

WHATNOT

TERMS OF SERVICE

Welcome to Whatnot! Please review these Terms of Service (the "Terms"), the Whatnot Privacy Policy ("Privacy Policy" located at www.whatnot.com/privacy), the Whatnot Community Guidelines, and all other policies and rules published by Whatnot including all of those in our Help Center located at www.help.whatnot.com (together with the Community Guidelines, "Other Policies"), because they govern your use of the website located at <https://www.whatnot.com/> (the "Site") and the platform accessible via the Site and corresponding mobile application offered by Whatnot Inc. ("Whatnot", "our", "we", or "us"). To make these Terms easier to read, the Site, our platform and corresponding mobile application are collectively called the "App."

These Terms apply to you if you reside or are established outside of the United Kingdom ("UK") or European Union ("EU") and you use Whatnot. If you reside or are established in the UK or EU, the Terms of Service for Users in the EU or in the UK will apply to you instead.

IMPORTANT NOTICE REGARDING ARBITRATION: WHEN YOU AGREE TO THESE TERMS YOU ARE AGREEING (WITH LIMITED EXCEPTION) TO RESOLVE ANY DISPUTE BETWEEN YOU AND WHATNOT THROUGH BINDING, INDIVIDUAL ARBITRATION RATHER THAN IN COURT. PLEASE REVIEW CAREFULLY SECTION 21 "ARBITRATION AGREEMENT" BELOW FOR DETAILS REGARDING ARBITRATION. HOWEVER, IF YOU ARE A RESIDENT OF A JURISDICTION WHERE APPLICABLE LAW PROHIBITS MANDATORY ARBITRATION OF DISPUTES (INCLUDING THE PROVINCE OF QUEBEC), THE AGREEMENT TO ARBITRATE WILL NOT APPLY TO YOU BUT THE PROVISIONS OF SECTION 22 "GOVERNING LAW AND JURISDICTION" WILL APPLY INSTEAD.

1. About the App.

- a. The App is an online marketplace that connects users of the App ("Users"). If you offer for sale, any goods or products (each, an "Item"), collect tips from Buyers, or otherwise monetize your content through the App, you are a "Seller". If you purchase Items or initiate any payment to a Seller (including tipping a Seller) through the App, you are a "Buyer". Transactions between a Seller and Buyer through the App (including tipping) are each referred to as a "Transaction".
WHATNOT OFFERS A PLATFORM THAT FACILITATES TRANSACTIONS BETWEEN BUYERS AND SELLERS ON THE APP BUT IS NOT A PARTY TO ANY AGREEMENT BETWEEN BUYERS AND SELLERS OF SUCH TRANSACTIONS.
- b. Except as expressly provided in these Terms and Other Policies, Whatnot does not sell, purchase any goods or products itself, take title or possession of the goods, either for itself or on behalf of Users or others. While Whatnot may help facilitate

Transactions, Sellers and Buyer are solely and entirely responsible for the Transaction, including without limitation the listing of Items and any applicable product warranties.

- c. Whatnot provides payment processing services using third party service providers ("Payment Processors") for Transactions made through the App. Buyers and Sellers will be subject to and must comply with such Payment Processor's separate terms and conditions.
 - d. Because our App is evolving over time, we may change or discontinue all or any part of the App, at any time and without notice, at our sole discretion.
 - e. The App no longer supports the purchasing, selling, or trading of non-fungible tokens ("NFTs"). Users that still have NFTs accessible on the App should contact us using our help page to transfer such NFTs from the App to any external wallet address that you provide. Without limiting any other terms of these Terms, Whatnot assumes no responsibility for a User providing an incorrect wallet address and Whatnot's subsequent delivery of the NFT to such incorrect wallet address.
2. Agreement to Terms. By using the App, you accept and agree to be bound and abide by these Terms, our Privacy Policy, and our Other Policies, each of which are incorporated herein by reference. If you do not agree to these Terms, our Privacy Policy, or our Other Policies you are not allowed to, and you must not, access or use the App. If you are accessing and using the App on behalf of a company (such as your employer) or other legal entity, you represent and warrant that you have the authority to bind that entity to these Terms. In that case, "you" and "your" will refer to that entity. Whatnot does not prohibit any of Whatnot's directors, officers, employees, agents, affiliates, successors and assigns (collectively, "Whatnot Representatives") from using the App. All Whatnot Representatives must accept and abide by these Terms when acting as a User. We may update these Terms from time to time in our sole discretion. If we do, we'll let you know by posting the updated Terms on the App and/or may also send other communications. Such updates to our Terms shall be effective immediately upon posting of the revised or updated Terms on the App. It's important that you review these Terms whenever we update them, or you use the App. If you continue to use the App after we have posted the updated Terms, it means that you accept and agree to the changes. If you don't agree to be bound by the changes, you may not use the App anymore.
3. Privacy Policy. Our Privacy Policy describes what information we collect from you, how we collect information from you, and how we use and share information we collect from you. For more information, please visit our Privacy Policy.

4. Eligibility to Create an Account and/or Use the App. You must be at least 18 years old in order to create an account on the App (each, an "Account"). By creating an Account, you represent and warrant that you are at least 18 years of age, and meet all of the eligibility requirements of these Terms. If you do not meet these requirements or, if for any reason, you do not agree with all of the terms and provisions of these Terms, you may not create an Account, and must cease or prevent any use of any existing Account(s). Teens between the ages of 13-17 may use the App only if they are using an Account created by their parent or legal guardian and are doing so with the permission and under the supervision of that parent or legal guardian. Any and all User Information (defined below) associated with the Account must be that of the parent or legal guardian.
5. Your Account. You acknowledge that your Account and User Information is personal to you and agree not to allow any other person to access the App or any portion of it using your User Information, unless you have provided them with permission to do so. For the purposes of these Terms, "User Information" includes all personal or other identification information you use to register or use an Account on the App. In the event you choose to provide others with permission to access and/or use your Account or User Information, you do so at your own risk. You acknowledge you are the owner and controller of your Account and are responsible, accountable, and liable for all access to and/or use of your Account and User Information, even if such access and/or use was not authorized. In order to access and use certain features of the App, Users must create an Account. It's important that you provide us with accurate, complete and current account information and keep this information up to date. You represent and warrant that all information submitted to us in connection with your Account is complete and accurate. To protect your Account, keep your Account details and password confidential, and notify us right away of any unauthorized use. You're responsible for all activities that occur under your Account and for safeguarding your password and other log in or personal details. To the maximum extent permitted by law, Whatnot will not be liable for any direct or indirect loss that you may incur as a result of someone else using your Account or User Information, either with or without your knowledge. If you reside in the Province of Québec, the foregoing exclusion will not apply to the direct consequences of an act of Whatnot or its representatives.

When you create an Account on the App on your mobile device, Whatnot may ask your permission to access your phone contacts to determine if you are already connected to Users, so that you can follow such contacts on the App and invite contacts who are not Users to join the App. You are solely responsible for obtaining consent from your contacts. You can always change whether to allow Whatnot to access your contacts through the

privacy settings on your mobile device.

6. Your Rights to Use the App.

- a. License. Subject to these Terms, we hereby grant you a limited, revocable, non-sublicensable, non-transferable, and non-exclusive right to download and install the App's mobile application on your computers, mobile handsets, tablets, wearable devices, and/or other devices and to run the App solely as intended for your business purposes.
- b. Livestream Clipping. When you create a clip from your use of the livestream clipping feature on the App (each clip, a "Clip"), Whatnot grants to you a limited, non-exclusive, non-transferable, revocable license, to copy, download, and display the Clip solely for your personal and non-commercial use, provided that you do not modify the Clip beyond what is permitted on the App and that you retain all copyright and other proprietary notices contained in the Clip, if applicable. Such uses may include, for example, sharing the Clip to your personal social media channels, creating a virtual shopping list of Items for yourself on the App, or tracking prices of certain Items available on the App. You may not, however, distribute, copy, reproduce, display, republish, download, or transmit the Clip or any portion of the Clip for public or commercial use, including without limitation, using the Clip in any ad-supported blogs or websites, or as part of a paid content offering, paid mailing list or paid newsletter.
- c. Additional Information: Apple App Store. This Section 6(c) applies to any App that you acquire from the Apple App Store or use on an iOS device. Apple has no obligation to furnish any maintenance and support services with respect to the App. In the event of any failure of the App to conform to any applicable warranty, you may notify Apple, and Apple will refund the App purchase price to you (if applicable) and, to the maximum extent permitted by applicable law, Apple will have no other warranty obligation whatsoever with respect to the App. Apple is not responsible for addressing any claims by you or any third party relating to the App or your possession and use of it, including, but not limited to: (i) product liability claims; (ii) any claim that the App fails to conform to any applicable legal or regulatory requirement; and (iii) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement and discharge of any third-party claim that your possession and use of the App infringe that third party's intellectual property rights. Apple and its subsidiaries are third-party beneficiaries of these Terms, and upon your acceptance of the Terms, Apple will have the right (and will be deemed to have accepted the right) to enforce these Terms against you as a third-party beneficiary

thereof. You represent and warrant that (i) you are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a terrorist-supporting country; and (ii) you are not listed on any U.S. Government list of prohibited or restricted parties. You must also comply with any applicable third-party terms of service when using the App.

