties pertaining to its subject matter, and supersedes all prior written or oral agreements (including prior versions of this Agreement and any conflicting confidentiality agreements), representations, warranties or covenants between the parties with respect to such subject matter. You have not relied on any representation, warranty, collateral contract or other assurance (except those set out in this Agreement) made by or on behalf of Rakuten Marketing before you entered into this Agreement, and you waive all rights and remedies which, but for this clause, might otherwise be available to you in respect of any such representation, warranty, collateral contract or other assurance. There are no third-party beneficiaries of this Agreement. The headings of sections or other subdivisions of this Agreement will not affect in any way the meaning or interpretation of this Agreement.
- 22.10. *Notices.* Rakuten Marketing may provide notices to you by posting notices or links to notices in your Network Publisher Account Area. Notices to you also may be made via e-mail, regular mail, overnight courier or facsimile at your contact addresses of record for the Network. If you provide notice to Rakuten Marketing, such notice shall be sent, postage prepaid by U.S. registered or certified mail or by international or domestic overnight courier, to: Rakuten Marketing LLC, 215 Park Avenue South, 9th Floor, New York, New York 10003, Attn: President, president@mail.rakuten.com with a copy to Rakuten Marketing, LLC, 215 Park Avenue South, 9th Floor, New York, NY 10003, Attn: General Counsel, generalcounsel@mail.rakuten.com. Notices sent by email or facsimile, with or without electronic confirmation, will not be deemed to be valid unless actual receipt is confirmed in writing by an authorized personnel member of Rakuten Marketing.
- 22.11. *Language.* This Agreement may be translated into different language versions and, except as provided by applicable law, the English language versions of this Agreement and Network Policies are the controlling versions thereof and shall prevail.

22.12. *Class Action Waiver.* Any proceedings to resolve or litigate any dispute in any forum will be conducted solely on an individual basis. Neither you nor Rakuten Marketing will seek to have any dispute heard as a class action, private attorney general action, or in any other proceeding in which either party acts or proposes to act in a representative capacity. No arbitration or other proceeding will be combined with another without the prior written consent of all parties to all affected arbitrations or proceedings.

[END OF PUBLISHER MEMBERSHIP AGREEMENT]

APPENDIX 1

ASIAN REGION SUPPLEMENT TO THE PUBLISHER MEMBERSHIP AGREEMENT

If you are an Asian Region Publisher, then you hereby agree that the following provisions supplement or amend the terms of the Publisher Membership Agreement above. Capitalized terms used in this Supplement but not defined herein shall have the meanings ascribed to them in the Publisher Membership Agreement:

1. Section 17.1 (Limitation) of the Publisher Membership Agreement is hereby replaced in its entirety as follows:

17.1 LIMITATION. EXCEPT AS SET FORTH IN SECTION 17.2 BELOW (LOSSES THAT CANNOT BE EXCLUDED BY LAW) YOU AGREE THAT THE TOTAL LIABILITY OF RAKUTEN MARKETING AND RAKUTEN MARKETING RELATED PARTIES, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND REPRESENTATIVES, TO YOU FOR ANY ACTION OR CLAIM IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE ARISING OUT OF OR IN RELATION TO THIS AGREEMENT WILL BE LIMITED, IN THE AGGREGATE, TO THE LESSER OF (A) THE AVERAGE OF COMMISSION FEES PAYABLE TO YOU BY NETWORK ADVERTISERS DURING THE THREE (3) MONTH PERIOD PRIOR TO ANY SUCH ACTION OR CLAIM, AND (B) SGD\$1,300 (ONE THOUSAND THREE HUNDRED SINGAPORE DOLLARS). YOU RECOGNIZE AND ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY IS FAIR AND REASONABLE, IN LIGHT OF THE FACT THAT RAKUTEN MARKETING IS PROVIDING THIS SERVICE AT NO CHARGE TO YOU.

