



## LICENSE TO SELL

THIS AGREEMENT (the "Agreement") is effective as of the date that you submit the Klum House License to Sell Application sent to you via e-mail (the "Effective Date"), by and between Klum House LLC, an Oregon limited liability company ("Klum House"), and the maker whose name and address are listed on the Klum House License to Sell Application, together with all entities affiliated with that maker (collectively, "Maker").

### RECITALS

Klum House is the owner of all right, title, and interest in and to the bag design purchased by Maker and listed in Maker's Klum House License to Sell Application. Klum House's rights include but are not limited to the rights to make copies, distribute, perform, display, and prepare derivative works of the bag design;

Maker desires to use the bag design to make, offer for sale, sell, and distribute finished bags hand made by Maker and has purchased a License to Sell from Klum House;

Klum House has the authority to grant and agrees to grant Maker a license to use the bag design purchased by Maker subject to the terms and conditions of this Agreement; and

In consideration of the foregoing and of the mutual promises hereinafter set forth, the parties agree as follows:

### AGREEMENT

#### 1. LICENSE

- (a) Subject to the terms and conditions of this Agreement, Klum House grants to Maker a non-transferable, non-exclusive, limited license to make by hand, distribute, market, and sell finished bags using the bag design purchased by Maker and listed in Maker's Klum House License to Sell Application (the "License"). The bag design purchased by Maker and listed in Maker's Klum House License to Sell Application is referred to herein as the "Bag Design." Maker's finished bags made under the License are referred to herein as "Finished Products." Maker accepts the License subject to the terms and conditions set forth herein.

- (b) The License is for only the single bag design listed in Maker's Klum House License to Sell Application. If Maker desires to obtain licenses for additional bag designs, Maker must purchase additional licenses to sell for each bag design and submit separate Klum House License to Sell Applications for each bag design.
- (c) Maker may only sell the number of Finished Products corresponding with the "Number of Bags" purchased by Maker and listed in Maker's Klum House License to Sell Application for this Bag Design. If Maker plans to exceed their chosen number of Finished Products during the Term (defined below), Maker must purchase an additional license.
- (d) Maker may make alterations or customizations to the Bag Design. Any resulting bags are included within and governed by the License, and are Finished Products under this Agreement. Klum House retains all rights to all derivative works. Maker agrees that any alterations, customizations, or derivations by Maker to the Bag Design shall be owned by Klum House.
- (e) The License does not include the right to grant any sublicense to use the Bag Design. The License is personal to Maker and may not be used by or transferred to any other person(s), business(es), or entity(ies). If Maker desires to sell bags via a business not listed in Maker's Klum House License to Sell Application, Maker must contact Klum House and request permission. Maker may not sell Finished Products via any business not listed in Maker's Klum House License to Sell Application without prior written permission from Klum House.
- (f) Maker shall not: (i) make physical or digital copies of the Bag Design pattern or distribute the Bag Design pattern to others; (ii) make, offer to sell, sell, or distribute kits, patterns, instructions, or any other product based on the Bag Design. The License permits only sales of Finished Products; or (iii) mass produce Finished Products or use any third party to produce Finished Products. The License permits only sales of Finished Products hand made by Maker in their own home or small studio, never a factory or other mass production setting.
- (g) If Klum House learns that Maker has violated any of the provisions set forth in Paragraph 1(b) through 1(f), Klum House may, in its sole discretion and upon written notice to Maker, immediately terminate this License, immediately terminate any other licenses Klum House has granted to Maker, and decline any future licenses to Maker for any bag design.
- (h) All rights not granted herein to Maker are expressly retained by Klum House, including without limitation the right to grant licenses to persons or entities other than Maker to use the Bag Design, including to other makers who will directly compete with Maker. No rights or licenses are granted to Maker other than those expressly set forth in this Agreement. Klum House makes no representations or warranties that Maker will be successful in producing, distributing, or selling the Finished Products or that Maker will achieve any level of sales of the Finished Products.
- (i) Maker acknowledges that all expenses, costs, liabilities, taxes, tariffs, or other governmental charges incurred in the production, distribution, marketing, or sale of the Finished Products or any related activities necessary for the production, distribution, marketing, or sale of the Finished Products shall be born exclusively by Maker.