7. Payment Terms.

- a. **Payment Method.** You must provide a current Payment Method prior to making any Transactions on the App. "Payment Method(s)" include(s) credit card, debit card, or another payment method permitted by us. We may ask you to supply additional information relevant to your Payment Method, including your credit card number, the expiration date of your credit card and your email and postal addresses for billing and notification (such information, "Payment Information"). You represent and warrant that you have the legal right to use all Payment Method(s) represented by any such Payment Information. You are solely responsible for maintaining and keeping your Payment Method(s) current. Whatnot is not liable for any charges incurred by you as a result of authorized attempts to charge, and/or place holds on, your Payment Method, including charges incurred due to insufficient funds.
- b. **Authorization.** When you initiate a Transaction on the App, you authorize us to provide your Payment Information to our Payment Processors so we can complete your Transaction and to charge or payout your Payment Method for the type of transaction you have selected (plus any applicable taxes and other charges). You may need to provide additional information to verify your identity before completing your Transaction (such information is included within the definition of Payment Information). By initiating a Transaction, you agree to the pricing, payment and billing policies applicable to such fees and charges, as posted or otherwise communicated to you. All payments for Transactions are non-refundable and non-transferable except as expressly provided in these Terms or otherwise required by applicable laws.
- c. **Delinquent Payments.** If your Payment Method on file is declined or otherwise rejected for any authorized fee or charge, you shall have seven (7) days to provide updated information and payment. Failure to cure within the seven (7)-day grace period may, at Whatnot's sole discretion, result in termination of your Account without a refund. If you wish to reactivate your Account after deactivation from failure to pay a fee, you will be required to satisfy any debts owed to another User or to Whatnot before your Account can be reactivated.

- d. Taxes (Generally). You are solely responsible for all costs incurred by you in using the App and determining, collecting, reporting and paying all applicable Taxes. In certain jurisdictions Whatnot may be required to remit certain sales Taxes with respect to your sales in that jurisdiction to the applicable governmental agency on its own return. In such cases, Whatnot shall collect and/or retain any such applicable taxes and remit such taxes to the applicable governmental agency. As used herein, "Tax(es)" means the taxes, duties, levies, tariffs, and other governmental charges that may be required by applicable law to be paid, collected and/or remitted to governmental agencies, and other similar municipal, provincial or state, federal and national indirect or other withholding and personal or corporate income taxes. You are solely responsible for maintaining all relevant Tax records and complying with any reporting requirements you may have as related to our App. You are further solely responsible for independently maintaining the accuracy of any record submitted to any tax authority including any information derived from the App. We reserve the right to report any activity occurring using the App to relevant tax authorities as required under applicable law. All fees and other amounts payable to Whatnot are exclusive of any applicable sales taxes, and you are responsible for paying any applicable sales taxes in addition to such fees or other amounts.
- e. Taxes (Canada). Canadian tax legislation mandates Whatnot to collect and remit sales tax for some purchases in Canada. For all sales of taxable items sold for delivery in Canada, Whatnot collects the applicable Canadian Goods and Services Tax/Harmonized Sales Tax ("GST/HST"), Quebec sales tax ("QST") and Provincial Sales Taxes ("PST") in British Columbia, Manitoba and Saskatchewan on behalf of sellers (irrespective of the seller's GST/HST or QST registration status) and remits the tax to the appropriate tax authorities.

The following applies only to Sellers who are registered for Canadian GST/HST or QST: Effective July 13th 2023, by continuing to use the App, Sellers registered for GST/HST or QST agree to enter into an election pursuant to Subsection 177 (1.1) of the Excise Tax Act (Canada) and section 40.0.1 of an Act respecting the Quebec sales tax to jointly elect Whatnot to act as billing agent on your behalf for the purposes of GST/HST and QST, to determine, calculate and remit, directly to the tax authorities, applicable GST/HST and QST for all of the supplies made by you through the App. The election is effective until it is jointly revoked by Whatnot and you. Further, you hereby acknowledge that you have completed, signed and returned Form GST506 to Whatnot:

- Sellers registered for GST/HST only should complete the form here.

- Sellers registered for both GST/HST and QST should complete the form here.

Completed forms should be returned to CanadaGSTForms@whatnot.com. Please contact us at CanadaGSTForms@whatnot.com for your copy of our jointly executed election form, which you should retain with your tax files. Both parties to this election are jointly and severally, or solidarily liable for certain GST/HST and QST obligations as specified under local laws. If you have not completed, signed and returned Form GST506, you hereby acknowledge, represent and warrant that you are not registered or required to be registered for GST/HST or, as applicable, QST purposes in Canada and therefore acknowledge that Whatnot will determine, calculate and remit applicable GST/HST and QST on sales of taxable goods, as required under federal and provincial tax legislation.

8. Shipping and Delivery.

- a. Shipping. The App offers various shipping options for Users. Sellers may elect to cover all or some shipping fees and expenses or require applicable Buyers to pay shipping fees and expenses. Whatnot may cover shipping fees or expenses in some instances. Visit the [Whatnot FAQs](#) for more information about shipping options, and fees and expenses.
- b. Third-party Shipping Terms.
 1. Sellers shipping with UPS must accept and comply with the UPS Tariff/Terms and Conditions of Service and the UPS Technology Agreement and End User Rights in effect at the time of shipping with UPS and will not attempt to ship any items prohibited by UPS, or any UPS-regulated items, without an express written contract with UPS (click to view [List of Prohibited Articles for Shipping](#)).
 2. Sellers shipping to Buyers in Canada, or Sellers based in Canada, must accept and comply with (i) the Canada Post Website Terms of Use, available here: <https://www.canadapost-postescanada.ca/cpc/en/support/kb/general-inquiries/general-information/legal-terms-of-use-and-conditions> when shipping with Canada Post, and (ii) the Chit Chats Terms of Service, available here: <https://chitchats.com/terms>.
 3. Sellers shipping to Buyers in the UK, and Sellers based in the UK, must accept and comply with the Royal Mail General Terms and Conditions in effect at the time of shipping with Royal Mail, located at <https://www.royalmail.com/sites/royalmail.com/files/2024-03/General-Terms-and-Conditions-version-14.1.pdf>.