2. The following Section 17.2 (Losses that Cannot be Excluded by Law) is hereby added immediately following Section 17.1

SECTION 17.2 LOSSES THAT CANNOT BE EXCLUDED BY LAW. NOTHING IN SECTION 17.1 ABOVE SHALL LIMIT THE LIABILITY OF RAKUTEN OR ANY RAKUTEN RELATED PARTY FOR (I) DEATH OR PERSONAL INJURY CAUSED BY A RAKUTEN MARKETING OR ANY RAKUTEN RELATED PARTY'S NEGLIGENCE AND OTHER LOSSES WHICH CANNOT BE EXCLUDED BY APPLICABLE LAW; OR (B) ANY WILLFUL DEFAULT, OR CRIMINAL, FRAUDULENT OR DELIBERATE ACT OR OMISSION OF RAKUTEN OR ANY RAKUTEN RELATED PARTY.

The remaining provisions of Section 17 shall be renumbered to conform to insertion of this new Section 17.2 (Losses that Cannot be Excluded by Law).

3. Section 17.3 (Formerly Section 17.2) (No Consequential Damages) is hereby replaced in its entirety as follows:

17.3 NO CONSEQUENTIAL DAMAGES. NONE OF RAKUTEN MARKETING AND RAKUTEN MARKETING RELATED PARTIES WILL BE LIABLE TO YOU (WHETHER IN CONTRACT OR BASED ON WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) FOR THE FOLLOWING:

- A. FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING LOSS OF REVENUE OR PROFITS; AND*
- B. FOR ANY LOSS OF PROFITS (WHETHER DIRECT OR INDIRECT), LOSS OF BUSINESS, LOSS OF ANTICIPATED SAVINGS AND LOSS OF DATA.*

THE LIMITATION IN THIS SECTION 17.3 SHALL APPLY EVEN IF RAKUTEN MARKETING OR THE RELEVANT RAKUTEN RELATED PARTY WAS AWARE THAT SUCH DAMAGES COULD RESULT.

4. Section 22.6 (Governing Law) is hereby replaced in its entirety as follows:

22.6 Governing Law. This Agreement and any non-contractual rights or obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of Singapore.

5. Section 22.7 (Dispute Resolution) is hereby replaced in its entirety as follows:

22.7 Dispute Resolution. Upon any dispute arising out of or in connection with this Agreement ("Dispute"), the Party initiating the Dispute (the "Disputing Party") shall notify the other Party in writing of such Dispute ("Dispute Notice"). The Parties will first attempt to resolve the Dispute amicably by referring the Dispute to representatives of the respective Disputing Parties.

6. Section 22.8 (Arbitration) is hereby replaced in its entirety as follows:

22.8 Arbitration. Disputes not resolved under Section 22.7 shall be referred to and finally settled under the provisions of the Rules of Arbitration of Singapore International Arbitration Centre ("SIAC"), Singapore and this Section 22.8. The arbitration shall be conducted in English and the venue of arbitration shall be SIAC, Singapore. There shall be 3 arbitrators appointed as follows. Each of the Parties shall appoint an arbitrator and the 2 appointed arbitrators shall appoint the third arbitrator. If the Disputing Parties fail to appoint arbitrators within 30

days of the matter being referred to arbitration, the arbitrators shall be appointed in accordance with the SIAC Rules. The Disputing Parties agree that any directions of the arbitrators and the outcome of the arbitration proceedings shall be final and binding upon the Parties. Each Disputing Party shall bear the cost of preparing and presenting its case. The cost of arbitration, and specifically the fees and expenses of the arbitrators, shall be shared equally by the Parties unless the award provides otherwise. The Parties agree that they shall continue to perform their respective obligations under this Agreement, notwithstanding any arbitration proceeding being conducted in accordance with this Section 22.8. Notwithstanding the foregoing, nothing in this Agreement shall preclude either Party from taking whatever actions are necessary to prevent immediate, irreparable harm to its interests, including seeking injunctive or other preliminary relief in any jurisdiction.

7. Section 22.10 (Notices) is hereby replaced in its entirety as follows:

22.10 Notices. Rakuten Marketing may provide notices to you by posting notices or links to notices in your Network Publisher Account Area. Notices to you also may be made via e-mail, regular mail, overnight courier or facsimile at your contact addresses of record for the Network. If you provide notice to Rakuten Marketing, such notice shall be sent, postage prepaid by registered or certified mail or by international or domestic overnight courier, to: Rakuten Marketing Australia Pty, Ltd., Level 4, 61 York Street, Sydney NSW 2000, Australia, Attn: Managing Director with a copy to Rakuten Marketing LLC, 215 Park Avenue South, 9th Floor, New York, NY 10003, Attn: General Counsel, generalcounsel@mail.rakuten.com. Notices sent by email or facsimile, with or without electronic confirmation, will not be deemed to be valid unless actual receipt is confirmed in writing by an authorized personnel member of a Rakuten Marketing Service Provider.

