

Gallery Bay

Creator Agreement

Effective date: February 22, 2023

This Creator Agreement is applicable to all Creators ("**you**" or "**your**") who make Creator Content available through the Platform. This Creator Agreement is provided pursuant and in addition to the terms and conditions set forth in our [Terms of Service](#).

This Creator Agreement, together with our Terms of Service, controls your legal relationship with us and the rights you are granting to us and/or Customer in any Creator Content uploaded and/or made available for sale through the Platform.

By accepting this Creator Agreement, you are agreeing to license your Creator Content to Customers who purchase such Creator Content in accordance with the [Gallery Bay License](#).

Should a conflict exist between this Creator Agreement and our Terms of Service, our Terms of Service controls.

- 1. Definitions.** All capitalized terms not defined herein shall have the meanings set forth in our [Terms of Service](#).
- 2. Acceptance.** Your right to upload and sell Creator Content to Customer on the Platform is conditioned on your acceptance of this Creator Agreement. **By clicking to accept or agree to this Creator Agreement**, you agree on your own behalf, and on behalf of any organization, entity, or person on whose behalf you may act, to accept and abide by the terms and conditions of this Creator Agreement. If you do not agree with all terms and conditions of this Creator Agreement, please do not upload and/or make Creator Content available through the Platform.
- 3. Updates.** We reserve the right to modify this Creator Agreement anytime by posting an updated one on the Platform. We may also, at our sole discretion, provide you with an email notification of changes. You are responsible for regularly reviewing the Creator Agreement, and your continued use of the Platform after the effective date of any changes shall constitute your acceptance of the updated Creator Agreement. If any modification is unacceptable to you, you must cease using the Platform. For questions, you may email us at contact@gallerybay.com.
- 4. Creator Content.** By uploading Creator Content, you represent and warrant that: (i) the Creator Content uploaded on the Platform is your original work and does not violate the rights, including intellectual property rights, of any third party; (ii) you have obtained all necessary consents and releases, if applicable, for your Creator Content; and (iii) your Creator Content will not violate the rights of privacy or publicity, or any similar rights, of any third party. You also represent that there are no outstanding disputes in connection with the property rights, intellectual property rights, or other rights in or to the Creator Content you make available to the Platform.
- 5. No Guarantee of Unauthorized Use.** We use commercially reasonable efforts to protect the Creator Content that you make available to the Platform, such as placing watermarks on Creator Content that is publicly available on the Platform. You recognize and agree that no efforts to protect your Creator Content from unauthorized access or use can guarantee that a User will not misappropriate your Creator Content or use it beyond the permitted uses described in the Gallery Bay License. You agree to hold us harmless from and against any unauthorized use of your Creator Content that is the result of actions or omissions beyond our reasonable control.
- 6. Tags and Descriptions.** When you publish Creator Content on the Platform, you will be asked to provide information (title, description, tags, categories, and so forth) about your Creator Content so that Users can search and find relevant Creator Content ("**Descriptions**"). You must provide accurate, non-misleading Descriptions, and we reserve the right to add, remove, or modify any Descriptions at our discretion if we believe that they are misleading, in violation of this Creator Agreement, or otherwise objectionable to us.
- 7. Content Rules.** You are solely responsible for the Creator Content you upload to the Platform. You represent and warrant that all Creator Content you provide to the Platform is made up entirely of your own original work and does not contain any elements that are not your original work or which you do not have express written permission from the original creator to use. Without limitation, you agree that your Creator Content does not contain, in whole or in part:

7.1 Any trademarks, logos, or copyrighted material other than that which has been provided to you by us or that you solely own;

7.2 Any content that promotes any business or person, whether or not the same is affiliated or otherwise consents to such use;

7.3 Any content that suggests a relationship, sponsorship, employment, or any other affiliation between you and us, or between you and any business or person which you do not have a business relationship with; and

7.4 Any content subject to any right of publicity or privacy or any intellectual property belonging to any third party if you have not obtained a release or otherwise obtained permission to use such content.

8. Property Release. If your Creator Content includes, in whole or in part, photos or videos of private property, you represent and warrant that you have obtained all necessary consents necessary for you to provide the Creator Content to us and for us to make your Creator Content available through the Platform for its intended purposes and in accordance with the Gallery Bay License.

9. Monitoring. If you upload Creator Content through the Platform, you acknowledge that we may review the Creator Content for adherence to our guidelines and compliance with this Creator Agreement. We and our designees have the right to remove Creator Content and associated Descriptions if we determine that it violates this Creator Agreement, applicable law, a third party's rights, or any other reason, even if not specifically set forth in this Creator Agreement. We may exercise this right without any obligation to you, monetarily or otherwise.

10. Content Licensing. Creator Content may be uploaded and sold to Customers through the Platform individually or in bundles ("**Content Bundle**"). You are free to select what Creator Content is included in each Content Bundle and the Content Fees associated with each Content Bundle. All Creator Content sold as part of a Content Bundle is licensed to applicable Customers who purchase the Content Bundle under the terms of the [Gallery Bay License](#).

11. Payments. When Customers purchase your Creator Content through the Platform, we collect all applicable Content Fees through our Payment Processor. We will charge a technology fee equal to a percentage of the Content Fee the Customer pays you ("**Technology Fee**"). You may reference the Technology Fees we charge [here](#). Technology Fees are subject to change at any time at our discretion. Content Fees will be processed upon download of the Content Bundle by the applicable Customer, and we will remit the Content Fee less the applicable Technology Fee to you within ten (10) days of receipt of the payment from the Customer.