(j) Maker shall comply with all applicable territorial, international, federal, state, local, municipal, and/or other laws, ordinances, rules, or regulations, and obtain all appropriate government approvals, pertaining to the production, sale, distribution, labeling, marketing, and advertising of Finished Products. [can delete if preferred]

## 2. **ATTRIBUTION; OWNERSHIP**

(a) In selling, offering for sale, and advertising Finished Products, Maker may use any names or marks that identify Maker or its products, so long as Maker also complies with the Paragraphs 2(b) through 2(e) below.

(b) Maker shall not use Klum House's name, logo, or the name of the Bag Design (collectively, the "Klum House Marks"), or confusingly similar variations of the Klum House Marks, as part of their business name, domain name, e-commerce store name, or social media handles.

(c) Maker may use the proper name of the Bag Design (e.g. "The Portsmouth Tote") or may choose to title Finished Products with a different name. If Maker titles Finished Products with a different name, Maker must include the proper Bag Design name in the statement set forth in Paragraph 2(d) below.

(d) Maker shall give attribution to Klum House in all of posts, product listings, advertisements, promotions, or marketing materials for the Finished Products by including the following text: "This bag was made using the [Bag Design name] pattern by Klum House" with a hyperlink to [www.klumhouse.com](http://www.klumhouse.com) wherever and whenever possible.

(e) In all social media posts featuring or including the Finished Products, Maker shall give attribution to Klum House by tagging **@klumhouse** and using **#klumhouse** wherever and whenever possible.

(f) Klum House reserves the right to request modifications to Maker's marketing, advertising, and promotional practices and posts. Maker agrees to cooperate and comply with Klum House in the event Klum House requests that Maker adjust the manner in which Maker is marketing and representing the Finished Products, which requests may be made in Klum House's sole discretion.

(g) Maker acknowledges Klum House's sole ownership of the Bag Design and the Klum House Marks. Maker agrees that it will not do, fail to do, or knowingly permit to be done, any act or thing that would in any way impair Klum House's rights in the Bag Design or the Klum House Marks. Maker agrees that it will not use or permit the use of the Bag Design, the Klum House Marks, or any other trademark, copyright, or intellectual property of Klum House, for any purpose or use other than as set forth in this Agreement. All Maker's use of the Bag Design and the Klum House Marks shall inure to the benefit of and be on behalf of Klum House. Maker agrees that nothing in this Agreement shall give Maker any right, title, or interest in the Bag Design or the Klum House Marks other than the right to use the Bag Design in accordance with this License and Maker agrees that it will not attack or question

the title of Klum House to the Bag Design or the Klum House Marks, or attack the validity of this License.

### **3. TERM; TERMINATION; NONREFUNDABLE LICENSEE FEE**

(a) Unless sooner terminated as provided for herein, this Agreement shall continue in force and effect for a term of three (3) years from the Effective Date (the "Term"), or until Maker sells the number of Finished Products designated in Maker's Klum House License to Sell Application, whichever is sooner.

(b) Maker's payment for and purchase of its license to sell the Bag Design is nonrefundable. Maker's payment shall not be refunded in any circumstances whatsoever, even if this Agreement is terminated by Klum House prior to the expiration of the Term.

(c) In addition to the termination rights set forth in Paragraph 1(g), Klum House shall have the right to terminate this Agreement (i) immediately, in the event of a material breach of any provision of this Agreement by Maker that is not corrected within thirty (30) days of receipt of written notice thereof, and (ii) immediately upon written notice to Maker, in the event Klum House determines in its sole discretion that any activity of Maker is materially injuring the Bag Design, the Klum House Marks, Klum House's rights therein, or Klum House's reputation, which is not corrected within thirty (30) days of receipt of written notice detailing the injury and steps Maker may take, if any, to correct the injury.

(d) Upon expiration or termination of this Agreement, (i) the License shall immediately terminate, (ii) Maker shall immediately cease sales of Finished Products, regardless of any inventory that may remain in Maker's possession, and (iii) Maker shall immediately cease use of the Klum House Marks. Notwithstanding the immediately preceding sentence, upon expiration of this Agreement, if Maker purchases a new license to sell, Maker can recommence selling Finished Products pursuant to any resulting new agreement.