APPENDIX 2

AUSTRALIAN REGION SUPPLEMENT TO THE PUBLISHER MEMBERSHIP AGREEMENT

If you are an Australian Region Publisher, then you hereby agree that the following provisions supplement or amend the terms of the Publisher Membership Agreement above. Capitalized terms used in this Supplement but not defined herein shall have the meanings ascribed to them in the Publisher Membership Agreement:

1. Section 17.1 (Limitation) is hereby replaced in its entirety as follows:

17.1 LIMITATION. EXCEPT AS SET FORTH IN SECTION 17.2 BELOW (LOSSES THAT CANNOT BE EXCLUDED BY LAW) YOU AGREE THAT THE TOTAL LIABILITY OF RAKUTEN MARKETING AND RAKUTEN MARKETING RELATED PARTIES, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND REPRESENTATIVES, TO YOU FOR ANY ACTION OR CLAIM IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE ARISING OUT OF OR IN RELATION TO THIS AGREEMENT WILL BE LIMITED, IN THE AGGREGATE, TO THE LESSER OF (A) THE AVERAGE OF COMMISSION FEES PAYABLE TO YOU BY NETWORK ADVERTISERS DURING THE THREE (3) MONTH PERIOD PRIOR TO ANY SUCH ACTION OR CLAIM, AND (B) AUD\$1,250 (ONE THOUSAND TWO HUNDRED FIFTY AUSTRALIAN DOLLARS). YOU RECOGNIZE AND ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY IS FAIR AND REASONABLE, IN LIGHT OF THE FACT THAT RAKUTEN MARKETING IS PROVIDING THIS SERVICE AT NO CHARGE TO YOU.

2. Section 22.6 of the Publisher Membership Agreement is hereby replaced in its entirety as follows:

22.6 Governing Law. This Agreement and any non-contractual rights or obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of New South Wales, Australia.

3. Section 22.7 (Dispute Resolution) and Section 22.8 (Arbitration) are hereby replaced in their entirety as follows:

22.7. Dispute Resolution and Arbitration. In the event of a Dispute, the parties agree to enter into informal negotiations with the objective of resolving the Dispute ("Negotiation"). If the parties are unable to resolve the Dispute through Negotiation, the parties irrevocably agree that the dispute shall be referred to and finally resolved by arbitration administered by the Australian Commercial Disputes Centre ("ACDC") under the ACDC Rules for Arbitration in effect at the time the dispute is referred to the ACDC

and which terms are hereby deemed incorporated into this agreement by reference (the "Rules"). "Dispute" means any dispute, controversy, claim or difference of whatever nature arising out of, relating to, or having any connection with this Agreement, including a dispute regarding the existence, formation, validity, interpretation, performance or termination of this Agreement or the consequences of its nullity and also including any dispute relating to any non-contractual rights or obligations arising out of, relating to, or having any connection with this Agreement.

The remaining Sections of the Agreement shall be renumbered in order conform to the foregoing modification.

4. Section 22.10 of the Publisher Membership Agreement is hereby replaced in its entirety as follows:

22.10 Notices. RM Australia may provide notices to you by posting notices or links to notices in your Network Publisher Account Area. Notices to you also may be made via e-mail, regular mail, overnight courier or facsimile at your contact addresses of record for the Network. If you provide notice to Rakuten Marketing, such notice shall be sent, postage prepaid by U.S. registered or certified mail or by international or domestic overnight courier, to: Rakuten Marketing Australia Pty, Ltd., Level 4, 61 York Street, Sydney NSW 2000, Australia, Attn: Managing Director with a copy to Rakuten Marketing LLC, 215 Park Avenue South, 9th Floor, New York, NY 10003, Attn: General Counsel, generalcounsel@mail.rakuten.com. Notices sent by email or telecopy, with or without electronic confirmation, will not be deemed to be valid unless actual receipt is confirmed in writing by an authorized personnel member of Rakuten Marketing.

