

**2021 Influencer-Produced Sponsored Content Agreement  
("The Influencer Agreement")**

Project Title/Product: \_\_\_\_\_

Advertiser: \_\_\_\_\_

Influencer Name (as identified in deal memo): \_\_\_\_\_

Social Media/YouTube Channel(s): \_\_\_\_\_

Producer (Influencer's company): \_\_\_\_\_

Corporate Structure: Corporation \_\_\_\_\_ LLC \_\_\_\_\_ Fed ID# \_\_\_\_\_ State: \_\_\_\_\_

Contact Person (if other than Influencer): \_\_\_\_\_

Address: \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Phone: \_\_\_\_\_ Email: \_\_\_\_\_

**Please attach contract** (e.g. agreement, deal memo, insertion order, etc.) between the Producer (for services of the Influencer) and Advertiser.

This Influencer-Produced Sponsored Content Agreement ("Influencer Agreement") is entered into between SAG-AFTRA and the Producer identified above with respect to content created by the Influencer and sponsored by the Advertiser named above.

This Influencer Agreement only covers content featuring the Influencer, that is self-produced by the Influencer, through the Producer, and released or exhibited on the Influencer's and/or Advertiser's own websites, Social Media, and/or YouTube Channel(s).

The following are not permitted under this Agreement: streamed or recorded on-camera or voiceover content that is not self-produced and/or that falls under the jurisdiction of any other SAG-AFTRA contract. Excluded Services, as defined below, are not included within the scope of this Agreement

This Agreement may not be used to circumvent the terms and conditions of any other SAG-AFTRA agreement or membership rule.

Producer has represented to SAG-AFTRA, as a basis for coverage under this Agreement, that the Project is bona fide influencer-Produced content produced for exhibition on the Influencer's and/or Advertiser's website, Social Media, and/or YouTube Channel(s). Based upon these

representations and the other representations herein, and in reliance thereon, SAG-AFTRA offers Producer the following special terms and conditions for the Project:

## 1. Definitions

For purposes of this Agreement, capitalized terms shall have the definitions below:

“Influencer” has its colloquial understanding and, for the purposes of this contract, shall refer to the individual specifically identified above.

“Influencer-Produced Sponsored Content” is content self-produced by an Influencer that features an advertiser’s product or service and that is created for digital distribution on the Influencer’s and/or the Advertiser’s own Social Media and/or YouTube Channel/s. Content written, filmed or produced for the advertiser by any party other than the featured Producer/Influencer (i.e. production company, ad agency, PR agency, etc.) shall not be covered by this Agreement.

“Producer” refers to the above-named company controlled and operated by or on behalf of the named Influencer(s) that is producing the Influencer-Produced Content covered by this Agreement.

“Social Media and/or YouTube Channel” shall refer to an Influencer’s or advertiser’s own channel or account on a social media platform (including, but not limited to, Facebook, Instagram, Snapchat, TikTok, Tumblr, Twitter, and LinkedIn) or on YouTube.

“Compensation for Covered Services” refers to that portion of the total compensation set forth in the contract with the Advertiser that is attributable to Influencer’s on-camera and/or voiceover services (“Covered Services”), subject to the minimum set forth in Section 4. It does not include compensation attributable to Excluded Services. Compensation for Covered Services also includes: (i) bonuses (such as bonuses for achieving a minimum key performance indicators (KPIs), when received, and (ii) the value of products received (except where the value is de minimis).

“Excluded Services” refers to services Influencer may perform for the Advertiser other than on-camera and/or voiceover services in the Influencer-Produced Sponsored Content. Excluded Services include services performed in producing, creating, and distributing the Influencer-Produced Sponsored Content that fall outside the scope of this Agreement, such as creative, editing, distribution, and print work. In addition, Excluded Services includes any other services to be performed under any contract between Influencer or Producer and the Advertiser unrelated to the Influencer-Produced Sponsored Content (for example, but not as a limitation, tweets, print content).

## **2. Recognition; Scope; Coverage**

Producer hereby recognizes SAG-AFTRA as the exclusive collective bargaining agent for Influencers for their on-screen image and/or voiceover work in connection with Influencer-Produced Sponsored Content for the Project or Product identified above.