12. Payment Processor. You must have an account with our Payment Processor and link the account through your Creator Account in order to receive payments from us. No other payment will be made by us to you other than through the Payment Processor. If we change our Payment Processor, we will provide you with no less than sixty (60) days advance written notice in order to provide you an opportunity to create an account with the new Payment Processor and link such account to your Creator Account. Any payment due to you that cannot be processed through the Payment Processor will be held by us for six (6) months from the date it was due to you, after which time we will have no further obligation to make such payment to you.

13. Non-Circumvention. You acknowledge and agree that we use substantial labor and effort to connect you with Customers through the Platform. As such, you agree that you will not circumvent or attempt to circumvent the Platform or this Creator Agreement or in any way provide Creator Content to Customers outside of the Platform without our prior written consent. You agree that all transactions between you and a Customer introduced to you through the Platform and related to Creator Content available on the Platform shall be conducted via the Platform.

14. Taxes. We do not withhold or remit any taxes associated with Content Fees on your behalf. You are responsible for paying all taxes associated with any Content Fees and your revenues hereunder.

15. License in Creator Content. By uploading Creator Content to the Platform, you grant to us a non-exclusive, royalty-free, assignable, transferable, sublicensable, perpetual, and irrevocable right and license to use, reproduce, adapt, and distribute Creator Content as reasonably necessary: (i) to provide the Platform as required under this Creator Agreement and our Terms of Service; (ii) to exercise our other rights, and perform our other obligations, under this Creator Agreement and our Terms of Service; and (iii) for any other use not expressly prohibited by this Creator Agreement, our Terms of Service, or applicable law. Upon the purchase and download of Creator Content by a Customer, you expressly agree to license the applicable Creator Content to the Customer in accordance with the term of the Gallery Bay License.

16. Ownership of Content. Subject to the limited license provided to us in the previous Section, as well as the license granted to Customers via the Gallery Bay License, all Creator Content you upload to the Platform is and shall

remain your exclusive property, and nothing in this Creator Agreement transfers any rights of ownership to any of your Creator Content to us.

17. Promotional Rights. You hereby grant us a license and right to use your name, business name, and logo, as well as portions of your Creator Content and all associated Descriptions, in connection with the advertising and promotion of the Platform to the public.

18. Security. You understand that the technical processing and operation of the Platform, including the processing, storage, and display of Creator Content, involve transmissions over various networks and changes to conform and adapt to the technical requirements of connecting networks or devices. We will maintain commercially reasonable administrative, physical, and technical safeguards designed for the protection, confidentiality, and integrity of Creator Content, but you recognize that hosting content online involves risks of unauthorized disclosure or exposure and that, in uploading Creator Content to the Platform, you assume such risks. We offer no representation, warranty, or guarantee that Creator Content will not be exposed or disclosed through errors or actions of third parties or us, including negligence.

19. Disclaimer of Warranties. IN ADDITION TO THE DISCLAIMERS OF WARRANTIES PROVIDED IN OUR TERMS OF SERVICE, YOU FURTHER EXPRESSLY ACKNOWLEDGE AND AGREE: (I) WE DO NOT GUARANTEE THE AMOUNT OF CONTENT FEES THAT YOU MAY EARN THROUGH THE PLATFORM; (II) THAT CUSTOMERS WILL USE YOUR CREATOR CONTENT IN ACCORDANCE WITH THE GALLERY BAY LICENSE; (III) THAT YOUR CREATOR CONTENT WILL BE SAFE FROM UNAUTHORIZED USE, DISCLOSURE, COPYING, OR MODIFICATION; AND (IV) THAT CREATOR CONTENT WILL BE AVAILABLE TO CUSTOMERS FOR ANY SPECIFIC AMOUNT OF TIME.

20. Limitation of Liability. IN ADDITION TO THE LIMITATIONS OF LIABILITY PROVIDED IN OUR TERMS OF SERVICE, YOU FURTHER EXPRESSLY ACKNOWLEDGE AND AGREE THAT WE CANNOT AND WILL NOT BE HELD LIABLE FOR ANY ACT, OMISSION, USE, MISUSE, INFRINGEMENT, OR OTHER VIOLATION OF YOUR INTELLECTUAL PROPERTY RIGHTS OR OTHERWISE IN OR TO CREATOR CONTENT MADE BY A CUSTOMER OR USER OF THE PLATFORM WHO ACCESSES AND/OR LICENSES CREATOR CONTENT THROUGH THE PLATFORM.

21. Aggregate Liability. With respect to any liability of Gallery Bay, if any, related to your use of the Platform, any interaction between you and a Platform User, and any use or misuse of your Creator Content, in no event will our total liability exceed the amount of Content Fees payable by us to you in the preceding twelve (12) months from the date of the most recent act or omission giving rise to our liability to you hereunder.

22. General Provisions

22.1 Severability. In the event that any provision of this Creator Agreement is considered invalid, illegal, or unenforceable by a court of competent jurisdiction having authority to bind the parties under any applicable statute or rule of law, such provision shall be deemed amended to achieve as nearly as possible the same economic effect as the original provision and the remaining provisions of this Creator Agreement shall in no way be affected or impaired.

22.2 Relationship of the Parties. You and we are independent contractors, and no agency, partnership, joint venture, employer-employee, or franchisor-franchisee relationship is intended or created by this Creator Agreement.

22.3 No Transfer; No Assignment. This Creator Agreement and any rights and licenses granted hereunder may not be transferred or assigned by you but may be assigned by us without restriction. Any attempted transfer or assignment in violation hereof shall be null and void.

22.4 Entire Agreement. This Creator Agreement, together with our [Terms of Service](#) and any other terms and agreements incorporated herein by reference, and any amendments and any additional agreements you may enter with us in connection with the Platform, constitutes the entire agreement between you and us concerning the Platform.

Contact

For questions regarding this Creator Agreement, contact us at contact@gallerybay.com.