

A. TERMS AND CONDITIONS

1. 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. “**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.
- d. “**Seller IP**” means any video or audiovisual content, footage, photographs, text, graphics, artwork, animation, or other content or materials, and the physical embodiments thereof, other than the Livestream, provided by Seller to Whatnot. In addition, if the Seller is an individual, the Seller IP also includes the Seller’s name, voice, signature, image, and likeness and related statements, comments and remarks and all other persona or other attributable rights.
- e. “**Taxes**” means any tax obligations due to all taxing authorities arising from or in connection with amounts paid to Seller hereunder
- f. “**Terms of Service**” means the Whatnot Terms of Service available at <https://whatnot.com/terms> (or such successor URL as may be designated by Whatnot), and all other policies and rules published by Whatnot, including but not limited to Whatnot’s Community Guidelines located at <https://help.whatnot.com/hc/en-us/articles/360061197472-Whatnot-Community-Guidelines> (or such successor URL as may be designated by Whatnot) and Whatnot’s Policy and Rules located at <https://help.whatnot.com/hc/en-us/sections/5380040993165-Policy-Rules-> (or such successor URL as may be designated by Whatnot).
- g. “**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 any way in the Livestream.
- h. “**Whatnot Materials**” means all content, taglines, and other creative assets developed or made available by Whatnot in connection with the Whatnot Platform.

2. INTELLECTUAL PROPERTY RIGHTS.

- a. Ownership; Grant of Rights.
 - i. **Whatnot Platform.** As between Seller 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 Platform and Whatnot Materials, including all intellectual property rights in and to the foregoing. Subject to the terms and conditions of this Agreement, the Terms of Service, and the Code of Conduct, which are incorporated by this reference into this Agreement, Whatnot grants Seller a limited, revocable, non-transferable right and license to use the Whatnot Materials solely in connection with the performance of the services. Whatnot may modify the Whatnot Platform to implement new features or reflect changes in practices or operations, and in the event that such modifications make certain features unavailable so that Whatnot is unable to fulfill any of its

obligations under this Agreement, then the parties acknowledge and agree that Whatnot will not be considered in breach of this Agreement. Notwithstanding anything to the contrary contained in this Agreement, nothing herein will limit Whatnot's ability to enforce its Terms of Service, including but not limited to Whatnot's What Action We Take located at <https://help.whatnot.com/hc/en-us/articles/5380505120269-What-Actions-We-Take> (or ushc successor URL as may be designated by Whatnot).

- ii. **Seller Content and Seller IP.** Except for any Whatnot Materials and any derivatives thereof, Seller will retain ownership in all of the Livestreams and Seller IP, including any intellectual property rights in and to the Livestreams and Seller IP. Notwithstanding the foregoing, Seller hereby grants to Whatnot and its Affiliates a perpetual, worldwide, irrevocable, fully paid-up, royalty-free, and fully sublicensable right and license to copy, use, reproduce, modify, adapt, publish, post, translate, create derivative works from, distribute, transmit, and display the Livestreams and the Seller IP, and content generated therefrom, in whole or in part and for any lawful purpose in all media now known or hereafter devised, including but not limited to organic and paid social media, whitelisting and dark posting on social media, usage in-app and on the Whatnot Platform, promotion of Whatnot, its Affiliates and their products and services, digital media, brand owned and operated channels (i.e. website, social channels, newsletters, in-app/on platform, etc.), PR, and email.
- iii. **Third Party Attributes.** To the extent any Livestreams or Seller IP include Third Party Attributes, Seller hereby grants to Whatnot and its Affiliates a worldwide, perpetual, 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 Third Party Attributes, as embodied in the Livestream and Seller IP in all media known or hereafter devised, including but not limited to organic and paid social media, whitelisting and dark posting on social media, usage in-app and on the Whatnot Platform, promotion of Whatnot, its Affiliates and their products and services, digital media, brand owned and operated channels (i.e. website, social channels, newsletters, in-app/on platform, etc.), PR, and email.
- iv. **Limited Trademark License Grant.** Each of Whatnot and Seller 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 (as defined below), 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 Mark as permitted hereunder inure solely to the benefit of the other party.
- v. **Feedback.** From time to time, Seller may provide Feedback suggestions, ideas, or other feedback to Whatnot (whether written, verbal or in any other format or manner) in connection with this Agreement or otherwise, including, but not limited to, feedback regarding Seller's experience using the Whatnot Platform (collectively "**Feedback**"). Seller acknowledges and agrees that all Feedback will be the sole and exclusive property of Whatnot and Seller agrees to assign, and does hereby irrevocably assign, to Whatnot all of their right, title, and interest in and to all Feedback, including without limitation all intellectual property rights therein.

3. **PAYMENT TERMS.** Whatnot will pay the Seller the fees specified in the Business Terms in accordance with this Agreement. 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. Whatnot may withhold amounts disputed in good faith while the parties attempt to resolve the dispute, and this will not constitute a breach.

