

## Liberated Syndication Terms and Conditions of Use LibsynPro

### Web Site Terms and Conditions of Use

Review the terms and conditions for use of Liberated Syndication's ("Libsyn") Professional services and product offerings ("LibsynPro"). These Terms and Conditions of Service ("Terms of Service") apply to offerings ("Service") delivered via the Libsyn websites located at "<http://www.libsynpro.com>" [www.libsynpro.com](http://www.libsynpro.com) and all associated sites linked to these by Libsyn, its subsidiaries and affiliates, including Libsyn sites around the world (collectively, "Site"). The Site is the property of Webmayhem, Inc. doing business as Liberated Syndication and as Libsyn and its licensors.

**These Terms of Service are a legally binding Agreement between you and Libsyn, governing the use of the Service. By use of the Site, you agree to abide by and are therefore bound by the Terms, together with all updates, additional terms, distribution licenses and all of Libsyn's rules and policies that collectively constitute the Agreement. If you do not agree to these Terms or do not have full power and authority to enter into this Agreement, do not use the Site or Service**

### I. AGREEMENT TO THE TERMS AND CONDITIONS

Again, BY USING THE SITE, YOU AGREE TO THESE TERMS OF SERVICE; IF YOU DO NOT AGREE, DO NOT USE THE SITE.

If you are seeking to upload content to the site or utilize other services within the site, you may be required to sign up for an account. As part of the account sign up, you will be asked to agree to these Terms of Service. By doing so, you will be deemed to be bound by these Terms of Service.

Visitors to the site may view or listen to content that does not require an account. However, through any use of the site you are agreeing to the Terms of Service.

Libsyn reserves the right, at its sole discretion, to change, modify, add or remove portions of these Terms of Service, at any time. It is your responsibility to check these Terms of Service periodically for changes. Your continued use of the Site following the posting of changes will mean that you accept and agree to the changes. As long as you comply with these Terms of Service, Libsyn grants you a personal, non-exclusive, non-transferable, limited privilege to enter and use the Site.

## II. SITE CONTENT

There are two categories of Site Content – that which belongs exclusively to Libsyn (“Libsyn Content”) and that which belongs exclusively to you (“Your Content”) (collectively, “any” or “all” “Content”). Libsyn Content is all text, graphics, user interfaces, visual interfaces, photographs, trademarks, logos, sounds, music, artwork and computer code, including but not limited to the design, structure, selection, coordination, expression, “look and feel” and arrangement thereof, contained on the Site, exclusive of all Your Content. All Libsyn Content is owned, controlled or licensed by or to Libsyn, and is protected by trade dress, copyright, patent and trademark laws, and various other intellectual property rights and unfair competition laws. Your Content is all data, graphics, text, names, marks, logos, hypertext links to other Web sites and other audio and/or visual information incorporated in, transmitted through or published or displayed incident to or via your Podcast. All of Your Content is owned exclusively by you.

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You shall be solely responsible for Your Content and all obligations and consequences of uploading or publishing Your Content. You agree and warrant that you own and/or have the rights to Your Content and all related Brand materials and Marks.

Libsyn does not warrant or endorse and does not assume and will not have any liability or responsibility for Your Content. You agree that you will not use any third-party materials in a manner that would infringe or violate the rights of any other party and that Libsyn is not in any way responsible for any such use by you. Through use of the Site and Service, you are indemnifying Libsyn against all claims and liability related to Your Content.

### III. LIBSYNPRO'S SERVICE

As used herein, the term "Service" means any service provided by Libsyn via the Site, including, but not limited to, the provision by Libsyn to you of specified connectivity, storage space and bandwidth for the hosting of your Podcast, enhanced features for Your Content, tools for distribution, iPhone apps and monetization services such as Advertising. Furthermore, whenever these Terms of Service refer to your use of the Site, said use shall be meant to include, but not be limited to, your use of any Service offered by Libsyn via the Site.