4. Sellers shipping to Buyers in Australia, and Sellers based in Australia, must accept and comply with the [Australia Post General Terms & Conditions](#) and the [Australia eCommerce Partner Agent - Delivery Service Terms & Conditions](#).
 5. Separate third-party terms and conditions of use may apply if Sellers use other shipping carriers permitted by the App.
- c. **Free Pickup Services.** As part of the Free Pickup Services, Sellers selling Items on the App may offer, and Buyers may elect to, pick up Items purchased on the App at a physical business location of the Seller. Sellers may not use home addresses as pickup locations for such Items at this time. The pickup option will be available to Buyers who are local to the Seller based on the Buyer's location in relation to such physical business locations. Once Buyer has purchased the Item and selected the Free Pickup Services option, instructions on the coordination of the pickup, including the business address, specified window(s) of time to pick up the purchased Item(s), contact information, and other pickup notes and information may be made available in the order confirmation email sent to Buyer and the order details page in the App. All pickup times must be during Seller's business hours. You represent and warrant that any meeting that you have with a Buyer or Seller will be solely for the purpose of handing over and picking up the purchased Item from a Transaction on the App. Once the Buyer picks up the purchased Item, we may require either Buyer or Seller or both Buyer and Seller to verify that such purchased Item has been picked up. Buyers will have five (5) days from the date the purchased Item is made available to pick up the purchased Item from Seller. If the five (5)-day period has lapsed and Buyer has not picked up the purchased Item, Seller will ship the purchased Item to Buyer at the address provided by Buyer.
- d. **Free Pickup Services Payment Terms.** The following terms apply to Transactions where the Buyer has elected to use Free Pickup Services, and apply notwithstanding anything else conflicting in these Terms: (i) If you are a Buyer of a purchased Item and opt in to the Free Pickup Services, then upon your purchase of an Item and in addition to the payment for the purchased Item, you authorize Whatnot and/or its Billing Agent to charge your Payment Method for the anticipated amount required to ship the purchase Item to Buyer (the "Shipping Fee"). Upon verification that Buyer has picked up the purchased Item within five (5) days from the date the purchased Item is made available for pickup, the Shipping Fee will be refunded to Buyer within a reasonable time period. However, if Buyer does not pick up the purchased Item within five (5) days from the date

the purchased Item is made available for pickup, then Seller will ship the purchased Item to Buyer's address associated with Buyer's Account and Buyer will not receive a refund of the Shipping Fee; (ii) If you are a Seller of a purchased Item to a Buyer who uses the Free Pickup Services, payment for the purchased Item, less any applicable fees payable by Seller to Whatnot pursuant to the Fee Schedule, will not be released to you until you and Buyer verify that the Item has been picked up by Buyer. Further, shipping labels will only become available to Sellers to ship the purchased Item to Buyer once the five (5)-day time period has lapsed, and only if Buyer has not picked up the purchased Item. If Buyer who uses the Free Pickup Services does not pick up the purchased Item during the five (5)-day time period, then within ten (10) days of the Buyer's receipt of the Item(s), the applicable purchase price, less any applicable fees payable by the Seller to Whatnot pursuant to the Fee Schedule, will be transferred to the Seller via the Payment Processor, as described in the Item Transactions Generally section above. These payment terms will not apply to Sellers who are exempted from these terms as determined by Whatnot in its sole discretion

9. Transactions.

- a. Auctions. Seller's may host live auctions. The rules for how bids are accepted, bid increments, bid retraction and cancellation, the conditions the Buyer must meet to purchase an item, as well as the specific conditions of sale may change for each auction at the sole discretion of the Seller subject to these Terms. Seller acts as an auctioneer and makes the sole, final determination concerning bidding on the Item, the sale of the Item, and the resolution of any disputes; provided that Whatnot reserves the right to cancel a Transaction if it determines in its reasonable discretion that a Buyer's bid was made in error.
- b. Return Policy. The Whatnot return policy can be found on the [Whatnot FAQs](#). If you experience a problem with your purchase or Item, and you cannot find the proper answer on [Whatnot FAQs](#), please contact us using our help page.
- c. Verification Opt-In. If available for a given Transaction, a Buyer may opt into a verification process whereby Whatnot verifies the Item purchased by the Buyer (a "Verification Opt-In"). Upon the occurrence of a Transaction whereby the Buyer has selected the Verification Opt-In, Seller will ship the Item to Whatnot. Whatnot then conducts a verification process using commercially reasonable efforts to authenticate the Item and confirm the accuracy of the Item's description, including its condition ("Item Verification"). Notwithstanding the foregoing, except where prohibited by applicable law or as otherwise set out in our High Value Loss

Reimbursement Policy, Whatnot shall not be liable or responsible for any User's damage, direct or indirect loss, costs or expenses arising from any Item Verification, regardless of whether or not such damage, loss, costs or expenses arise from the negligence of Whatnot. If you reside in the Province of Québec, the foregoing exclusion will not apply to the direct consequences of an act of Whatnot or its representatives. In the event an Item does not pass the Item Verification, Whatnot shall notify the Buyer and the Seller of Whatnot's conclusion, which results in an automatic cancellation of the Transaction and a refund to the Buyer's Payment Method. In the event that an Item does not pass Item Verification, Whatnot will ship the Item to the Buyer, and will provide shipping notice and tracking information. If you have any questions regarding Whatnot's authentication process or its condition evaluation process, visit the Whatnot FAQs.

- d. Grading Opt-In. If available for a given Transaction, a Buyer may opt into a grading service offered by Whatnot's third-party service provider, Professional Sports Authenticators ("PSA") to grade the Item purchased by the Buyer (a "Grading Opt-In"). Upon the occurrence of a Transaction whereby the Buyer has selected the Grading Opt-In, Seller will ship the Item to PSA. PSA will then assess the authenticity, quality, and condition of an Item. Once PSA completes its assessment, PSA will provide the Buyer with the results of such assessment and will ship the Item to the Buyer. By participating in the Grading Opt-In, a Buyer accepts and agrees to be bound and abide by the PSA Grading Terms and Conditions and the Collectors User Agreement. Except as expressly set forth herein, a Buyer's relationship with PSA and PSA's grading of Items is solely governed by such agreements. Notwithstanding the foregoing, except where prohibited by applicable law or as otherwise set out in our High Value Loss Reimbursement Policy, Whatnot shall not be liable in any way for PSA's services or responsible for any User's damage, direct or indirect loss, costs or expenses arising from or related to any Grading Opt-In, regardless of whether or not such damage, loss, costs or expenses arise from the negligence of Whatnot. If you reside in the Province of Québec, the foregoing exclusion will not apply to the direct consequences of an act of Whatnot or its representatives. Except as may be otherwise set out in our High Value Loss Reimbursement Policy or required by applicable law, Whatnot shall not be responsible for any Item that is damaged or lost during shipping. If you have any questions regarding PSA, visit the Whatnot FAQs.
- e. Historical Data. Whatnot may, in its sole discretion, provide historical Whatnot sales data and estimated values for Items. Whatnot is under no obligation to

provide such data, but rather may choose to do so for the benefit of its Users. Whatnot's historical sales data and estimated values in no way suggest or guarantee that Items will sell for an amount that is close to or that exceeds the amount of any past Transaction or for estimated value. WE HEREBY DISCLAIM ALL LIABILITY FOR ANY CLAIMS ARISING FROM, IN CONNECTION WITH OR RELATING TO ANY HISTORICAL SALES DATA OR ESTIMATED VALUES FOR ITEMS THAT WE MAY PROVIDE ON THE APP. YOU HEREBY REMISE, RELEASE AND FOREVER DISCHARGE WHATNOT AND WHATNOT REPRESENTATIVES OF AND FROM ANY AND ALL CLAIMS WHATSOEVER WHICH YOU EVER HAD, NOW HAVE OR MAY HEREAFTER HAVE, WHETHER AT COMMON LAW, IN EQUITY, BY STATUTE OR OTHERWISE, WHETHER NOW KNOWN OR UNKNOWN, ARISING FROM, IN CONNECTION WITH OR IN RESPECT OF ANY HISTORICAL SALES DATA OR ESTIMATED VALUES FOR ITEMS THAT WE MAY PROVIDE ON THE APP.

10. Seller Terms.

- a. Application. If a User wishes to sell Items on the App as a Seller, the User must apply to be a Seller by following the instructions posted on the App, including providing certain information requested on the App. All Sellers must provide the following information: (i) first and last name, (ii) email address, (iii) physical address, (iv) phone number, and (v) a social media account. All Users may provide additional information as requested in your Profile and Account (the foregoing will also be considered "User Information"). All the information you provide must be current, complete, accurate, and not false or misleading in order to use the App. Whatnot will approve or reject a User's application to sell Items on the App in its sole discretion.
- b. Fees. Sellers are required to pay Whatnot processing fees and other charges for each Transaction. The amount of such fees and charges is outlined on our FAQs, which may be updated or amended from time to time (the "Fee Schedule"), and such fees and charges are hereby incorporated into these Terms by reference. Upon a Transaction you authorize Whatnot and/or its Payment Processors to automatically bill your Payment Method in accordance with the Fee Schedule.
- c. Getting Paid. Whatnot and/or its Payment Processors, will use commercially reasonable efforts to issue payment to Seller to Seller's Payment Method within ten (10) days of the date of evidence of Buyer's receipt of the applicable Item(s). It is Seller's responsibility to ensure that all Payment Information provided is accurate for a proper transfer to Seller's selected Payment Method. Whatnot may be unable to recover money transferred to an improper account based on the

Payment Information by Sellers. In the event that the applicable Buyer disputes the applicable Transaction for any reason, Whatnot may, at its sole discretion, take corrective action including without limitation, delay the distribution of payment, request the Item be sent to Whatnot, request the Item be returned to the Seller, or issue a refund to the Buyer.