APPENDIX 3

BRAZILIAN REGION SUPPLEMENT TO THE PUBLISHER MEMBERSHIP AGREEMENT

If you are a Brazilian Region Publisher, then you hereby agree that the following provisions supplement or amend the terms of the Publisher Membership Agreement above. Capitalized terms used in this Supplement but not defined herein shall have the meanings ascribed to them in the Publisher Membership Agreement:

1. The Publisher Membership Agreement is governed by Civil Legislation therefore there is no employment relationship between the parties. This condition will be irrevocable and shall be confirmed in any court or tribunal.
2. You agree to comply with applicable data protection and privacy law as set forth in Section 7.5 of the Publisher Membership Agreement.
3. Without limiting any of the provisions of the Publisher Membership Agreement, you agree that you will indemnify, defend and hold each Rakuten Marketing Service Provider and each Rakuten Marketing Related Party harmless from and against any:
 - Labor, fiscal or social security claim arising from your non-compliance with labor laws, non-payment of charges, fees or taxes owned by you in respect of labor obligations, tax and/or social security, and
 - Labor claims or actions of any kind promoted by your employees, agents, thirds parties or by any person or legal entity involved in the relation established herein, including legal costs and attorney's fees.
4. The last sentence of Section 12.4 (Legally Required Disclosures) of the Publisher Membership Agreement is replaced with the following:

“Rakuten Marketing will be entitled to seek and obtain injunctive relief preventing any breach of your obligations under this Section.”

5. Section 17.1 (Limitation) is hereby replaced in its entirety as follows:

17.1 LIMITATION. EXCEPT AS SET FORTH IN SECTION 17.2 BELOW (LOSSES THAT CANNOT BE EXCLUDED BY LAW) YOU AGREE THAT THE TOTAL LIABILITY OF RAKUTEN MARKETING AND RAKUTEN MARKETING RELATED PARTIES, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND REPRESENTATIVES, TO YOU FOR ANY ACTION OR CLAIM IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE ARISING OUT OF OR IN RELATION TO THIS AGREEMENT WILL BE LIMITED, IN THE AGGREGATE, TO THE LESSER OF (A) THE AVERAGE OF COMMISSION FEES PAYABLE TO YOU BY

NETWORK ADVERTISERS DURING THE THREE (3) MONTH PERIOD PRIOR TO ANY SUCH ACTION OR CLAIM, AND (B) BRL \$2,500 (TWO THOUSAND FIVE HUNDRED BRAZILIAN REAIS). YOU RECOGNIZE AND ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY IS FAIR AND REASONABLE, IN LIGHT OF THE FACT THAT RAKUTEN MARKETING IS PROVIDING THIS SERVICE AT NO CHARGE TO YOU.

6. Section 22.6 (Governing Law) is hereby replaced in its entirety as follows:

22.6 Governing Law. This Agreement and any non-contractual rights or obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of Sao Paulo, Brazil.

7. Section 22.7 (Dispute Resolution) and Section 22.8 (Arbitration) are hereby replaced in their entirety as follows:

22.7 Informal Dispute Resolution. Upon any dispute arising out of or in connection with this Agreement ("Dispute"), the Party initiating the Dispute (the "Disputing Party") shall notify the other Party in writing of such Dispute ("Dispute Notice"). The Parties will first attempt to resolve the Dispute amicably by referring the Dispute to legal representatives of the respective Disputing Parties.

22.8 Arbitration. Except for actions seeking equitable or injunctive relief, any dispute, controversy or claim arising out of or relating to this Agreement, including the existence, validity, interpretation, performance, breach or termination thereof or any dispute regarding non-contractual obligations arising out of or relating to this Agreement, that is not resolved pursuant to Section 22.7 shall be referred to and finally resolved by arbitration, in accordance with the Guidelines of the Arbitration Center of the Brazil-Canada Chamber of Commerce by a panel of three (3) arbitrators, of whom each party shall designate one, with the third arbitrator to be designated by the two party-appointed arbitrators. Such arbitration shall be conducted in São Paulo, São Paulo in the Portuguese language. The arbitration shall be governed by Brazilian Arbitration Act (Law no. 9.307/1996) and except as set forth below, the arbitral award shall be final, binding and incontestable and judgment thereon may be entered in any court of competent jurisdiction. The arbitrators shall award only such damages as are permitted to be awarded pursuant to this Agreement. Notwithstanding the foregoing, either party shall be entitled to apply to any court of competent jurisdiction for injunctive relief to restrain any actual or threatened conduct in violation of this Agreement or to specifically enforce any party's obligations under this Agreement.