#### IV. LICENSE TO LIBSYN

Unless otherwise agreed to, you hereby grant to Libsyn a non-exclusive, royalty-free, worldwide right and license for so long as you use the Site to do the following to the extent necessary in the performance of Services under this Agreement: digitize, convert, install, upload, select, order, arrange, compile, combine, synchronize, use, reproduce, store, process, retrieve, transmit, distribute, publish, publicly display, publicly perform and hyperlink Your Content; and make archival or back-up copies of Your Content. Except for the rights expressly granted above, Libsyn is not acquiring any right, title or interest in or to Your Content, all of which shall remain solely with you.

You further agree to provide and grant Libsyn the right of use of Your Content and Brand for distribution, marketing and promotional purposes as it relates to the Service. Brand includes the name, logo, images, video, trade mark, service mark or other branding devices of Your Content.

Except as otherwise agreed to in writing, you have control over the distribution of Your Content through the Service that you use, including but not limited to the Libsyn Site, iTunes, third-party web sites, devices and platforms. By use of the Service for distribution, you agree that Libsyn may make Your Content available and agree to abide to third-party conditions when opting in to a Service that involves a third-party, including but not limited to Apple and iTunes. Libsyn makes no warranties with regard to the submission of Your Content for distribution and has no direct control or influence over the third party process. Submission and approval is governed by the third-party and Libsyn will make every reasonable effort to follow guidelines for the process.

#### V. USE OF THE SITE

You may not use any "deep-link", "page-scrape", "robot", "spider" or other automatic device, program, algorithm or methodology, or any similar or equivalent manual process, to access, acquire, copy or

monitor any portion of the Site or any Libsyn Content, or in any way reproduce or circumvent the navigational structure or presentation of the Site or any Libsyn Content, to obtain or attempt to obtain any materials, documents or information through any means not purposely made available through the Site. Libsyn reserves the right to bar any such activity.

You may not attempt to gain unauthorized access to any portion or feature of the Site, or any other systems or networks connected to the Site or to any Libsyn server, or to any of the services offered on or through the Site, by hacking, password “mining” or any other illegitimate means.

You may not probe, scan or test the vulnerability of the Site or any network connected to the Site, nor breach the security or authentication measures on the Site or any network connected to the Site. You may not reverse look-up, trace or seek to trace any information on any other user of or visitor to the Site, or any other customer of Libsyn, including any Libsyn account not owned by you, to its source, or exploit the Site or any service or information made available or offered by or through the Site, in any way where the purpose is to reveal any information, including but not limited to personal identification or information, other than your own information, as provided for by the Site.

You agree that you will not take any action that imposes an unreasonable or disproportionately large load on the infrastructure of the Site or Libsyn’s systems or networks, or any systems or networks connected to the Site or to Libsyn. This includes but is not limited to use of the Service in a way that requires unreasonable commercial efforts on Libsyn’s part or creates a burden with regard to network, support, technical or staffing resources.

You agree not to use any device, software or routine to interfere or attempt to interfere with the proper working of the Site or any transaction being conducted on the Site, or with any other person’s use of the Site.

You may not forge headers or otherwise manipulate identifiers in order to disguise the origin of any message or transmittal you send to Libsyn on or through the Site or any service offered on or through the Site. You may not pretend that you are, or that you represent, someone else, or impersonate any other individual or entity.

You may not use the Site or any Content for any purpose that is unlawful or prohibited by these Terms of Service, or to solicit the performance of any illegal activity or other activity which infringes the rights of Libsyn or others.

## VI. PURCHASES

Additional terms and conditions may apply to purchases of goods or Service and to specific portions or features of the Site, including contests, promotions or other similar features, all of which terms are made a part of these Terms of Service by this reference. You agree to abide by such other terms and conditions, including where applicable representing that you are of sufficient legal age to use or participate in such Service or feature. If there is a conflict between these Terms of Service and the terms posted for or applicable to a specific portion of the Site or for any Service offered on or through the Site, the latter terms shall control with respect to your use of that portion of the Site or the Service.

You are responsible for providing Libsyn with current accurate contact and payment information for billing purposes and keeping it up to date at all times. Libsyn is not responsible for any service interruptions that may result from your contact or payment information being out of date, in error or otherwise invalid. Additionally, you agree to pay for all charges for Service accrued due to invalid or out of date contact or payment information.

