

These Influencer Engagement Agreement Terms and Conditions are entered into by and between Whatnot Inc. ("**Whatnot**") and the influencer ("**Influencer**") performing services pursuant to a Whatnot Influencer Engagement Agreement, or, as applicable, the lender ("**Lender**") executing a Whatnot Influencer Engagement Agreement for the services of Influencer, which references or otherwise incorporates these Terms and Conditions. As applicable, all references to 'Influencer' in this Agreement shall be construed as also referring to 'Lender,' unless (i) Influencer and Lender are explicitly differentiated therein, or (ii) the context dictates otherwise. For the avoidance of doubt, this provision does not merge the distinct responsibilities and rights associated with each role where specifically differentiated herein.

## **A. Terms and Conditions**

1. Payment Terms. Whatnot shall pay Influencer or Lender, as applicable, the fees in accordance with the Engagement Terms. Whatnot shall not be liable for any expenses or costs (including, without limitation, agent fees, commissions, residuals, benefits, taxes, etc.) without Whatnot's prior written approval.
2. Influencer Social Media and Marketing Commitments. Influencer further agrees to visibly maintain the Deliverables on Influencer's applicable Social Media Sites during the Term of this Agreement and for one (1) year thereafter, unless early removal is required by order of the court or by law, or by order of the social media platform due to a change in the social media platform's terms of use. With respect to any YouTube Content, Influencer agrees not to remove any integration from a video and/or replace any integration with another integration during the Term of this Agreement and for one (1) year thereafter. Influencer will make all comments and post all content on the Social Media Sites in accordance with applicable law and industry standards, including the FTC Guides. Influencer will also provide Whatnot with reports including data metrics (e.g. screenshots) in connection with Influencer's Social Media Sites as reasonably requested by Whatnot.
3. Approvals. Influencer agrees to submit the Deliverables in accordance with the terms set forth in the Engagement Terms. In addition, Influencer will not post any Deliverable to Influencer's websites or social channels unless such Deliverable is approved by Whatnot in writing (email being sufficient). If Whatnot believes that any Deliverable is unacceptable because of tone, quality, or other factors, Whatnot may, in its sole discretion, disapprove such Deliverable and communicate the reason to Influencer. Influencer will have two (2) business days to revise such Deliverable and resubmit such Deliverable to Whatnot for re-evaluation/approval, unless the posting schedule requires a shorter time period.
4. Representations and Warranties.
  - a. Influencer and/or Lender, as applicable, represents and warrants that: (i) it has the right and authority to enter into this Agreement, and does not have any conflict or commitment that would impair the services or rights granted; (ii) the services, Deliverables, and Livestreams rendered by Influencer will be timely rendered and will be of first-rate quality and in compliance with the Code of Conduct and all applicable laws, regulations and guidelines including, without limitation, the FTC Guides, as such term is defined in the Code of Conduct; (iii) all material provided by Influencer will be original, and will not violate any intellectual property rights or other rights of a third party, nor will such material, in whole or in part, be libelous or defamatory to any person or brand or company/organization or otherwise illegal; (iv) it owns or has the necessary licenses, rights, consents, and permissions (including all applicable music rights) to grant the rights and permissions granted to Whatnot hereunder, and the exercise of rights by Whatnot in and to the Livestream and Deliverables does not and will not infringe or violate third party intellectual property rights or rights of publicity or privacy or require any additional licenses, permissions or clearances by Whatnot; (v) Influencer will remove any Deliverables at Whatnot's request; and (vi) Influencer will follow all Whatnot messaging and content guidelines contained in the Terms of Service and/or the Guidelines at all times during the Term. Influencer further represents and warrants that the Influencer is not a member of SAG-AFTRA or any other union, clan, or guild, and that the services detailed herein are not SAG-AFTRA productions or productions under any other union, clan, or guild agreement. If Lender is entering into this

Agreement on behalf of the Influencer, then the Influencer confirms and agrees to be bound by all grants, warranties, representations and obligations of the Lender and agrees to perform the services provided for in accordance with the terms set forth in the Agreement, and Influencer will look solely to the Lender for any and all compensation hereunder, and for the discharge of all other obligations of Whatnot with respect to Influencer's services hereunder.

- b. Whatnot represents and warrants that: (i) it has the right and authority to enter into this Agreement, and does not have any conflict or commitment that would impair the services of rights granted; and (ii) Whatnot owns or has the necessary licenses, rights, consents, and permissions to grant the rights and permissions granted to Influencer hereunder.