8. Section 22.10 is hereby replaced in its entirety as follows:

22.10 Notices. RM Brazil may provide notices to you by posting notices or links to notices in your Network Publisher Account Area. Notices to you also may be made via e-mail, regular mail, overnight courier or facsimile at your contact addresses of record for the Network. If you provide notice to RM Brazil, such notice shall be sent, postage prepaid by U.S. registered or certified mail or by international or domestic overnight courier, to: Rakuten Marketing Brazil Ltda., Av. Francisco Matarazzo, 1752 – cj. 1207, San Paulo, Brazil, Attn: Managing Director with a copy to Rakuten Marketing LLC, 215 Park Avenue South, 9th Floor, New York, NY 10003, Attn: General Counsel, generalcounsel@mail.rakuten.com. Notices sent by email or telecopy, with or without electronic confirmation, will not be deemed to be valid unless actual receipt is confirmed in writing by an authorized personnel member of RM Brazil.

APPENDIX 4

EUROPEAN REGION SUPPLEMENT TO THE PUBLISHER MEMBERSHIP AGREEMENT

If you are a European Region Publisher, then you hereby agree that the following provisions supplement or amend the terms of the Publisher Membership Agreement above:

1. Data Protection and Privacy – You agree to comply with applicable data protection and privacy law as set forth in Section 7.3 of the Publisher Membership Agreement.
2. Section 16.2 (DISCLAIMER) is hereby replaced in its entirety as follows:

16.2 DISCLAIMER. TO THE GREATEST EXTENT PERMISSIBLE BY LAW, EACH RAKUTEN MARKETING SERVICE PROVIDER AND EACH OF THE RAKUTEN MARKETING RELATED PARTIES TO THE EXTENT PERMITTED BY APPLICABLE LAW, HEREBY DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AS TO ACCURACY, COMPLETENESS, BEING UP TO DATE, SECURITY, NON-INFRINGEMENT, TITLE, OR FITNESS FOR A PARTICULAR PURPOSE OF THE NETWORK OR ANY OFFERINGS OR THAT YOUR USE OF THE SAME WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ANY QUALIFYING LINKS OR NETWORK ADVERTISER WILL BE AVAILABLE OR CAN OR WILL BE WILLING TO ENTER INTO ANY ENGAGEMENT WITH YOU.

3. Section 17.1 (LIMITATION) is hereby replaced in its entirety as follows:

17.1 LIMITATION. YOU AGREE THAT THE TOTAL LIABILITY OF RAKUTEN MARKETING AND RAKUTEN MARKETING RELATED PARTIES, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUBCONTRACTORS AND REPRESENTATIVES, TO YOU FOR ANY CLAIMS MADE UNDER THIS AGREEMENT WILL NOT, IN THE AGGREGATE, EXCEED AN AMOUNT EQUAL TO THE LESSER OF (A) THE AVERAGE OF COMMISSION FEES PAYABLE TO YOU BY NETWORK ADVERTISERS DURING THE THREE (3) MONTH PERIOD PRIOR TO ANY SUCH CLAIM, AND (B) GBP\$750 (SEVEN HUNDRED FIFTY BRITISH POUND STERLING). NOTHING IN THIS AGREEMENT WILL LIMIT EITHER PARTY'S LIABILITY FOR DEATH OR PERSONAL INJURY RESULTING FROM THE NEGLIGENCE OF THAT PARTY OR ITS OFFICERS, AGENTS, EMPLOYEES OR SUBCONTRACTORS, FRAUD OR FRAUDULENT MISREPRESENTATION OR ANY OTHER MATTER IN RESPECT OF WHICH LIABILITY CANNOT BE LIMITED BY APPLICABLE LAW. YOU RECOGNIZE AND ACKNOWLEDGE THAT THIS LIMITATION OF LIABILITY IS FAIR AND REASONABLE, IN LIGHT OF THE FACT THAT RAKUTEN MARKETING IS PROVIDING THIS SERVICE AT NO CHARGE TO YOU.