## **3. Restrictions; Limitations.**

This Agreement may not be used for Influencer-Produced Sponsored Content being produced for a campaign involving any signatory and/or JPC authorizer advertiser or advertising agency to the 2019 SAG-AFTRA Commercials Contract or any successor agreement.

The Influencer-Produced Sponsored Content must be set-forth in a standalone contract and may not be included in a contract that also provides for services covered under any other SAG-AFTRA contract (for example, television commercials or motion pictures).

This Agreement only applies to Influencer-Produced Sponsored Content produced and wholly owned by Producer or Influencer and not to work being performed as a "work made for hire," as that term is defined under 17 U.S.C. §101 for the Advertiser, an advertising agency, or any other party.

## **4. Compensation**

Influencer's Compensation for Influencer-Produced Sponsored Content may be freely bargained.

## **5. Pension & Health Contributions**

Producer shall make contributions of 19% on Influencers Compensation for Covered Services directly to the SAG-Producers Pension Plan and the SAG-AFTRA Health Plan (or any successor plan/s) in the manner prescribed by the Plans. Compensation for Covered Services shall be based on a standard allocation of at least 20% of Influencer's gross, total compensation for the Influencer-Produced Sponsored Content. The parties may negotiate for how the contribution will be deducted from or paid in addition to the gross compensation, provided that the compensation and contribution amounts are clearly and separately stated in the Influencer's contract.

For purposes of example: If the Influencer's total compensation is \$10,000 dollars, at least \$2,000 ( $\$10,000 \times 20\%$ ) shall be deemed to be Compensation for Covered Services. The Pension and Health Plan contribution would be at least \$380 ( $\$2,000 \times 19\%$ ).

SAG-AFTRA, individually and on behalf of the Pension and Health Plans, reserves the right to challenge the reasonableness of any allocation under this Section 4. Influencer/Producer agrees to provide any documents SAG-AFTRA or the Pension and Health Plans deems reasonably necessary to verify the amounts set forth by Influencer/Producer. Any dispute hereunder will be arbitrable.

## **6. Use in Other Media**

The Influencer-Produced Sponsored Content may only be used as set forth in this Agreement. Prior to entering into any agreement with an Advertiser or other party for use of the Influencer-Produced Sponsored Content on any channel or platform or in any other medium (e.g. television or industrial use), Producer or Influencer must notify SAG-AFTRA. If the intended use is in any other media covered by a SAG-AFTRA collective bargaining agreement, Producer must bargain the terms and conditions of use with SAG-AFTRA.

## **7. Maximum Period of Use (“MPU”)**

1-year from the date of first posting on any Social Media or YouTube Channel unless a longer MPU is agreed in the contract between the Producer and/or Influencer and the Advertiser and approved by SAG-AFTRA.

Any use beyond the MPU shall be subject to the Influencer’s consent and payment to be negotiated between the Producer and Advertiser. If the Influencer-Produced Sponsored Content appears on a website, social media platform, or on YouTube after the expiration of the MPU but is not relevant to any current campaign and remains in the feed tied to its original posting date, no further payment shall be required provided that Producer complies with the Union’s request, if made, to remove it.

## **8. Verification of Qualification for Agreement**

Producer agrees to provide any information SAG-AFTRA requests for the purpose of determining a Project’s eligibility for this Agreement and to verify compliance with the terms of this Agreement, including, but not limited to, the contract in place between Advertiser and Producer or Influencer for the services of the Influencer(s), and all contracts relating to the provision of such services. Whether the content is Influencer-Produced Sponsored Content eligible for this Agreement is at SAG-AFTRA's sole discretion.

If Producer or Influencer has made any misrepresentations regarding eligibility for this Agreement, or if SAG-AFTRA otherwise determines that a project was inappropriately produced under this Agreement, SAG-AFTRA, in its sole discretion, may reclassify the Project to the appropriate SAG-AFTRA Agreement. Producer agrees that if SAG-AFTRA reclassifies the project, all terms and conditions of the SAG-AFTRA Agreement that SAG-AFTRA deems applicable to the Project will apply to the Project as if the Project was signed to that Agreement as of the date of this Agreement.