- d. Fulfillment. When a Transaction occurs, the applicable Seller must (i) ship the applicable Item in accordance with Whatnot's shipping policy, which is subject to change, and is available at all times on the Whatnot FAQs or (ii) deliver the Item through Free Pickup Services, in each case, to the applicable Buyer (or to Whatnot in the event the applicable Buyer opts for Item Verification). Whatnot provides a pre-paid shipping label (directly or indirectly through its third-party service providers) that Sellers may use to ship an Item. Should, for any reason, the cost to ship an Item exceed the pre-paid label price, Seller shall be responsible for any additional payment necessary to ship the Item. Failure to abide by any shipping policies may, at the sole discretion of Whatnot, result in penalties.
- e. Item Descriptions. Sellers are responsible for the accuracy of an Item's description. Sellers are required to ensure that the Item matches exactly the image that is displayed on the App, and that the described condition of the Item is a true and accurate. Any inaccuracy, whether it be the description, condition or authenticity of an Item, may, at the sole discretion of Whatnot, result in penalties. Whatnot has no obligation to return Items to Seller that do not conform to the Seller's description of such Items, and Seller is responsible for any fees associated with any return or disposal of the Item(s). Whatnot may, in its sole discretion, turn any suspected counterfeit, unauthentic, stolen, unauthorized, b-grade, or similar Items over to the proper authorities, and Seller is responsible for any fees associated with this action.
- f. No Circumvention. You agree to receive payments from Buyers for Transaction only in the manner determined by us through the App. This includes using the Payment Processor we choose, and following any other rules we specify. You may not circumvent your payment obligations to us for Transactions by soliciting payment from a Buyer outside of our App. You agree to notify us immediately if you receive any such offer or solicitation to circumvent your payment processing obligations by contacting us at our help page.
- g. Appointment of Whatnot as Limited Collection Agent for Sellers. Each Seller hereby appoints Whatnot as its payment collection agent for the limited purpose of receiving, holding, and settling payments from Buyers. Seller further agrees

and understands that any such payment received by Whatnot from a Buyer, on Seller's behalf, shall be considered the same as payment made directly to Seller. Such payment shall be deemed to satisfy the Buyer's obligation to pay Seller, and Seller will provide its services to the Buyer in the agreed-upon manner as if the Seller had received the payment directly from the Buyer. Seller understands that Whatnot's obligation to pay the Seller is subject to, and conditional upon, successful receipt of the associated payments from the Buyer. Seller further agrees that Whatnot is not required to settle such payment to Seller in the event that Buyer initiates a chargeback, ACH return, or otherwise disputes the payment. In the event that Whatnot does not make a payment to Seller as required by these Terms, Seller will have recourse against only Whatnot and not against Buyer. In accepting appointment as the limited payment collection agent of the Seller, Whatnot assumes no liability for any acts or omissions of the Seller. This limited agency shall apply only with respect to a Seller who is a United States person as defined in section 7701(a)(30) of the United States Internal Revenue Code of 1986, as amended.

- i. Buyer acknowledges that, notwithstanding the fact that Whatnot is not a party to the agreement between Buyer and Sellers, Whatnot acts as the Seller's payment collection agent for the limited purpose of accepting payments from you on behalf of the Seller. Upon making a payment to Whatnot, Buyer's payment obligation to the Seller for such payment amount is extinguished, and Whatnot is responsible for remitting the payment to the Seller. In the event that Whatnot does not remit such payment to the Seller, the Seller will have recourse only against Whatnot and not Buyer.
- h. Refunds and Returns. Whatnot may, in its discretion, allow and/or require Sellers to directly handle refund and return requests from Buyers through the functionality of the App. In such cases, Seller will bear the financial costs and responsibilities of issuing refunds to Buyers, and Whatnot is not responsible or liable to the applicable Buyers or any third party for any such refunds. When directly handling refund and return requests from Buyers through the functionality of the App, Seller shall at all times comply with the Return Policy, and will not conduct any activities in connection with handling returns and refunds that are fraudulent, false, misleading, abusive, or deceptive. For clarity, (i) Whatnot is not responsible for, and has no duty to monitor, the actions and inactions of Sellers when Sellers are handling returns and refunds; and (ii) Whatnot may at any time and in its discretion terminate or suspend Seller's direct access to Buyers in connection with handling Buyers' refund and return requests, including without

limitation, at the request of the Buyers.

- i. Consequences of Breach. Whatnot may, in its sole discretion, impose consequences on Sellers who, in Whatnot's sole discretion, violate these Terms, including but not limited to (i) charging an additional fee of 15% of the total Transaction amount, or \$12.00 (USD) for Transaction less than \$45.00 (USD), whichever is greater, plus applicable Taxes and additional amounts that may be necessary to reflect the use of coupons, promotional specials, or gift certificates, and amounts that reflect the cost of a replacement Item; (ii) removal of any or all Seller Items from the App; (iii) cancellation of any or all of Seller's pending Transactions; (iv) withholding of any payments due to Seller; (v) charging Seller, via the Payment Method or otherwise, for costs, expenses and fees incurred by Whatnot as a result of Seller's action or inaction, including the cost of refunds or reimbursements issued to buyers for undelivered, misrepresented, or otherwise non-compliant Products or Orders, chargebacks or reversal of payment, the value of coupons and gift certificates provided to the Buyer, reprinting fees, rerouting charges imposed by carriers, and the costs of collecting from Seller; and (vii) temporary or permanent suspensions of Seller's Account. For clarity, Whatnot may, in its sole discretion and without prior notice, impose the previously mentioned consequences on Sellers who, in Whatnot's sole discretion, abuse or otherwise misuse the "Early Payout" program and corresponding features available through the App. Seller hereby authorizes Whatnot to take any of the above actions as Whatnot deems appropriate and refer any unpaid amount to collections.

11. Buyer Terms.

- a. Making a Purchase. When a Transaction occurs, the applicable Buyer must complete payment of the Transaction amount, including all additional fees and Taxes (including shipping fees), in accordance with Section 7 "Payment Terms". If a Buyer participates in the Verification Opt-In and/or Grading Opt-In, such Buyer will be charged additional fees, payable to Whatnot, as set out on the Whatnot FAQs. For certainty, Whatnot does not conduct an Item Verification or procure PSA's services, unless a Buyer selects the Verification Opt-In or Grading Opt-In as applicable at the time of the Transaction. More information regarding fees and Taxes can be found in our Fee Schedule.
- b. Receiving an Incorrect Item. If Buyer receives an incorrect Item pursuant to a Transaction, Buyer should contact the applicable Seller and/or contact us using our help page. Whatnot may, in its sole discretion, require Buyer to return such

incorrect Item to Whatnot or Seller as applicable.

- c. Consequences of Breach. Whatnot may, in its sole discretion, impose consequences on Buyers who, in Whatnot's sole discretion, violate these Terms, including but not limited to (i) charging an additional fee in the amount of 15% of the total Transaction amount, or \$12.00 USD for Transaction less than \$45.00 USD, whichever is greater, plus applicable Taxes and additional amounts that may be necessary to reflect the use of coupons, promotional specials, or gift certificates, and amounts that reflect the cost of a replacement Item; (ii) removing of any or all Buyer's Items for sale on the App if such Buyer also acts as a Seller on the App; (iii) canceling of any or all of Buyer's pending Transactions (both as Buyer or Seller) on the App; (iv) withholding of any payments due to Buyer in its capacity as Buyer or Seller; (v) placing limits on Buyer's ability to buy and/or sell Items; (vi) charging to Buyer's Payment Method or subsequently provided means of payment for costs, expenses, and fees incurred by Whatnot as a result of Buyer's failure to properly comply with these Terms and; (vii) temporarily or permanently suspending Buyer's Account.