Unless otherwise agreed to in writing during the Service activation, you agree to pay for Service, and that Libsyn will charge your credit card account for any products purchased and for any additional amounts

(including any taxes) in conjunction with your account. Libsyn will charge the credit card account you designate during Service activation on a monthly basis for the amount due pursuant to the Service you purchased. You understand that your credit card account will be billed and charged automatically, and that Libsyn has the right to charge your credit card for the full amount of any outstanding balance you may have with Libsyn. You agree to maintain your credit card account in an active status to allow for the monthly subscription payments to Libsyn. Any account status, other than current or active will need to be rectified by you to bring your credit card status back to active. You acknowledge that the invoice and billing process will be in accordance with The Libsyn Standard Billing Policy and Requirements which is subject to change with 30 days written notice by Libsyn.

If you fail to make a payment or if Libsyn is not able to collect payment on the due date, your account will be considered “delinquent”. Libsyn may suspend or lock access to your account until payment for all outstanding balance is received and additional late fees may be incurred. Libsyn reserves the right to terminate your account and delete Your Content from the Site at its sole discretion if your account is “delinquent”.

Libsyn’s obligations, if any, with regard to its products and Service are governed solely by the agreements pursuant to which they are provided, and nothing on this Site should be construed to alter such agreements. Libsyn may make changes to any products or Service offered on the Site, or to the applicable prices for any such products or Service, at any time, without notice. The materials on the Site with respect to products and Service may be out of date, and Libsyn makes no commitment to update the materials on the Site with respect to such products and Service.

VII, NOT APPLICABLE FOR LIBSYNPRO

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## IX. REVENUE SHARE

Libsyn offers monetization tools and features (including but not limited to advertising and apps) with a standard revenue share of 50% of net revenue. You are responsible for providing Libsyn with current accurate contact information and appropriate tax reporting and payment information for revenue share purposes and keeping it up to date at all times. Libsyn is not responsible for any delays in revenue share payments that may result from your contact information, tax reporting or revenue share payment information being out of date, in error or otherwise invalid. You further acknowledge and agree that Libsyn is not responsible nor can be held liable for delays in payments from third-parties. You acknowledge that the revenue share payment process will be in accordance with The Libsyn Standard Payment Policy and Requirements which is subject to change with 30 days written notice by Libsyn.

Libsyn's obligations, if any, with regard to its products and Service are governed solely by the agreements pursuant to which they are provided, and nothing on this Site should be construed to alter such agreements.

Libsyn may make changes to any products or Service offered on the Site, or to the applicable revenue share for any such monetization products or Service, at any time, without notice. The materials on the Site with respect to products and Service may be out of date, and Libsyn makes no commitment to update the materials on the Site with respect to such products and Service.

## X. ACCOUNTS, PASSWORDS AND SECURITY

Certain features or Service offered on or through the Site may require you to open an account (including setting up a Libsyn user ID and password). You are entirely responsible for maintaining the confidentiality of your account information, including your password, and for any and all activity that occurs under your account. You agree to notify Libsyn immediately of any unauthorized use of your account or password, or any other breach of security. However, you may be held liable for losses incurred by Libsyn or any other user of or visitor to the Site due to someone else using your Libsyn user ID, password or account.



You may not use anyone else's Libsyn user ID, password or account at any time without the express permission and consent of the holder of that Libsyn user ID, password or account. Libsyn will not be liable for any loss or damage arising from your failure to comply with these obligations. Libsyn will not be liable for any loss or damage arising from the use of your account by any user.

Your account may be suspended or access to the Site blocked by Libsyn at any time, in its sole discretion and without prior notice for reasons including but not limited to failure to pay for service, violation of these Terms, compliance with law enforcement requests copyright infringement, or issues pertaining to violation of third party distribution terms and conditions.