Producer agrees to provide SAG-AFTRA any information it requests in order to determine the Influencer-Produced Sponsored Content’s continuing eligibility for this Agreement.

## **9. Prohibitions – Stunts; Hazardous/Dangerous Conditions; Nudity**

Content produced pursuant to this Agreement may not contain stunts or hazardous/dangerous conditions. Content produced pursuant to this Agreement may not contain nudity or sexually

explicit content, except to the extent such content is necessary to demonstrate the Advertiser's product or service.

#### **10. COVID-19 Safety**

Producer agrees that it is aware of and will take reasonable efforts to ensure Influencer will meet or exceed any industry-applicable health and safety standards relating to COVID-19, consistent with local, state and federal regulations, orders, guidance, or other requirements (including, but not limited to, social distancing and shelter in place orders) that may be applicable in the production of the Influencer-Produced Sponsored Content.

#### **11. Union Security**

Producer agrees that any Influencer it employs to perform Covered Services is or shall be a member of SAG-AFTRA in good standing or will apply for membership on the thirtieth (30th) day following the beginning of their first employment in SAG-AFTRA's jurisdiction, and thereafter Influencer will maintain such membership in good standing as a condition of employment.

Producer agrees to report to SAG-AFTRA in writing within 15 business days of the first employment of a nonmember of SAG-AFTRA, giving the non-member's name, Social Security number, and their first date of employment.

It is understood that it would be impossible to accurately fix the actual damages suffered by SAG-AFTRA by reason of a breach by a Producer of this section 11. It is therefore agreed that Producer will pay to SAG-AFTRA, as liquidated damages, the sum of \$320.00 for each breach by Producer of this section 11.

#### **12. Term**

This Agreement shall be valid through the expiration of Producer's agreement with the Advertiser.

#### **13. No Waiver of Applicable Laws**

Nothing in this Agreement waives or limits Influencer's or Producer's obligations to comply with any laws or regulations otherwise applicable to the Influencer's services. This may include, but is not limited to, laws related to workers compensation, minimum wages, and the employment of minors.

Nothing in this Agreement supersedes or limits any right or remedy an Influencer might have at law or otherwise relating to their work on the Project, including relating to any unauthorized use of their name, likeness, image, voice, performance or any other personal attribute.

#### **14. Arbitration**

Any dispute, claim, or grievance arising from or relating to the interpretation or application of this agreement shall be submitted to arbitration before a single arbitrator administered by the

American Arbitration Association under its Expedited Labor Arbitration Rules. The parties further agree to accept the arbitrator's award as final and binding on them.

All arbitrations will be held in SAG-AFTRA's office in Los Angeles, unless the parties agree otherwise; provided that if Influencer or Producer is based in New York and a majority of the witnesses reside in or around New York, the arbitration may be held in New York. Where the in-person attendance of witnesses is not necessary, the parties can agree to proceed with a document-only arbitration.

## **15. Miscellaneous**

This Agreement may be signed in counterparts, each of which will be deemed an original and all of which together will make one agreement. SAG-AFTRA reserves the right to revoke this Agreement as set forth herein. Any signature transmitted electronically, including any typed signature on an electronic version of this Agreement, is valid and binding to the same extent as an original signature.

The parties agree that this agreement may be electronically signed. The parties agree that the electronic signatures appearing on this agreement reflect their consent to be bound and are the same as handwritten signatures for the purposes of the validity, enforceability and admissibility of this agreement. If you do not want to sign this agreement electronically, please notify us at [influencer@sagaftra.org](mailto:influencer@sagaftra.org) and we will provide you with a different format.

If any portion of this Agreement is deemed unenforceable, it will be modified to the limited extent necessary to make it and the remainder of the agreement enforceable; if it cannot be so modified, Influencer/Producer and SAG-AFTRA will negotiate a substitute provision with substantially the same effect.

Section headings are descriptive only and not to be construed in interpreting the Agreement.

Any provisions which by their terms or nature are intended to survive termination of this Agreement will survive any termination of this Agreement.