12. User Content

- a. Posting Content. The App may allow you to upload, post or transmit (such as via a stream) or otherwise make available content through the App including, without limitation, any text, photographs, User videos, sound recordings and the musical works embodied therein, including videos that incorporate locally stored sound recordings from your personal music library and ambient noise ("User Content"). Whatnot does not claim any ownership rights in any User Content and nothing in these Terms will be deemed to restrict or assign any rights that you may have to your User Content.
- b. Permissions to Your User Content. By making any User Content available through the App you hereby grant to Whatnot a non-exclusive, royalty-free, fully transferable, perpetual, irrevocable, worldwide license to use, modify, adapt, reproduce, make derivative works of, publish and/or transmit, and/or distribute and to authorize other Users and third-parties to view, access, use, download, modify, adapt, reproduce, make derivative works of, publish and/or transmit your User Content in any format and on any platform, either now known or hereinafter invented, in connection with marketing, operating, providing, and improving the App. You further grant us a royalty-free license and permission to use your name, image, voice, and likeness to identify you as the source of any of your User Content or otherwise in connection with our use of your User Content. Whatnot

has the right to use, on the App and in advertising and promotional materials, images (including photographic images) of Items being sold or that have been sold through the App. When you stream on the App as a Seller, Whatnot may record and store a copy of your stream in accordance with applicable laws. By creating a stream, you hereby consent to your voice and likeness being recorded and stored by Whatnot for transaction verification and fraud prevention purposes. By posting User Content to or through the App, you waive any rights to prior inspection or approval of any marketing or promotional materials related to such User Content. You also waive any and all rights of privacy, publicity, or any other rights of a similar nature in connection with your User Content, or any portion thereof. To the extent any moral or author's rights are not transferable or assignable, you hereby (i) unconditionally and irrevocably waive and agree never to assert any and all moral and author's rights, or to support, maintain or permit any action based on any moral rights that you may have in or with respect to any such User Content and (ii) unconditionally and irrevocably consent to any act or omission by or on behalf of Whatnot which infringes or may infringe any of the moral rights you may have in relation to the User Content.

- c. Your Responsibility for User Content. You are solely responsible for all your User Content. You must comply with the standards described under "Going Live On Whatnot" currently available at: <https://whatnot.zendesk.com/hc/en-us/sections/4416939590797-Going-Live-> as may be updated by Whatnot from time to time. You represent and warrant that you have (and will have) all rights that are necessary to grant us the license rights in your User Content under these Terms. You represent and warrant that neither your User Content, nor your use and provision of your User Content to be made available through the App, nor any use of your User Content by Whatnot on or through the App will infringe, misappropriate or violate a third party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation.

13. General Prohibitions and Whatnot's Enforcement Right. You agree that you will not and will not encourage or enable another User or third party to:

- o Post, upload, publish, submit or transmit any User Content that: (i) infringes, misappropriates or violates a third party's patent, copyright, trademark, trade secret, moral rights or other intellectual property rights, or rights of publicity or privacy; (ii) violates, or encourages any conduct that would violate, any applicable law or regulation or would give rise to civil liability; (iii) is fraudulent, false, misleading or deceptive; (iv) is defamatory, obscene, pornographic, vulgar or offensive; (v) promotes discrimination, bigotry, racism, hatred, harassment or harm against any

individual or group; (vi) is violent or threatening or promotes violence or actions that are threatening to any person or entity; or (vii) promotes illegal or harmful activities or substances;

- Sell stolen Items, Items taken without authorization, and otherwise illegally obtained Items on the App;
- Use the App for any unlawful purpose or for the promotion of illegal activities;
- Use the App to, or to attempt to, harass, abuse, or harm another person or group;
- Provide others with access to or use of your Account, unless you have granted them permission to do so and their access to or use of your Account or the App does not violate these Terms, or use the Account or any other User's Account without permission;
- Access or use the Account of any other User, unless that User has granted you permission to do so and your access to or use of their Account or the App does not violate these Terms;
- Provide false or inaccurate information in the App or in your Account including making any false representations with respect to Items and whether you are using the App for personal, family or household purposes, or for business purposes;
- Impersonate or misrepresent your affiliation with any person or entity;
- Use the App for the purpose of exploiting, harming, or attempting to exploit or harm minors in any way by exposing them to inappropriate content, asking for personally identifiable information, or otherwise;
- Make any automated use of the App, or take any action that we deem to impose or to potentially impose an unreasonable or disproportionately large load on the App;
- Use any manual process to monitor or copy any of the material on the App or for any other unauthorized purpose without our prior written consent;
- Except as expressly provided herein, copy, adapt, modify, create derivative works of, distribute, sell, sublicense, rent or lease any part of the App or materials we provide as part of the App;
- Attempt to decipher, decompile, disassemble, extract or reverse engineer any source code of or any software used to provide the App, unless applicable laws prohibit these restrictions, or you have our written permission to do so;
- Use any software, technology, or device to scrape, spider, or crawl the App or harvest

or manipulate data;

- Introduce any viruses, trojan horses, worms, logic bombs, or other material that is malicious or technologically harmful, or otherwise engage in activities designed to adversely affect the performance of the App;
- Bypass any measures we take to restrict access to the App;
- Use the App to solicit sales outside of the App or to send any unsolicited or unauthorized advertising, promotional materials, email, junk mail, spam, chain letters or other form of solicitation;
- Violate any law, statute, ordinance, by-law, regulation, or sanctions program, including but not limited to the U.S. Department of Treasury's Office of Foreign Assets Control ("OFAC") and any similar laws in any other jurisdiction;
- Fabricate in any way any Transaction or process related thereto;
- Place fraudulent or misleading bids or offers;
- Disguise or interfere in any way with the IP address of the computer you are using to access or use the App or that otherwise prevents us from correctly identifying the IP address of the computer you are using to access the App;
- Use the App for benchmarking or competitive analysis with respect to competitive or related products or services, or to develop, commercialize, license or sell any product, service or technology that could, directly or indirectly, compete with the App; or
- Transmit, exchange, or otherwise support the direct or indirect proceeds of unlawful or fraudulent activity (including but not limited to money laundering, terrorist financing).

Whatnot is not obligated to monitor access to or use of the App or to review or edit any content. However, we have the right to do so for the purpose of operating the App, to ensure compliance with these Terms and to comply with applicable law or other legal requirements. We reserve the right, but are not obligated, to remove or disable access to any content, including User Content (as defined below), at any time and without notice, including, but not limited to, if we, at our sole discretion, consider it objectionable or in violation of these Terms. We have the right to investigate violations of these Terms or conduct that affects the App. We may also consult and cooperate with law enforcement authorities to prosecute Users who violate the law and have the right to comply with court orders requesting or directing us to disclose the identity or other information of Users. If you become aware of misuse of our App, please contact us using our help page.

14. User Legal Compliance and Interactions and Disputes with Other Users.

- a. **Legal Compliance.** Users must comply with all applicable laws when using the App, which may include licensing, business registration and other similar requirements and obligations. It is solely the responsibility of each User, and not of Whatnot, to determine which laws are applicable to them and ensure that they are in compliance with such laws and that they have all necessary rights and licenses to use the App, including buying and selling Items. You acknowledge and agree that the use, listing, auctioning, purchase, distribution, promotion, advertising, and sale of certain Items are subject to federal, provincial or state, and local regulations, including, but not limited to, firearms, knives, recalled products, children's products, alcoholic beverages, cannabis, tobacco, food and drug products, medical devices, cosmetics, natural health products, coins, and currency. You expressly represent that you shall comply with all applicable federal, provincial or state, and local laws, statutes, ordinances, by-laws, and regulations relating to your use, listing, auctioning, purchase, and distribution, promotion, advertising, and sale of any Items through the App. While Whatnot requires its Users to comply with applicable law, Whatnot is not obligated to verify or ensure such compliance and we do not guarantee that (i) the App complies with applicable laws; (ii) Users will be in compliance with applicable laws while using the App; or (iii) Transactions will comply with applicable laws.
- b. **Interactions and Disputes with Other Users.** While Whatnot requires its Users to comply with applicable law and provide correct and accurate information about themselves that are not misleading, Whatnot is not obligated to verify any such information or conduct background checks. You agree to use caution in all interactions with other Users in the App, whether on the App, outside of the App, or in person, including as part of utilizing the Free Pickup Services, such as not sharing your financial information or sending money directly to other Users, protecting your personal information, and reporting all suspicious or inappropriate behavior or any other concerns through the User reporting tool in the App and/or by contacting us using our help page. Any dispute that arises between you and another User (each, a "User Dispute") is to be resolved by you and such User.
- c. **EXCEPT WHERE PROHIBITED BY APPLICABLE LAW (WHICH MAY INCLUDE THE PROVINCE OF QUEBEC), WE HEREBY DISCLAIM ALL LIABILITY FOR AND YOU HEREBY REMISE, RELEASE AND FOREVER DISCHARGE WHATNOT AND WHATNOT REPRESENTATIVES OF AND FROM ANY AND ALL DIRECT OR INDIRECT LOSS, DAMAGE, HARM, INJURY, OR CLAIMS ARISING FROM, IN CONNECTION WITH OR RELATING TO: (i) VIOLATION OF APPLICABLE LAW BY USERS; (ii) INTERACTION WITH OR COMMUNICATION WITH ANOTHER USER WHETHER ON THE APP,**