4. **TAXES.** Except as expressly stated to the contrary in this Agreement, the sales proceeds payable or other sums due to Seller are inclusive of, and Seller 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 Seller. Seller 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. Seller will indemnify and hold Whatnot harmless from and against all damages, liabilities, losses, penalties, fines, expenses, and costs (including reasonable fees and expenses of attorneys and other professionals) arising out of or relating to any employment claims made by Seller 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 Seller pursuant to this Agreement.
5. **REPRESENTATIONS AND WARRANTIES.** Seller represents and warrants that: (i) Seller has the right and authority to enter into this Agreement, and does not have any conflict or commitment that would impair the Seller's performance of this Agreement; (ii) the services and Livestreams rendered, used or provided by Seller in connection with this Agreement will be timely rendered and will be of first rate quality and in compliance with Section B and all applicable laws, regulations and guidelines including, without limitation, the FTC Guides, as such term is defined in Section B; (iii) the Livestreams, Seller IP, and/or other material provided by Seller will be original, and will not breach any intellectual property rights or other rights of a third party, nor will the Livestreams, Seller IP, or services, in whole or in part, be libelous or defamatory to any person or brand or company/organization or otherwise illegal; (iv) Seller 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 or rights by Whatnot in and to the Livestream, Seller IP, and Third Party Attributes does not and will not infringe or breach third party intellectual property rights or rights of publicity or privacy or require any additional licenses, permissions or clearances by Whatnot; (v) Seller will remove, replace or modify any Livestreams or Seller IP at Whatnot's request; (vi) Seller will follow all Whatnot messaging and content guidelines at all times; and (vii) neither Seller nor any of its channel talent or hosts are 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. In addition to any disclaimer of warranties in the Terms of Service, Whatnot makes no further representation or warranty, express or implied, statutory or otherwise, including warranties of merchantability, fitness for a particular purpose, title, and noninfringement of the Whatnot Materials, the Whatnot Service, and any other information or advice provided by Whatnot in connection with the Agreement or Seller's use of the Whatnot Platform.
6. **INDEMNITY.** Seller agrees 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 Seller's representations, warranties or obligations, (ii) any Claim that the Livestreams, Seller IP, or Third Party Attributes infringes a third party's intellectual property or other legal rights; (iii) Section 13 (Relationship of the Parties) of the Terms and Conditions; (iv) breach of the Code of Conduct set forth in Section B; (v) Claims that the Seller is an employee of Whatnot or otherwise directly owed any benefits or compensation by Whatnot; and (vi) any gross negligence or wilful misconduct of Seller. Whatnot will promptly notify Seller in writing of any Claim. Seller, at its sole cost, will assume defence of the Claim, provided that Seller may not enter into a settlement agreement without the prior written consent of Whatnot and Whatnot will have the right to participate in its defence at its sole expense. Whatnot may at any time assume the defence of any Claim where Whatnot is an indemnified party, at Seller's sole expense, if Seller does not proceed in a timely manner or if Whatnot deems, in its sole discretion, that the Claim may harm or otherwise tarnish Whatnot's reputation or otherwise be prejudicial to its interests.
7. **LIMITATION OF LIABILITY; DISCLAIMER.** NOTHING IN THIS AGREEMENT EXCLUDES OR LIMITS EITHER PARTY'S LIABILITY FOR ANY LIABILITY WHICH MAY NOT BE LIMITED OR EXCLUDED BY APPLICABLE LAW (INCLUDING BUT NOT LIMITED TO LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE AND FRAUD OR FRAUDULENT

MISREPRESENTATION). WHATNOT WILL NOT BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES OR ANY LOST REVENUE OR LOST PROFITS. WHATNOT'S AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL NOT EXCEED THE SALES PROCEEDS PAYABLE TO SELLER IN THE THREE (3) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY.

8. **CONFIDENTIAL INFORMATION AND DATA PROTECTION.** Each party will keep in confidence the other 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 ("**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 this Agreement (including all pricing, sales, and revenue 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. Where the Seller processes personal data in its performance of this Agreement the Seller agrees that the Seller does so as an independent controller data (as defined in EU Regulation 2016/679) ('GDPR') and undertakes to Whatnot to comply with applicable data protection laws and other applicable laws relating to processing data and marketing by electronic communications, including (but not limited to) (i) the GDPR; and (ii) data protection and privacy laws in the United Kingdom. The Seller shall not transfer (e.g. by sharing or making available) personal data to Whatnot in the performance of this Agreement, including (but not limited to) its performance of the obligations described in the Business Terms. The Seller agrees that it is necessary for Whatnot to process the Seller's personal data in connection with Whatnot's performance of this Agreement.
9. **MORALS.** Seller (i) has not committed and will not commit any morally repugnant act which may bring Seller or Whatnot, in Whatnot's sole discretion, by association, into public disrepute, contempt, scandal or ridicule, or which may insult or offend the public or any protected group or class thereof including, without limitation, the general community to which Whatnot and/or Whatnot's products or services are directed, and as such, may reflect unfavorably upon the reputation of Whatnot or its products or services through Whatnot's association with Seller, irrespective of whether such act is related to Seller'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 and thereafter, make public damaging statements regarding Whatnot, Whatnot's products, or Seller's association with Whatnot in a manner that, may discredit Whatnot, promote products of a competitor, or injure the success of Whatnot or any of Whatnot's products or services.
10. **TERMINATION.** 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) for convenience upon fifteen (15) calendar days prior written notice to Seller; or (ii) immediately, without notice, in the event of a breach by Seller of Section 9 (Morals) to this Agreement. Upon termination of this Agreement, all payment or consideration to Seller shall cease immediately without further obligation on Whatnot. Upon expiration of termination of this Agreement, Seller 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 Seller IP after the Term in Livestreams posted during Term. Further, Whatnot (a) reserves the right to refuse the use of, or access to, the Whatnot Platform to Seller upon expiration or termination, (b) may, in its sole discretion, terminate Seller's right to use the Whatnot Platform with or without cause upon expiration or termination, and (c) may prevent Seller's future use of the Whatnot Platform.
11. **SURVIVAL.** The rights and obligations contained in Sections 2 ("Intellectual Property Rights"), 3 ("Payment Terms"), 4 ("Taxes"), 5 ("Representations and Warranties"), 6 ("Indemnity"), 7 ("Limitation of Liability; Disclaimer"), 8 ("Confidential Information and Data Protection"), 9 ("Morals"), 10 ("Termination"), 11 ("Survival"), 12 ("Injunctive Relief"), 13