4. Section 17.2 (NO CONSEQUENTIAL DAMAGES) is hereby replaced in its entirety as follows:

17.2 NO CONSEQUENTIAL DAMAGES. NONE OF RAKUTEN MARKETING AND RAKUTEN MARKETING RELATED PARTIES WILL BE LIABLE TO YOU (WHETHER IN CONTRACT OR BASED ON WARRANTY, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) FOR ANY LOSS OF REVENUE OR PROFITS, INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, PUNITIVE OR SPECIAL DAMAGES.

5. Section 22.6 (Governing Law) is hereby replaced in its entirety as follows:

22.6 Governing Law. This Agreement and any non-contractual rights or obligations arising out of or in connection with it shall be governed by and construed in accordance with the laws of England and Wales.

6. Section 22.7 (Dispute Resolution) and Section 22.8 (Arbitration) are hereby replaced in their entirety as follows:

22.7. Dispute Resolution and Arbitration. In the event of a Dispute, the parties agree to enter into informal negotiations with the objective of resolving the Dispute (“Negotiation”). If the parties are unable to resolve the Dispute through Negotiation, the parties irrevocably agree that the dispute shall be referred to and finally resolved by arbitration under the Arbitration Rules of the London Court of International Arbitration (the “Rules”), which are deemed to be incorporated by reference into this Section 22.7 (save that any requirement in the Rules to take account of the nationality of a person considered for appointment as an arbitrator shall be disappplied and a person may be nominated or appointed as an arbitrator (including as chairman) regardless of nationality). There shall be three arbitrators, two of whom shall be nominated by the respective parties in accordance with the Rules and the third, who shall be the Chairman of the tribunal, shall be nominated by the two party nominated arbitrators within 14 days of the last of their appointments. The seat, or legal place, of arbitration shall be London, England. The language to be used in the arbitral proceedings shall be English. Judgment on any award may be entered in any court having jurisdiction thereover. For the purposes of this Section 22.7, “Dispute” means any dispute, controversy, claim or difference of whatever nature arising out of, relating to, or having any connection with this Agreement, including a dispute regarding the existence, formation, validity, interpretation, performance or termination of this Agreement or the consequences of its nullity and also including any dispute relating to any non- contractual rights or obligations arising out of, relating to, or having any connection with this Agreement.

The remaining Sections of the Agreement shall be renumbered in order conform to the foregoing modification.

7. Section 22.9 (Entire Agreement; Third Party Beneficiaries) is hereby replaced in its entirety as follows:

22.9 Entire Agreement; Third Party Beneficiaries. This Agreement is the entire agreement between the parties pertaining to its subject matter, and supersedes all prior written or oral agreements (including prior versions of this Agreement and any conflicting confidentiality agreements), representations, warranties or covenants between the parties with respect to such subject matter. You have not relied on any representation, warranty, collateral contract or other assurance (except those set out in this Agreement) made by or on behalf of Rakuten Marketing before you entered into this Agreement, and, other than in respect of fraudulent misrepresentation, you waive all rights and remedies which, but for this clause, might otherwise be available to you in respect of any such representation, warranty, collateral contract or other assurance to the greatest extent permitted by applicable law. A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms. Each party confirms to the other that their respective rights under this Agreement are not subject to the consent of any person who is not a party to this Agreement. The headings of sections or other subdivisions of this Agreement will not affect in any way the meaning or interpretation of this Agreement.

8. Section 22.10 (Notices) is hereby replaced in its entirety as follows:

22.10 Notices. Rakuten Marketing may provide notices to you by posting notices or links to notices in your Network Publisher Account Area. Notices to you also may be made via e-mail, regular mail, overnight courier or facsimile at your contact addresses of record for the Network. If you provide notice to RM Europe, such notice shall be sent, postage prepaid by registered or certified mail or by international or domestic overnight courier, to: Rakuten Marketing Europe Limited, 16 High Holborn, 4th Floor, London, WC1V 6BX, Attn: Managing Director with a copy to Rakuten Marketing LLC, 215 Park Avenue South, 9th Floor New York, NY 10003, Attn: General Counsel, generalcounsel@mail.rakuten.com. Notices sent by email or facsimile, with or without electronic confirmation, will not be deemed to be valid unless actual receipt is confirmed in writing by an authorized personnel member of a Rakuten Marketing Service Provider.