5. Confidential Information. Each party will keep in confidence the other party's Confidential Information unless (i) such information becomes public, not due to a breach hereof by the receiving party or is otherwise received by the receiving party from a third party without a duty of confidentiality; (ii) is independently developed without breach of this Agreement; or (iii) is required to be disclosed by law, court order or a subpoena, in which case the receiving party will notify the disclosing party and only disclose the minimum amount of information necessary. Each party agrees that the terms of the Engagement Terms (including all payment information) will be deemed confidential and may not be disclosed without the prior written consent of the other party. Notwithstanding the foregoing, the terms of this Agreement may be disclosed on a confidential basis to a party's advisors, attorneys, actual or bona-fide potential acquirers, investors or other sources of funding (and their respective advisors and attorneys) for due diligence purposes.

6. Ownership; Grant of Rights

- a. **Whatnot Platform**. As between Influencer on the one hand and Whatnot on the other hand, Whatnot, is the sole and exclusive owner of all right, title, and interest in and to the Whatnot Materials. Subject to the terms and conditions of this Agreement and the Terms of Service, Whatnot grants Influencer a limited, revocable, non-transferable, non-sublicensable right and license to use the Whatnot Materials solely in connection with the performance of the services.
- b. **Influencer Content**. Except for any Whatnot Materials and any derivatives thereof, Influencer will retain ownership in all of the Livestreams and Deliverables, including any intellectual property rights in and to the Livestreams and/or Deliverables. Notwithstanding the foregoing, during the Term, Influencer hereby grants to Whatnot and its Affiliates a worldwide, irrevocable, fully paid-up, royalty-free, transferable and sublicensable right and license to copy, use, reproduce, modify, adapt, publish, post, translate, create derivative works from, distribute, transmit, and display the Livestreams and/or Deliverables, the Third Party Attributes contained therein, and content generated therefrom, in whole or in part and for any lawful purpose in all unpaid and/or organic media now known or hereafter devised, including but not limited to organic social media, usage in-app and on the Whatnot Platform, promotion of Whatnot, its Affiliates and their products and services, unpaid digital media, on brand owned and operated channels (i.e. website, social channels, newsletters, in-app/on platform, etc.) and email.
- c. **Influencer's Name and Likeness**. To the extent any Livestreams or Deliverables include Influencer IP, during the Term, Influencer hereby further grants to Whatnot and its Affiliates a worldwide, irrevocable, fully paid up, royalty-free, and fully sublicensable right and license and all necessary permission and consent to use, reproduce, publish, distribute, transmit, and display the Influencer IP, in connection with Whatnot's and its Affiliates' use of the Livestreams, Deliverables, and the Whatnot Platform in any and all unpaid and/or organic media, now known or hereafter devised in accordance with this Agreement. Notwithstanding anything to the contrary contained herein: (a) Whatnot and its Affiliates will have no obligation to take down, disable or remove any Influencer IP from any Livestream, nor will Whatnot and its Affiliates be obligated to remove any social media or other promotional communications using Influencer IP previously disseminated

during the Term; and (b) Influencer agrees that all Livestreams may remain live and be maintained on the Whatnot Platform following the end of the Term.

- d. **Limited Trademark License Grant.** Subject to the terms and conditions of this Agreement, each of Whatnot and Influencer grants to the other party a worldwide, royalty-free, non-exclusive, and non-transferable right and license to use and reproduce the other party's Marks, solely as necessary to perform this Agreement. Any use by one party of the other party's Marks must be in accordance with applicable law and usage guidelines such other party may provide from time to time and otherwise in accordance with this Agreement. Each party acknowledges and agrees that any and all goodwill and other proprietary rights that are created by or that result from such party's use of the other party's Marks as permitted hereunder inure solely to the benefit of the other party..

7. Morals. Influencer (i) has not committed and will not commit any act which would reasonably be expected to bring Influencer or Whatnot, by association, into public disrepute, contempt, scandal or ridicule, or which may reflect unfavorably upon the reputation of the Whatnot or its products or services through Whatnot's association with Influencer, irrespective of whether such act is related to Influencer's services and of the length of time that has elapsed since such act was committed; and (ii) has not and will not during the Term, make public materially false and disparaging statements regarding Whatnot, Whatnot's products, or Influencer's association with Whatnot in a manner that, may discredit Whatnot, compare the Whatnot Platform with products of a competitor, or injure the success of the Whatnot or any of Whatnot's products or services.