OUTSIDE OF THE APP, OR IN PERSON; AND (iii) ANY USER DISPUTE. IF YOU RESIDE IN THE PROVINCE OF QUEBEC, THE FOREGOING EXCLUSION WILL NOT APPLY TO THE DIRECT CONSEQUENCES OF AN ACT OF WHATNOT OR ITS REPRESENTATIVES.

15. Third-Party Websites or Resources. The App may allow you to access third-party websites or other resources. We provide access only as a convenience and are not responsible for the content, products or services on or available from those resources or links displayed on such websites. You acknowledge sole responsibility for and assume all risk arising from, your use of any third-party resources.
16. Termination. We may suspend or terminate your access to and use of the App, including suspending access to or terminating your Account, at our sole discretion, at any time and without notice to you. You may delete your Account at any time through the App. Upon any termination, discontinuation or cancellation of the App or your Account, the following Sections will survive: 1, 7, (only for payments due and owing to Whatnot prior to the termination), 13, 14, 16, 18, 19, 20, 21, 22, 25.
17. DMCA/Copyright Policy.

Whatnot respects the intellectual property rights of others and expects its Users to do the same. It is Whatnot's policy, in appropriate circumstances and at its discretion, to terminate the Accounts of Users who repeatedly infringe the copyrights of others. In accordance with the Digital Millennium Copyright Act of 1998, the text of which may be found on the U.S. Copyright Office website at <http://www.copyright.gov/legislation/dmca.pdf>, Whatnot will respond expeditiously to claims of copyright infringement committed using the App that are reported to Whatnot's Designated Copyright Agent, identified in the sample notice below. If you are a copyright owner, or are authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, please report alleged copyright infringements taking place on or through the App by completing the following DMCA Notice of Alleged Infringement and delivering it to Whatnot's Designated Copyright Agent. Upon receipt of the Notice as described below, Whatnot will take whatever action, in its sole discretion, it deems appropriate, including removal of the challenged material from the App.

DMCA Notice of Alleged Infringement ("Notice")

1. Identify the copyrighted work that you claim has been infringed, or - if multiple copyrighted works are covered by this Notice - you may provide a representative list of the copyrighted works that you claim have been infringed.
2. Identify the material that you claim is infringing (or to be the subject of infringing activity) and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit us to locate the material, including at a minimum, if

applicable, the URL of the link shown on the App where such material may be found.

3. Provide your mailing address, telephone number, and, if available, email address.

4. Include both of the following statements in the body of the Notice:

- "I hereby state that I have a good faith belief that the disputed use of the copyrighted material is not authorized by the copyright owner, its agent, or the law (e.g., as a fair use)."
- "I hereby state that the information in this Notice is accurate and, under penalty of perjury, that I am the owner, or authorized to act on behalf of the owner, of the copyright or of an exclusive right under the copyright that is allegedly infringed."

5. Provide your full legal name and your electronic or physical signature.

Deliver this Notice, with all items completed, to Whatnot's Designated Copyright Agent:

Copyright Agentc/o Whatnot, Inc.

2261 Market Street

STE 10754

San Francisco, CA 94114

(323) 948-1820

copyright@whatnot.com

18. Warranty Disclaimers

- a. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE APP AND ANY OTHER PRODUCT OR SERVICES PROVIDED BY WHATNOT, AND ANY CONTENT OR INFORMATION THEREIN, INCLUDING USER CONTENT, ITEM VERIFICATION, HISTORICAL SALES DATA, AND ESTIMATED VALUE, OR ANY OTHER PRODUCT OR SERVICE PROVIDED BY WHATNOT IS PROVIDED "AS IS," WITHOUT WARRANTY OR CONDITION OF ANY KIND. EXCEPT FOR ANY SPECIFIC WARRANTIES OR CONDITIONS EXPRESSLY PROVIDED IN THESE TERMS OR AS OTHERWISE REQUIRED OR PERMITTED BY LAW (INCLUDING ANY APPLICABLE CONSUMER LAWS) (WHICH MAY INCLUDE IN THE PROVINCE OF QUEBEC), TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE EXPLICITLY DISCLAIM ANY EXPRESS AND IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT, SECURITY, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. TO THE

EXTENT PERMITTED BY APPLICABLE LAW, WE MAKE NO WARRANTY THAT THE APP WILL MEET YOUR REQUIREMENTS, THE APP WILL BE AVAILABLE ON AN UNINTERRUPTED, SECURE, OR ERROR-FREE BASIS, OR YOUR USER CONTENT, COMMUNICATIONS, PERSONALIZED SETTINGS OR OTHER DATA WILL BE SECURE OR NOT LOST OR ALTERED. TO THE EXTENT PERMITTED BY APPLICABLE LAW, WE MAKE NO WARRANTY OR REPRESENTATION REGARDING THE QUALITY, ACCURACY, TIMELINESS, TRUTHFULNESS, COMPLETENESS OR RELIABILITY OF ANY INFORMATION OR CONTENT ON THE APP, INCLUDING USER CONTENT, ITEM VERIFICATION, HISTORICAL SALES DATA, AND ESTIMATED VALUE. YOU ASSUME FULL RESPONSIBILITY AND RISK OF LOSS RESULTING FROM YOUR USE OF OR INABILITY TO USE THE APP, AND ANY CONTENT OR INFORMATION THEREIN, INCLUDING USER CONTENT, ITEM VERIFICATION, HISTORICAL SALES DATA, AND ESTIMATED VALUE, AND YOUR DEALING WITH ANY OTHER USER OF THE APP.

- b. WHATNOT IS NOT RESPONSIBLE FOR THE ACCURACY OF ANY PAYMENT INSTRUMENT INFORMATION, INCLUDING, BUT NOT LIMITED TO, WHETHER SUCH INFORMATION IS UP-TO-DATE. WHATNOT HAS NO DUTY OR RESPONSIBILITY TO ENSURE THAT A USER HAS PROVIDED A VALID AND PROPER PAYMENT METHOD TO CONDUCT A TRANSACTION, OR TO DETERMINE IF A USER'S PAYMENT INSTRUMENT IS IN GOOD STANDING AND SUFFICIENT TO CONDUCT A TRANSACTION. USERS UNDERSTAND THAT THEY MAY INCUR FEES AND/OR CHARGES AS A RESULT OF WHATNOT TRANSACTIONS UNDER THE TERMS OF AGREEMENTS WITH PAYMENT INSTRUMENT ISSUERS, OR WHATNOT MAY BE UNABLE TO FACILITATE SOME TRANSACTIONS.
- c. SOME JURISDICTIONS LIMIT OR DO NOT PERMIT DISCLAIMERS OF WARRANTIES OR CONDITIONS AND IN SUCH CASES THE DISCLAIMERS CONTAINED HEREIN MAY NOT APPLY TO YOU.