## XI. YOUR PRIVACY

By using the Site, you acknowledge and agree that Internet transmissions are never completely private or secure. You understand that any message or information you send to the Site may be read or intercepted by others, even if there is a special notice that a particular transmission (for example, credit card information) is encrypted. Furthermore, you agree to be bound by the following Privacy Policy:

### Libsyn's Privacy Policy

Libsyn's privacy policy covers the collection and use of personal information that may be collected by Libsyn anytime you interact with Libsyn, such as when you visit our website, when you purchase Libsyn products and services, when you call our sales or support associates, or when you upload files to our servers. Libsyn values your privacy and will work hard to safeguard it. Under no circumstances will Libsyn sell or rent your contact information to other marketers.

At this time, Libsyn only collects personal information for billing and account creation and use purposes. We do so in order to provide you with all of our Service and to give you the excellent level of customer service you deserve. In the future, we may also use this information to keep you posted on the latest

product announcements, software updates, special offers, and events that you might like to hear about. You will always have the option of opting out of any communication not required for use of the Service. For more information, please email us at [pro@libsynsupport.com](mailto:pro@libsynsupport.com).

If you use a bulletin board or chat room on the Site you should be aware that any information you share is visible to other users. Personally identifiable information you submit to one of these forums can be read, collected, or used by other individuals to send you unsolicited messages. Libsyn is not responsible for the personally identifiable information you choose to submit in these forums. At times we may be required by law or litigation to disclose your personal information. We may also disclose information about you if we determine that for national security, law enforcement, or other issues of public importance, disclosure is necessary.

Except where prohibited by law or regulation, Libsyn reserves the right to use “cookies” and other technologies to help us understand which parts of the Site are most popular, where our visitors are going, and how much time they spend there. We may also use cookies and other technologies to make sure that our online advertising is bringing customers to our products and Service. You can choose to disable cookies in your Internet browser. Please note that certain features of the Site may not be available once cookies are disabled. Libsyn may gather certain information automatically and store it in log files. This information includes internet protocol (IP) addresses, browser type, internet service provider (ISP), referring/exit pages, operating system, date/time stamp, and clickstream data. This information does not identify individual users and would be used only to analyze trends, to administer the site, to track users’ movements around the site and to gather demographic information about our user base as a whole. Libsyn will not use the information collected to market directly.

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companies. If you have questions or concerns about Libsyn's Privacy Policy, please contact us at [pro@libsynsupport.com](mailto:pro@libsynsupport.com)

#### IX. PIRACY PREVENTION

Libsyn actively and aggressively enforces its intellectual property rights to the fullest extent of the law. It is illegal to copy, reproduce or distribute copyrighted material programs without permission, and violators may be subject to civil and criminal actions and penalties both in the United States and abroad.

Copyrighted material includes, but is not limited to, computer programs and accompanying sounds, images and text. As a user of the Site, we require you to join us in our piracy prevention efforts. So long as you are a user of the Site, including but not limited to a user of the Service, you acknowledge that you are bound by and will observe U.S. and international copyright and intellectual property laws and the provisions of this Agreement specifically related thereto, and you will report incidents of suspected piracy to us at [pro@libsynsupport.com](mailto:pro@libsynsupport.com)

#### XII. SENDING US YOUR IDEAS AND FEEDBACK

Neither Libsyn nor any of its employees accept or consider unsolicited ideas, including ideas for new advertising campaigns, new promotions, new or improved products or technologies, product enhancements, processes, materials, marketing plans or new product names. Please do not send any original creative artwork, suggestions or other works. The sole purpose of this policy is to avoid potential misunderstandings or disputes when Libsyn's products or marketing strategies might seem similar to ideas submitted to Libsyn.

If, despite our request that you not send us your ideas, you still send them, then regardless of what your letter says, the following terms shall apply to your idea submission.

1. your ideas automatically become the property of Libsyn, without compensation to you; and
2. Libsyn can use the ideas for any purpose and in any way, even give them to others.

Feedback, on the other hand, is not only permitted, but encouraged. Whether you found a bug or just want to tell us how we're doing, we appreciate your feedback at [pro@libsynsupport.com](mailto:pro@libsynsupport.com). Please note that any feedback you provide via the Site and any Libsyn email address linked therein shall be deemed to be non-confidential. As such, Libsyn shall be free to use such information on an unrestricted basis.