8. Termination.

- a. Either party may terminate this Agreement immediately in the event of a material breach by the other party, which breach remains uncured for a period of fifteen (15) calendar days after notice of such breach is delivered to the breaching party if such breach is curable. Whatnot may terminate this Agreement: (i) immediately for Abandonment (defined below); (ii) for convenience upon thirty (30) calendar days prior written notice to Influencer, provided such termination is not exercised in bad faith or solely to avoid payment for substantially completed work; (iii) immediately, without notice, in the event Whatnot does not approve any resubmitted Deliverables (as such term is used in Section 3 of these Terms and Conditions) after Influencer has been provided two (2) opportunities to revise and resubmit such Deliverable; or (iii) immediately, without notice, in the event of a breach by Influencer of Section 7 of these Terms and Conditions or any Exclusivity obligations set forth in the Engagement Terms (if any). "Abandonment" means: (a) Influencer fails to respond to Whatnot communications for ten (10) consecutive business days; (b) Influencer fails to submit required Deliverables for fifteen (15) consecutive days after the scheduled delivery date without prior written approval; (c) Influencer publicly announces cessation of the services or intent not to perform; or (d) Influencer's social media accounts referenced in this Agreement become inactive, suspended, or deleted for more than seven (7) consecutive days without prior notice to Whatnot.
- b. In the event of termination for convenience by Whatnot or a termination by Influencer for Whatnot's uncured material breach, Influencer will be entitled to pro-rata fees for the Deliverables completed by Influencer as of the effective date of the termination. In the event of termination of this Agreement by Whatnot for any other reason, all payment or consideration to Influencer shall cease immediately without further obligation on Whatnot, and, if applicable, Influencer shall promptly refund Whatnot a pro rata portion of any pre-paid fees for services or Deliverables not yet provided as of the effective date of termination. If Whatnot has previously paid Influencer an amount equal to or higher than the pro rata portion of the fees for the Deliverables completed by Influencer as of the effective date of termination, then no further payment shall be made by Whatnot. If any sums are due to Influencer, Whatnot shall pay such amounts to Influencer in accordance with this Agreement. Upon expiration or termination of this Agreement, Influencer will cease all promotional activities in support of Whatnot and each party will return or, at the disclosing party's election, destroy the

Confidential Information of the other party or parties. Whatnot will have no obligation to remove or otherwise cause the removal of any Influencer IP after the Term in Livestreams posted during Term.

9. Indemnity.

- a. Influencer or Lender, as applicable, agree to defend, indemnify, and hold Whatnot and its Affiliates, officers, directors, employees, business partners, agents, successors, and assigns harmless from and against any and all Claims of any kind arising out of or related to: (i) any breach or alleged breach of its representations, warranties or obligations hereunder; (ii) any Claim that the Livestreams or Deliverables infringe a third party's intellectual property rights; (iii) Section 12 of these Terms and Conditions; (iv) breach of the Influencer Code of Conduct set forth in Section B; (v) Claims that Influencer is an employee of Whatnot or otherwise directly owed any benefits or compensation by Whatnot; and/or (vi) any gross negligence or willful misconduct of Influencer.
- b. Whatnot will indemnify, defend, and hold Influencer harmless from and against any third-party Claims arising out of or related to: (i) gross negligence or willful misconduct of Whatnot; (ii) any breach of Whatnot's representations or warranties hereunder; and/or (iii) the authorized and unmodified use of any Whatnot furnished materials.
- c. The indemnified party will promptly notify the indemnifying party in writing of any Claim. The indemnifying party, at its sole cost, will assume defense of the Claim, provided that the indemnifying party may not enter into a settlement agreement without the prior written consent of the indemnified party, which consent will not be unreasonably withheld, and the indemnified party will have the right to participate in its defense at its sole expense.

10. Taxes. The fees payable to Influencer or, as applicable, to Lender for the services of Influencer, are inclusive of, and Influencer will be solely responsible for any and all Taxes with respect to any earnings or payments made hereunder, whether or not Whatnot is legally required to deduct said Taxes from the payments due to Influencer. Influencer will not be entitled to any benefits paid or made available by Whatnot to its employees, including, without limitation, any vacation or illness payments, or to participate in any plans, arrangements or distributions made by Whatnot pertaining to any bonus, stock option, profit sharing, insurance or similar benefits. Influencer will indemnify and hold Whatnot harmless from and against any and all Claims arising out of or relating to any employment claims made by Influencer or any obligation imposed by law on Whatnot to pay any withholding taxes, social security, unemployment or disability insurance or similar items in connection with any compensation received by Influencer pursuant to this Agreement.

11. Limitation of Liability; Disclaimer. EXCEPT WITH RESPECT TO EXCLUDED CLAIMS, NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OR ANY LOST REVENUE OR LOST PROFITS. EXCEPT WITH RESPECT TO EXCLUDED CLAIMS, THE PARTIES' AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL NOT EXCEED THE FEES PAYABLE TO INFLUENCER UNDER THIS AGREEMENT.