19. Limitation of Liability.

- a. TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WHATNOT BE LIABLE TO YOU FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, LOSS OF PROFIT, LOSS OF REVENUE, LOSS OF BUSINESS, LOSS OF GOODWILL, LOSS OF DATA, OR PUNITIVE DAMAGES, HOWEVER ARISING, AND WHETHER OR NOT WHATNOT WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.
- b. TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, WHATNOT'S AGGREGATE LIABILITY TO YOU FOR DAMAGES FROM ALL CAUSES WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT (EVEN IF A

FUNDAMENTAL BREACH), TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, WILL BE LIMITED TO THE TOTAL FEES PAID BY YOU TO WHATNOT IN THE 12 MONTHS IMMEDIATELY PRECEDING THE EVENT THAT GAVE RISE TO SUCH LIABILITY; PROVIDED THAT IF YOU HAVE PAID NO SUCH AMOUNTS, WHATNOT'S MAXIMUM LIABILITY TO YOU SHALL BE \$100.00 USD, AND WHETHER OR NOT WHATNOT WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. IF YOU RESIDE IN THE PROVINCE OF QUÉBEC, THE FOREGOING EXCLUSION WILL NOT APPLY TO THE DIRECT CONSEQUENCES OF AN ACT OF WHATNOT OR ITS REPRESENTATIVES.

- c. AS STATED THROUGHOUT, EXCEPT WHERE PROHIBITED BY APPLICABLE LAW (WHICH MAY INCLUDE THE PROVINCE OF QUEBEC), WHATNOT SHALL NOT BE LIABLE, AND SHALL BEAR NO LIABILITY, IN CONNECTION WITH ANY TRANSACTION. EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS, WHATNOT DOES NOT BUY OR SELL ITEMS AND IS NOT A PARTY TO THE AGREEMENT OF PURCHASE AND SALE OF ITEMS BETWEEN BUYERS AND SELLERS. ANY TRANSACTION IN WHICH A WHATNOT REPRESENTATIVE IS ACTING AS A USER OF THE APP SHALL BE CONSTRUED AS A USER-TO-USER TRANSACTION AND NOT AS A TRANSACTION INVOLVING WHATNOT. ANY DAMAGES OR LIABILITIES THAT ARISE FROM OR IN CONNECTION WITH A TRANSACTION WILL BE YOUR SOLE RESPONSIBILITY.
- d. WHATNOT SHALL HAVE NO LIABILITY FOR SUSPENDING OR TERMINATING YOUR ACCOUNT, RESTRICTING ACCESS TO YOUR ACCOUNT OR BALANCES IN YOUR ACCOUNT, OR SUSPENDING OR TERMINATING YOUR ACCESS TO THE APP.
- e. WHATNOT SHALL NOT BE RESPONSIBLE FOR ANY SERVICE INTERRUPTIONS, INCLUDING, BUT NOT LIMITED TO, SYSTEM FAILURES OR OTHER INTERRUPTIONS THAT MAY AFFECT PURCHASES OR SALES, THE RECEIPT, PROCESSING, ACCEPTANCE, COMPLETION OR SETTLEMENT OF PAYMENT TRANSACTIONS, BANK DIRECT DEPOSIT TRANSFERS, OR THE APP.
- f. YOU AGREE THAT ANY CAUSE OF ACTION RELATED TO OR ARISING OUT OF YOUR USE OF THE APP MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED. IF YOU RESIDE IN THE PROVINCE OF QUÉBEC OR IN AUSTRALIA, THIS LIMITATION PERIOD IS INAPPLICABLE. IN RESPECT OF QUEBEC THE PRESCRIPTION PERIODS SET FORTH IN THE CIVIL CODE OF QUÉBEC APPLY.
- g. THE EXCLUSIONS AND LIMITATIONS OF DAMAGES SET FORTH ABOVE ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN WHATNOT AND YOU AND WILL APPLY EVEN IF THE REMEDIES AVAILABLE HEREUNDER ARE

FOUND TO FAIL THEIR ESSENTIAL PURPOSE.

- h. SOME OTHER JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES AND IN SUCH CASES SOME OR ALL OF THE EXCLUSIONS AND LIMITATIONS CONTAINED HEREIN MAY NOT APPLY TO YOU.

20. Indemnification. You agree to defend, indemnify and hold harmless Whatnot and its affiliates (including its and their respective officers, directors, shareholders, employees, contractors and agents) from and against any and all liabilities, costs, expenses, direct or indirect losses, or other amounts (including reasonable legal fees) incurred by Whatnot that arise from any claim, demand, or cause of action relating to (a) your access or use of the App, including with respect to any Transaction in which you are involved, (b) your disputes with other Users of the App or other third parties, (c) any other User's actions or omissions, as they relate to you, (d) your breach of these Terms of Other Policies, (e) your violation of any law, (f) your User Content, or (g) your violation of any other User's or third party's rights.

21. Arbitration Agreement.

- a. Except as prohibited by law (which includes the Province of Quebec) and subject to any right you have to bring a claim against Whatnot in small claims court in the county or province in which you reside, or in Los Angeles, CA, you agree and acknowledge that the exclusive means for resolving any dispute or claim arising from the Terms or your use of the App ("Dispute") shall be binding, individual arbitration and not in a class, representative or consolidated action or proceeding. Any action to enforce an arbitration decision, including any proceeding to confirm, modify, or vacate an arbitration decision, may be commenced in any court of competent jurisdiction, pursuant to the Section 22 "Governing Law and Jurisdiction". As limited exceptions, you and Whatnot may seek to resolve a Dispute in small claims court if it qualifies; and you and Whatnot each retain the right to seek injunctive, interlocutory or other equitable relief from a court to prevent (or enjoin) the infringement, passing off or misappropriation of your or our intellectual property rights. Subject to the foregoing, the arbitrator shall determine all issues of liability on the merits of any claim asserted by either party and may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim. To the extent that you or we prevail on a claim and seek public injunctive relief (that is, injunctive relief that has the primary purpose and effect of prohibiting unlawful acts that threaten future injury to the public), the entitlement to and extent of such relief must be litigated in a civil court of

competent jurisdiction and not in arbitration. The parties agree that litigation of any issues of public injunctive relief shall be stayed pending the outcome of the merits of any individual claims in arbitration.

- b. You can decline the provisions of this Arbitration Agreement within thirty (30) days of accepting these Terms by messaging us on our help page. Your opt out email must include your name and a statement manifesting your intent to opt out of the arbitration provisions of this Arbitration Agreement.
- c. By agreeing to arbitration under the Rules (as defined below), you agree that the arbitrator, and not any federal, provincial or state, or local court or agency, shall have the exclusive power to rule on the interpretation, applicability, and enforceability of the Arbitration Agreement, as well as on all substantive and procedural claims involved in the Dispute.
- d. All arbitration shall be conducted by a neutral arbitrator under the Consumer Arbitration Rules ("Rules") of the American Arbitration Association ("AAA"). Payment of all filing, administration and arbitrator fees will be governed by the AAA Rules. In the event of any arbitration arising under or related to these Terms, the arbitrator shall have the authority to determine which party, if any, is the prevailing party and may, as warranted under applicable law and/or the circumstances of the case, award the prevailing party reasonable attorneys' fees and costs. Notwithstanding the foregoing, we will bear the fees and costs of arbitration to the extent required by applicable law or if such fees would exceed what you would have incurred in a judicial forum. Subject to the foregoing, each party will be solely responsible for any and all fees incurred by such party in connection with the arbitration.
- e. Unless you exercise your right to an oral hearing, arbitration shall be conducted by written submissions. A party who wishes to start arbitration must submit a written Demand for Arbitration to AAA and give notice to the other party as specified in the AAA Rules. The AAA provides a form Demand for Arbitration at www.adr.org. Payment of all filing, administration and arbitrator fees will be governed by the AAA's rules, except as provided in this Arbitration Agreement. The AAA's Rules and filing instructions are available at www.adr.org or by calling 1-800-778-7879.
- f. YOU AND WHATNOT AGREE: (I) THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY, AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING AND (II) IF THE PARTIES' DISPUTE IS RESOLVED THROUGH ARBITRATION, THE

ARBITRATOR MAY NOT CONSOLIDATE ANOTHER PERSON'S CLAIMS WITH YOUR CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING ("CLASS ACTION WAIVER"). If this specific Class Action Waiver is found to be unenforceable, then the entirety of this Section 21 "Arbitration Agreement" shall be null and void.

- g. With the exception of any of the provisions in Section 21(f) of these Terms, if an arbitrator or court of competent jurisdiction decides that any part of these Terms is invalid or unenforceable, the other parts of these Terms will still apply.