### XIII. COPYRIGHT INFRINGEMENT; CLAIMS THEREOF

Libsyn respects the intellectual property rights of others, and we require our users to do the same. As such, you are expressly forbidden from any unauthorized use of copyrighted material or music covered under the umbrella of the Recording Industry Association of American ("RIAA") or similar authority in Your Content, including, but not limited to, any broadcast of yours syndicated by Libsyn via the Site. Libsyn may, in its sole discretion, terminate the accounts of users who violate others' intellectual property rights, and a user so terminated may, at Libsyn's sole discretion, forfeit her enrollment costs for Libsyn's Service. Such termination may be issued immediately upon Libsyn learning of the infringement, and no notice to you of Libsyn's intent to terminate your account due to infringement is required or necessary.

If you believe your work has been copied in a way that constitutes infringement on the Site or via the Service offered through the Site, please provide the following information to Libsyn at [pro@libsynsupport.com](mailto:pro@libsynsupport.com):

1. an electronic or physical signature of the person authorized to act on behalf of the owner of the copyright interest;
2. a description of the copyrighted work that you claim has been infringed;
3. a description of where the material that you claim is infringing is located on the site;
4. your address, telephone number, and email address;
5. a statement by you that you have a good faith belief that the disputed use is not authorized by the copyright owner, its agent, or the law; and

6. a statement by you, made under penalty of perjury, that the above information in your Notice is accurate and that you are the copyright owner or authorized to act on the copyright owner's behalf.

Once Libsyn receives your notice, it will thoroughly investigate the matter and respond to you with its results, in no event no later than 30 days after receipt of your notice.

#### XIV. LINKS TO OTHER SITES

The Site may contain links to other independent third-party Web sites ("Linked Sites"). These Linked Sites are provided solely as a convenience to our visitors. Such Linked Sites are not under Libsyn's control, and Libsyn is not responsible for and does not endorse the content of such Linked Sites, including any information or materials contained on such Linked Sites. You will need to make your own independent judgment regarding your interaction with these Linked Sites.

#### XV. DISCLAIMERS

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#### XVI. LIMITATION OF LIABILITY

Except where prohibited by law, in no event will Libsyn be liable to you for any indirect, consequential, exemplary, incidental, statutory or punitive damages, including lost profits, even if Libsyn has been advised of the possibility of such damages.

If, notwithstanding the other provisions of these Terms of Service, Libsyn is found to be liable to you for any damage or loss which arises out of or is in any way connected with your use of the Site or any Content, Libsyn's liability shall in no event exceed the lesser of (1) the total of any subscription or similar fees with respect to the Service or feature of or on the Site paid in the six months prior to the date of the initial claim made against Libsyn; or (2) US\$100.00. Some jurisdictions do not allow limitations of liability, so the foregoing limitation may not apply to you.

## XVII. INDEMNITY

You agree to indemnify and hold Libsyn, its officers, directors, shareholders, predecessors, successors in interest, employees, agents, subsidiaries and affiliates, harmless from any demands, loss, liability, claims or expenses (including attorneys' fees), made against Libsyn by any third party due to or arising out of or in connection with your use of the Site, including, but not limited to, Your Content.

## XVIII. VIOLATION OF THESE TERMS OF SERVICE

Libsyn may disclose any information we have about you (including your identity) if we determine that such disclosure is necessary in connection with any investigation or complaint regarding your use of the Site, or to identify, contact or bring legal action against someone who may be causing injury to or interference with (either intentionally or unintentionally) Libsyn's rights or property, or the rights or property of visitors to or users of the Site, including Libsyn's customers. Libsyn reserves the right at all times to disclose any information that Libsyn deems necessary to comply with any applicable law, regulation, legal process or governmental request. Libsyn also may disclose your information when Libsyn determines that applicable law requires or permits such disclosure, including exchanging information with other companies and organizations for fraud protection purposes.