12. Relationship of the Parties. This Agreement creates no partnership, fiduciary, or other professional relationship between the parties. Neither party will have the power to bind the other or to incur obligations on the other's behalf without such other party's prior written consent. Each party understands and agrees that they will not be considered an employee of the other party for any purpose, including tax obligations, and will not be entitled to and expressly waives any claim for employment benefits of any kind from the other party or parties. In addition, Influencer acknowledges and agrees that it will be their responsibility to maintain such health, liability, hazard, personal injury and other insurance policies as Influencer deems reasonably necessary in necessary to perform their duties hereunder

13. Counterparts. This Agreement may be executed in counterparts, each of which will constitute an original, and all of which will constitute one and the same instrument. Electronic signatures will have the same weight and effect as originals.

14. Survival. The rights and obligations contained in Sections 4, 5, 6(a)-(c), and 7 through and including 17 of these Terms and Conditions will survive any termination or expiration of this Agreement.
15. Governing Law; Venue. This Agreement will be governed by and construed in accordance with the laws of the State of California without giving effect to its conflict of law and/or choice of law principles. To the fullest extent permitted by law, each party waives trial by jury in any action, proceeding, or counterclaim brought by or on behalf of either party with respect to any matter relating to this Agreement. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in Los Angeles, California and the parties irrevocably consent to the personal jurisdiction and venue therein. For clarity, any and all claims or other disputes arising from this Agreement are subject to this Section 15. Claims or other disputes otherwise arising from or relating to the Whatnot Platform are governed by the dispute resolution provisions of the Terms of Service applicable to the Whatnot Platform.
16. Miscellaneous. This Agreement represents the entire agreement between the parties concerning the subject matter herein and supersedes any other oral or written agreements between the parties regarding this matter. No modification to this Agreement will be valid unless in a writing signed by the parties. If any part, term, or provision of this Agreement will be held by a court of competent jurisdiction to be illegal, unenforceable, or in conflict with any relevant law, the remaining portions or provisions will still remain valid and continue in full force and effect. No waiver, express or implied, by either party of any term or condition or of any breach by the other party of any of the provisions of this Agreement will operate as a waiver of any breach of the same or any other provision of this Agreement. Influencer acknowledges that a breach or threatened breach of this Agreement could cause Whatnot irreparable harm and that Whatnot shall be entitled to injunctive relief without having to post bond. In the event that any conflict exists among the terms and conditions of this Agreement and the terms and conditions of the Terms of Service, the order of precedence shall be: (i) these Terms and Conditions; (ii) the Influencer Code of Conduct; (iii) the Engagement Terms; and (iv) the Terms of Service. This Agreement will be binding upon and inure to the benefit of each of the parties hereto and their respective permitted heirs, successors, and assigns. Influencer may not under any circumstance (except for any assignment of payment) assign or transfer its rights or obligations hereunder without Whatnot's prior written consent. Any attempt to assign or transfer this Agreement without such consent will be void. Whatnot may assign or transfer this Agreement for any reason including to any of its parents, subsidiaries, and Affiliates and including with respect to the sale of substantially all or all of Whatnot's stock, assets or business, and any other merger, consolidation, or other change of control of Whatnot.
17. Definitions.
- a. "**Affiliate**" means, with respect to any party, any entity that directly or indirectly controls, is controlled by, or is under common control with a party, now or anytime in the future. For purposes of this definition, "control" means having ownership of the majority of the voting securities of such party.
  - b. "**Claims**" means claims, damages, obligations, losses, liabilities, costs or debt, and expenses (including but not limited to attorney's fees) arising from any third-party claims, suits, actions, settlements, or judgments.
  - c. "**Code of Conduct**" means the Influencer code of conduct set forth in Section B attached hereto.
  - d. "**Confidential Information**" means a party's confidential or proprietary information that is designated in writing to the other party as confidential or which should otherwise be reasonably deemed confidential.
  - e. "**Excluded Claims**" means a party's indemnification obligations or any breach of confidentiality or exclusivity by Influencer.
  - f. "**FTC Guides**" means the Federal Trade Commission's Guides Concerning Endorsements and Testimonials in Advertising, available at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>
  - g. "**Influencer's IP**" means (i) Influencer's name, voice, signature, image, and likeness and related statements, comments and remarks and all other persona or other attributable rights, and (ii) any materials provided by

Influencer to Company in connection with this Agreement.