22. **Governing Law and Jurisdiction.** Unless otherwise prohibited by applicable law (which includes the Province of Quebec), these Terms and any action related thereto will be governed by the Federal Arbitration Act, federal arbitration law, and the laws of the State of California, without regard to its conflict of laws provisions. Except as otherwise expressly set forth in Section 21 "Arbitration Agreement," the exclusive jurisdiction for all Disputes (defined below) that you and Whatnot are not required to arbitrate will be the state and federal courts located in Los Angeles County, California, and you and Whatnot each waive any objection to jurisdiction and venue in such courts

23. Whatnot 2FA SMS Verification

- During 2FA SMS verification, you will receive one-time passcodes (OTP) via SMS to verify your identity during login and account-related security processes. You can cancel the SMS service at any time. Just text "STOP" to the short code. After you text "STOP," we will send you a confirmation message, after which you will no longer receive SMS messages from us. If you'd like to rejoin, simply opt in again, and messaging will resume.
- For assistance with this messaging program, reply with the keyword "HELP," or contact support directly at support@whatnot.com
- Participating carriers include AT&T, T-Mobile, Metro PCS, Verizon Wireless, US Cellular, Google Voice, Cellular One, Cellcom, Cellular South, Interop, and Clearsky. Carriers are not liable for delayed or undelivered messages. Message and data rates may apply. Message frequency may vary. For questions about your text or data plan, please contact your wireless provider.
- For privacy-related questions, please review our [privacy policy](#).

24. Whatnot Promotions Guidelines.

If you choose to run or communicate a sweepstakes, contest, or giveaway (each, a "Promotion") on or using the App, you (and not Whatnot) are solely responsible for compliance with all applicable laws, rules, and regulations governing your Promotions and all prizes offered, including requirements relating to offer terms and eligibility requirements (e.g. age and residency

restrictions); the official rules; marketing; registration and any required regulatory approvals; and compliance with all tax laws and regulations. Your Promotion must be operated in a lawful manner at all times. Whatnot will not assist you in the administration of your Promotion, and you agree that you do so at your own risk. You must comply with the following when running a Promotion using the App:

1. You must post a set of "Official Rules" for your Promotion that includes all disclosures required by all applicable laws, rules and regulations, including:

- A statement, as applicable, that "no purchase is necessary to enter or win."
- A statement that the promotion is "void where prohibited."
- Who is eligible to enter, including age and geographic eligibility restrictions.
- A description of how to enter.
- A description of the prize(s) and their approximate market value(s).
- How winner(s) will be selected and an odds statement (e.g., "odds of winning depend on the number of entries received").
- How prizes will be distributed.
- A timeline of key dates and times (as applicable), including when entries open and close, when winners will be chosen, and when prizes will be distributed.
- A hyperlink to legally compliant privacy notice that explains how you use any personal data collected from entrants; you must and adhere to that use.
- A complete release for Whatnot from any liability and/or damages related to your Promotion. For example:

"BY PARTICIPATING IN THIS PROMOTION, ENTRANT AGREES THAT [SPONSOR], **WHATNOT INC.**, AND THEIR REPRESENTATIVES, AGENTS, AND CONTRACTORS, AND THEIR RESPECTIVE OFFICERS, DIRECTORS, AND EMPLOYEES (THE "RELEASED PARTIES") WILL HAVE NO LIABILITY WHATSOEVER FOR, AND SHALL BE HELD HARMLESS BY ENTRANTS AGAINST, ANY LIABILITY FOR ANY INJURIES, LOSSES OR DAMAGES OF ANY KIND TO PERSONS, INCLUDING PERSONAL INJURY OR DEATH, OR PROPERTY RESULTING IN WHOLE OR IN PART, DIRECTLY OR INDIRECTLY, FROM ACCEPTANCE, POSSESSION, MISUSE OR USE OF THE PRIZE, ENTRY OR PARTICIPATION IN THIS PROMOTION OR IN ANY PROMOTION-RELATED ACTIVITY, OR ANY CLAIMS BASED ON PUBLICITY RIGHTS, DEFAMATION OR INVASION OF PRIVACY, OR MERCHANDISE DELIVERY."

- A statement acknowledging that the Promotion is in no way sponsored, endorsed, administered by or associated with Whatnot. e.g., "This sweepstakes is in no way sponsored, endorsed or administered by, or associated with, Whatnot Inc." You should not at any time – in the rules, in advertising and marketing materials, or elsewhere – state, suggest or imply that your Promotion is endorsed by or affiliated with Whatnot, unless

expressly permitted by Whatnot.

2. Each time you solicit entry to or advertise the Promotion, you must provide a hyperlink to the Official Rules.
3. If you offer purchase as a method of entering your Promotion and use chance to select a winner of your Promotion, you must also offer a free alternative method of entry ("AMOE"), such as email or mailing in a 3x5 card, to avoid violating the criminal lottery laws. The free AMOE must be clearly disclosed whenever you talk about the purchase method of entry. Entrants using the free AMOE must have the same opportunity to enter or win the same prize—e.g., they must be able to enter the same number of times, and their entries must be included in the same drawing.
4. You must administer your Promotion, including the award of all prizes, as outlined in your Official Rules.
5. You must not require participation in any unlawful activity or infringement upon any third-party rights or in connection with or as part of your Promotion.

Whatnot is not obligated to, but reserves the right to remove or take down any of your Promotions if we, at our sole discretion, consider them in violation of these Terms, with or without advance notice to you.

25. General Terms.

- a. **Reservation of Rights.** Whatnot and its licensors exclusively own all right, title and interest in and to the App, including all associated intellectual property rights. You acknowledge that the App is protected by copyright, trademark, and other laws. You agree not to remove, alter or obscure any copyright, trademark, service mark or other proprietary rights notices incorporated in or accompanying the App.
- b. **Feedback.** We welcome feedback, comments and suggestions for improvements to the App ("Feedback"). If you provide us with any Feedback, you grant to us a non-exclusive, transferable, worldwide, perpetual, irrevocable, fully-paid, royalty-free license, with the right to sublicense, under any and all intellectual property rights that you own or control to use, copy, modify, create derivative works based upon and otherwise exploit the Feedback for any purpose.
- c. **Entire Agreement.** These Terms (including the Privacy Policy and Other Policies) constitute the entire and exclusive understanding and agreement between Whatnot and you regarding the App, and these Terms supersede and replace all prior oral or written understandings or agreements between Whatnot and you regarding the App. Except where provided by applicable law in your jurisdiction,

you may not assign or transfer these Terms, by operation of law or otherwise, without Whatnot's prior written consent. Any attempt by you to assign or transfer these Terms absent our consent or your statutory right, without such consent, will be null and void. Whatnot may freely assign or transfer these Terms without restriction. Subject to the foregoing, these Terms will bind and inure to the benefit of the parties, their successors and permitted assigns.

- d. Notices. Any notices or other communications provided by Whatnot under these Terms will be given: (i) via email; or (ii) by posting to the App. For notices made by email, the date of receipt will be deemed the date on which such notice is transmitted.
 - e. Waiver of Rights. Whatnot's failure to enforce any right or provision of these Terms will not be considered a waiver of such right or provision. The waiver of any such right or provision will be effective only if in writing and signed by a duly authorized representative of Whatnot. Except as expressly set forth in these Terms, the exercise by either party of any of its remedies under these Terms will be without prejudice to its other remedies under these Terms or otherwise.
 - f. Force Majeure. Except where prohibited by applicable law, Whatnot shall have no liability for delays or failure to meet responsibilities from any condition or event that is beyond its reasonable control, including but not limited to governmental action, acts of terrorism, acts of nature including earthquakes, fire, flood, or other acts of God; or labor conditions.
 - g. You Consent to Receive Electronic Communications. For contractual purposes, you (i) consent to receive communications from Whatnot in an electronic form via the email address you have submitted; and (ii) agree that all Terms, agreements, notices, disclosures, and other communications that Whatnot provides to you electronically satisfy any legal requirement that such communication would satisfy if it were in writing. The foregoing does not affect your non-waivable rights. We may also use your email address, to send you other messages, consistent with and as described in more detail in our Privacy Policy located at www.whatnot.com/privacy. You may opt out of such email by changing your Account settings or sending notice of opt out to privacy@whatnot.com.
26. Contact. Except where other contact info is specified for a given purpose herein, you may contact about these Terms at:

F.A.O Legal

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