You acknowledge and agree that Libsyn may preserve any transmittal or communication by you with Libsyn through the Site, and may also disclose such data if required to do so by law or if Libsyn determines that such preservation or disclosure is reasonably necessary to (1) comply with legal process; (2) enforce these Terms of Service; (3) respond to claims that any such data violates the rights of others; or (4) protect the rights, property or personal safety of Libsyn, its employees, users of or visitors to the Site, and the public.

You agree that Libsyn may, in its sole discretion and without prior notice, terminate your access to the Site, Service, or any Content and/or block your future access to the Site, Service, or any Content if we determine that you have violated these Terms of Service or other agreements or guidelines which may be associated with your use of the Site. You also agree that any violation by you of these Terms of Service will constitute an unlawful and unfair business practice, and will cause irreparable harm to Libsyn, for which monetary damages would be inadequate, and you consent to Libsyn obtaining any injunctive or equitable relief that Libsyn deems necessary or appropriate in such circumstances. These remedies are in addition to any other remedies Libsyn may have at law or in equity.

You further agree that Libsyn may, in its sole discretion and without prior notice implement a pricing or Service change, impose additional fees or requirements, as remedy in the event that you have violated these Terms of Service or other agreement or guidelines which may be associated with Your Content or use of the Site.

You agree that Libsyn may, in its sole discretion and without prior notice, terminate your access to the Site, Service, or any Content for cause, which includes (but is not limited to) (1) requests by law enforcement or other government agencies; (2) a request by you (“self-initiated account deletions”); (3) discontinuance or material modification of the Site or any Service offered on or through the Site; or (4) unexpected technical issues or problems.

If Libsyn does take any legal action against you as a result of your violation of these Terms of Service, Libsyn will be entitled to recover from you, and you agree to pay, all reasonable attorneys’ fees and costs of such action, in addition to any other relief granted to Libsyn, regardless of the action’s outcome. You agree that Libsyn will not be liable to you or to any third party for termination of your access to the Site, Service, or any Content as a result of any violation of these Terms of Service.



## XIX. GOVERNING LAW; DISPUTE RESOLUTION

You agree that all matters relating to your access to or use of the Site or any of its Content, including all disputes, will be governed by the laws of the United States and by the laws of the State of Pennsylvania without regard to its conflicts of laws provisions. You agree to the personal jurisdiction by and venue in the state and federal courts in the Western District of Pennsylvania, and waive any objection to such jurisdiction or venue. Any claim under these Terms of Service must be brought within one (1) year after the cause of action arises, or such claim or cause of action is barred. No recovery may be sought or received for damages other than out-of-pocket expenses, except that the prevailing party will be entitled to costs and attorneys' fees. In the event of any controversy or dispute between Libsyn and you arising out of or in connection with your use of the Site of any of its Content, the parties shall attempt, promptly and in good faith, to resolve any such dispute. If we are unable to resolve any such dispute within a reasonable time (not to exceed thirty (30) days), then either party may submit such controversy or dispute to mediation. If the dispute cannot be resolved through mediation, then the parties shall be free to pursue any right or remedy available to them under applicable law.

## XX. VOID WHERE PROHIBITED

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## XX1. MISCELLANEOUS

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If any of the provisions of these Terms of Service are held by a court or other tribunal of competent jurisdiction to be void or unenforceable, such provisions shall be limited or eliminated to the minimum extent necessary and replaced with a valid provision that best embodies the intent of these Terms of Service, so that these Terms of Service shall remain in full force and effect. These Terms of Service constitute the entire agreement between you and Libsyn with regard to your use of the Site, and any and all other written or oral agreements or understandings previously existing between you and Libsyn with respect to such use are hereby superseded and cancelled. Libsyn will not accept any counter-offers to these Terms of Service, and all such offers are hereby categorically rejected. Libsyn's failure to insist on or enforce strict performance of these Terms of Service shall not be construed as a waiver by Libsyn of any provision or any right it has to enforce these Terms of Service, nor shall any course of conduct between Libsyn and you or any other party be deemed to modify any provision of these Terms of Service. These Terms of Service shall not be interpreted or construed to confer any rights or remedies on any third parties.

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