- h. “**Marks**” mean a party’s trademarks, service marks, logos, slogans, and trade names, all applications, registrations, and renewals in connection therewith, and all goodwill associated therewith throughout the world.
- i. “**Social Media Sites**” means Influencer’s Twitter, Facebook, Instagram, TikTok, and other social media pages.
- j. “**Taxes**” means any and all tax obligations due to all taxing authorities arising from or in connection with amounts paid to Influencer hereunder.
- k. “**Terms of Service**” means the Whatnot Terms of Service available at <https://whatnot.com/terms>, which are incorporated by this reference into this Agreement.
- l. “**Third Party Attributes**” mean the names, nicknames, images, likenesses, voices, live or recorded performances, autographs, photographs and biographical information, and related statements, comments and remarks and all other persona or other attributable rights of third party individuals, including, but not limited to, the individuals who participate in the Livestream(s) and/or Deliverable(s).
- m. “**Whatnot Materials**” means the Whatnot Platform, all content, taglines, and other creative assets developed or made available by Whatnot in connection with the Whatnot Platform, including all intellectual property rights in and to the foregoing.

## B. Influencer Code of Conduct

Whatnot believes in full transparency and in full, fair, and effective disclosures of material facts relating to Influencer’s relationship with Whatnot. Accordingly, Whatnot requires that Influencer adhere to the FTC Guides, including without limitation, when publishing the Livestreams or any other content about Whatnot or any of Whatnot’s products or services, or when otherwise posting or streaming about or for the benefit of Whatnot or its products or services. Please note that all capitalized terms used but not defined herein will have the respective meaning given to them in the Engagement Terms or in the Terms and Conditions.

1. Clear and Prominent Disclosure of Material Connections. Influencer understands that Influencer’s connection with Whatnot might materially affect the weight or credibility consumers give to Influencer’s statement(s). For this reason, Influencer will not post or otherwise speak about or refer to Whatnot, directly or indirectly, without disclosing such connection, including, without limitation, the fact that Influencer was afforded any consideration, benefits, or received any free products or services from Whatnot. Such disclosure must appear clearly and conspicuously and in close proximity to any statements Influencer makes about Whatnot, Whatnot’s products and services, and/or the services performed regardless of the space limitations of the medium. In particular, Influencer agrees that any consumer should not be required to click on, scroll down or mouse over a link in order to view the disclosure and the disclosure should appear before the “click to read more” button. If a video is being created, the disclosure must be included in the video itself and also in the caption below or above the video. If Influencer is streaming, Influencer should ensure that Influencer both discloses in a voice-over and superimpose a disclosure periodically during the stream. The specific form of any such disclosure (which may for example include the hashtags #ad or #sponsored) will either be provided to Influencer, or otherwise approved by Whatnot, or mutually agreed upon by Influencer and Whatnot, but at all times in compliance with the FTC Guides. If Influencer has any questions on what it means to be in compliance, Influencer can access the FTC’s FAQ here: <https://www.ftc.gov/tips-advice/business-center/guidance/ftcs-endorsement-guides-what-people-are-asking>.
2. Influencer’s Honest and Truthful Opinions. Influencer’s statements must reflect Influencer’s honest and truthful opinions, findings, beliefs, or experiences. When representing that he/she uses Whatnot’s products or services, Influencer must be a bona fide user of such products or services at the time the statement is given. Generally, Influencer should only make factual statements about Whatnot or Whatnot’s products or services which Influencer knows to be true, and which can be verified. Moreover, Influencer’s statements must not convey any express or implied representation that would be deceptive if made directly by Whatnot.

3. No Inappropriate Language or Content. Influencer agrees that all Livestreams, social media postings, and comments will always be in good taste and free of inappropriate language and/or content. In particular, Influencer understands that content may be rejected by Whatnot if it:

- a. Contains material that is inappropriate, indecent, obscene, hateful, tortious, defamatory, slanderous or libelous;
- b. Contains material that otherwise promotes bigotry, racism or discrimination against an individual based on race, gender, religion, nationality, disability, sexual orientation, or age;
- c. Contains material that is unlawful, in violation of or contrary to the laws or regulations of the United States or of any jurisdiction where content is created;
- d. Contains information known by Influencer to be false, inaccurate, or misleading;
- e. Contains material or content for which Influencer has been compensated or granted any consideration by any third party;
- f. Disparages Whatnot or any other person or party; and/or
- g. Contains material not consistent with the image and values of Whatnot or otherwise associates Whatnot or any of Whatnot's products or services with any inappropriate or controversial content that would reflect poorly upon Whatnot, the Whatnot's products or services or any products or services on Whatnot's sites or channel.