(e) Notwithstanding termination or expiration of this Agreement, the provisions of this Paragraph and Paragraphs 1(d), 1(f)(i-ii), 1(h), 1(i), 2(b), 2(g), 4, and 5 of this Agreement shall survive and continue to bind the parties hereto.

### **4. INDEMNIFICATION**

Maker assumes full responsibility for the production, promotion, marketing, distribution, and sale of the Finished Products. Maker shall defend, indemnify, and hold harmless Klum House and its officers, directors, members, employees, and agents from and against any and all losses, liabilities, claims, charges, actions, proceedings, demands, judgments, statements, costs, and expenses (including but not limited to attorneys' fees and costs) caused by or arising from (i) any breach of this Agreement by Maker or (ii) the production, promotion, marketing, distribution, or sale of the Finished Products or any other products made or sold by Maker, including, without limitation, claims alleging (A) unauthorized use or infringement of any patent, process, trade secret, copyright, or trademark (other than the Bag Design licensed hereby), (B) any design,

manufacturing, handling, mislabeling, or other defect or any inherent danger in the Finished Products or any other goods made or sold by Maker; and (c) any personal injury or product liability claim of any type or nature arising from the Finished Products or the advertising, purchase, or use of the Finished Products or any other goods made or sold by Maker.

## 5. MISCELLANEOUS

(a) **Modification.** Maker understands and agrees that Klum House may from time to time modify the terms of this Agreement. Klum House will provide written notice to Maker of any changes hereto, and Maker agrees to such modifications. If Maker objects to any such modifications, Maker's sole remedy is to cease their activities under the License. As set forth in Paragraph 3(b), Maker's payment is non-refundable.

(b) **No Waiver; Severability.** Any failure to exercise any rights hereunder shall not be construed as a waiver, nor shall any failure preclude subsequent exercise of such rights. To be effective, a waiver must be in writing duly executed by the party charged with the waiver. If any provision or portion thereof of this Agreement is held to be unenforceable or invalid, the remaining provisions and portions thereof shall nevertheless be given full force and effect, and the parties agree to negotiate, in good faith, a substitute valid provision which most nearly effects the parties' intent in entering into this Agreement.

(c) **Binding Effect; Assignment.** This Agreement is binding upon, and shall inure to the benefit of, the parties hereto and their respective legal representatives, heirs, and permitted assigns. Maker shall not assign or transfer its rights or obligations under this Agreement without the written consent of Klum House, and any such unauthorized assignment shall be null and void. A change of control or ownership of Maker shall be deemed an "assignment" for purposes of this Paragraph. Klum House may assign its rights or obligations under this Agreement.

(d) **Relationship of the Parties.** The relationship of Klum House and Maker is that of independent contractors. Nothing in this Agreement shall be construed to constitute the parties as partners, joint venturers, co-owners, or otherwise as participants in a joint or common undertaking; or allow Maker to create or assume any obligation, contract or commitment on behalf of Klum House for any purpose.

(e) **Choice Of Law; Forum.** This Agreement will be interpreted under, and any disputes arising out of this Agreement will be governed by, the laws of the State of Oregon, without regard to the conflict of laws principles of any jurisdiction. Each party irrevocably consents to the jurisdiction of the state and federal courts located in Multnomah County, Oregon in connection with all actions arising out of or in connection with this Agreement, and waives any objections that venue is an inconvenient forum.

(f) **Notices.** All notices and other communications under this Agreement must be in writing and will be deemed to have been given three (3) business days after the date when sent by e-mail to Maker's e-mail address listed in Maker's Klum House License to Sell Application, or to Klum House at

[info@klumhouse.com](mailto:info@klumhouse.com). Each party may change its address to which notice will be delivered by giving written notice of that change to the other party as provided herein.

(g) **Interpretation of Agreement.** The parties are fully aware of the content and legal effect of this Agreement, and they enter into this Agreement freely, without coercion, based on their own judgment. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes all prior agreements between the parties as well as all prior proposals, negotiations, conversations, or discussions between the parties relating to the subject matter hereof. This Agreement shall be interpreted fairly and in accordance with its terms and conditions and without any strict construction in favor of either party. Any ambiguity shall not be interpreted against the drafting party.

Maker agrees that this Agreement is effective as of the Effective Date and Maker's signature on their Klum House License to Sell Application constitutes signature hereto.

10/01/2020 - V1