("Relationship of the Parties"), 14 ("Governing Law; Venue") and 15 ("Miscellaneous") will survive any termination or expiration of this Agreement.

12. **INJUNCTIVE RELIEF.** Seller 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.
13. **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.
14. **GOVERNING LAW; DISPUTE RESOLUTION.** Seller enters into this Agreement in its capacity as a professional or commercial seller and not as a consumer. This Agreement, and any dispute, claim, or controversy, whether contractual or non-contractual, arising out of or in connection with this Agreement, including any question regarding its existence, validity, interpretation, performance, or termination, shall be governed by the governing law provisions of the Terms of Service applicable to the Whatnot Platform. Any such dispute, claim, or controversy shall be resolved exclusively in accordance with the dispute resolution provisions of those Terms of Service applicable to non-consumer disputes, as updated from time to time. For clarity, if those Terms of Service require non-consumer disputes to be resolved by arbitration, arbitration shall be the exclusive forum and procedure for resolving disputes under this Agreement; if those Terms of Service require non-consumer disputes to be resolved in court, each party submits to the exclusive jurisdiction of the courts specified in those Terms of Service.
15. **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. 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 Code of Conduct; (iii) the Business 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. Seller may not under any circumstance 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 assets, and any other merger, consolidation, or other change of control of Whatnot.

B. CODE OF CONDUCT

Whatnot believes in full transparency and in full, fair, and effective disclosures of material facts relating to Seller's relationship with Whatnot. Accordingly, Whatnot requires that Seller adhere to any applicable laws (including (but not limited to) all applicable advertising marketing law), regulations, industry standards and guidance (including (but not limited to), in the US, the Federal Trade Commission's Guides Concerning Endorsements and Testimonials in Advertising ("FTC Guides"), available at <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>, and in the UK, the Competition and Markets Authority's guidance on social media endorsements, available at <https://www.asa.org.uk/resource/influencers-guide.html>) 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 Business Terms or in the Terms and Conditions.

1. Clear and Prominent Disclosure of Material Connections. Seller understands that Seller's connection with Whatnot might materially affect the weight or credibility consumers give to Seller's statement(s). For this reason, Seller will not post or otherwise speak about or refer to Whatnot, directly or indirectly, without disclosing such connection, including, without limitation, the fact that Seller 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 Seller makes about Whatnot, Whatnot's products and services, and/or the services performed regardless of the space limitations of the medium. In particular, Seller agrees that any consumer should not be required to click on, scroll down or mouse over a link in order to view the disclosure, the disclosure should not be buried in a list of hashtags, the disclosure should not be in a colour that contrasts poorly with the background, 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, or in the title of the video or thumbnail. If Seller is streaming, Seller should ensure that Seller 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 Seller, or otherwise approved by Whatnot, or mutually agreed upon by Seller and Whatnot, but at all times in compliance with the applicable laws and guidance. If Seller has any questions on what it means to be in compliant in terms of the US Content that the Seller uses, Seller can access the FTC's FAQ here: <https://www.ftc.gov/tips-advice/business-center/guidance/ftcs-endorsement-guides-what-people-are-asking>.
2. Seller's Honest and Truthful Opinions. Seller's statements must reflect Seller's honest and truthful opinions, findings, beliefs, or experiences. When representing that he/she uses Whatnot's products or services, Seller must be a bona fide user of such products or services at the time the statement is given. Generally, Seller should only make factual statements about Whatnot or Whatnot's products or services which Seller knows to be true, and which can be verified. Moreover, Seller'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. Seller 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, Seller 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 breach 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 Seller to be false, inaccurate, or misleading;
 - e. Contains material or content for which Seller 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, Whatnot's products or services or any products or services on Whatnot's sites or channels.