



**APPLICATION QUESTIONNAIRE**

**YOU HAVE AN ONGOING OBLIGATION TO INFORM POOSH, LLC IN WRITING IF YOUR RESPONSES TO ANY OF THE BELOW CHANGE AT ANY TIME.**

**PLEASE FILL OUT THE BELOW QUESTIONNAIRE AND SUBMIT IT, ALONG WITH THE SIGNED AGREEMENT AND 2-3 MINUTE VIDEO TO  
PROJECTPOOSH@POOSH.COM**

**A. BIOGRAPHICAL INFORMATION**

**Applicant Name:**

**Business Entity Name:**

**Business Entity Website:**

**Business Entity Social Media Account(s):**

**If applying as part of a group, the name(s) of your collaborator(s):**

**Street Address:**

**City/State/Zip:**

**Phone:**

**E-mail:**

**B. BUSINESS ENTITY INFORMATION**

**What stage is the Business Entity in? (CIRCLE ONE)**

GOOD IDEA

RESEARCH & DEVELOPMENT

PRODUCT DEVELOPMENT

SHIPPING/LIVE

REVENUE

EXPANSION

**How much money have you invested in the Business Entity and in what time frame? What was that money used for?**

**Have you ever tried to raise money from outside sources? If yes, provide details.**

**What attempts have you made to build the Business Entity? Have you been successful?**

**C. PRODUCT INFORMATION**

**Describe in detail what your product is. What does it do? Provide as much detail as possible.**

**Why do you want to pitch your product?**

**What is your unique selling proposition? What is your “hook” and why is your business notable?**

**Describe the circumstances surrounding how you conceived and developed your product.**

**Why is your product on brand for Poosh?**

**What makes your product different from what is already in the health, wellness and beauty marketplace?**

**D. MISCELLANEOUS INFORMATION**

**Have you ever had a temporary or permanent restraining order entered against you or has anyone sought a temporary or permanent restraint order against you? If so, explain (include date, city, state and circumstances).**

**Have you ever been charged with any felony or misdemeanor? If so, explain (include date, city, state and circumstances, including the precise charges and resolution of the case).**

**Have you ever been convicted of any felony or misdemeanor? If so, explain (include date, city, state and circumstances, including the precise charges and resolution of the case).**

**Have you ever been party to a lawsuit? If so, explain.**



## APPLICATION INTRODUCTION

Please be advised that you must meet the following eligibility requirements (which may be changed at any time by Poosh in its sole discretion) in order to participate in the Program:

- You must be 18 years of age (or the age of majority in the state in which you reside) or older.
- You must be a legal resident of the United States.
- You must own an eligible, legally established U.S. small business located in the United States (the “**Business Entity**”). To be an eligible small business, the Business Entity must (i) have been incorporated or in business for at least one (1) year prior to event date or organized on or prior to start of the Program; (ii) have a consumer product in production (including a prototype of such product) or on the market for six (6) months or less prior to the start of the Program; and (iii) have at least a twelve (12) month business plan or equivalent. In addition, the Business Entity cannot have been awarded any funding by investors.
- You must own all rights in and to your product (including but not limited to any relevant intellectual property associated therein).
- Neither you nor any of your immediate family members or anyone living in your household may be nor have been within the past one (1) year employees, contractors, officers, directors or agents of any of the following: (a) Poosh, any entity owned, controlled or affiliated with Kourtney Kardashian, or any parent, subsidiary, affiliated or related entity of any of the foregoing; (b) any person or entity involved in the development, production, distribution or other exploitation of the Program or any variation thereof, or (c) any person or entity supplying services or prizes for the Program.
- You are not currently a candidate for public office and agree that you will not become a candidate for public office from the date of this Applicant Agreement until one (1) year after the conclusion of your participation in the Program.
- You may not have been convicted of a felony or have a felony or misdemeanor criminal charges pending against you.
- You must voluntarily submit to a background check.

## [POOSH COLLABORATION PROGRAM] APPLICANT AGREEMENT

By submitting an application to participate in the Poosh Collaboration Program (“**Program**”), you hereby agree to the terms and conditions of this Applicant Agreement (“**Applicant Agreement**”). This Applicant Agreement constitutes a legally binding agreement between the applicant identified on your Program application (“**you**,” “**your**” or “**Applicant**”) and Poosh, LLC (“**Poosh**,” “**we**” or “**us**”). This Applicant Agreement governs your submission of your Program application (“**Application**”) and subsequent potential participation in the Program. By clicking “I Accept” (or a similar indicia of acceptance) and/or by submitting an Application, you represent and warrant that (a) you have read and understood and agree to be bound by the terms and conditions of this Applicant Agreement, (b) you are an eligible participant (in accordance with Section 1 below), and (c) you have the authority to enter into this Applicant Agreement and to grant any and all of the rights herein. **If you do not agree to be bound by the Applicant Agreement and all of its terms and conditions, you may not submit an Application or participate in the Program.** By submitting an Application and participating in the Program, you also acknowledge that you have read and understand our [Privacy Policy](#) and agree to the [Terms of Use](#). In the event of any conflict between a provision in this Applicant Agreement and a provision in the Terms of Use, this Applicant Agreement will govern, only to the extent of the conflict and solely as such provision relates to the Program, or the subject matter referred to herein. SUBMISSION OF AN APPLICATION TO THE PROGRAM DOES NOT CONSTITUTE ACCEPTANCE INTO THE PROGRAM AS A PARTICIPANT AND/OR OTHER PARTICIPATION IN THE PROGRAM IN ANY WAY.

1. **Eligibility Requirements.** You hereby represent and warrant that: (i) you are 18 years of age (or the age of majority in the state in which you reside) or older; (ii) you are a legal resident of the United States; (iii) you must own an eligible, legally established U.S. small business located in the United States (the “**Business Entity**”), and to be an eligible small business, the Business Entity must (a) have been incorporated or in business for at least one (1) year prior to event date or organized on or prior to start of the Program; (b) have consumer product in production (including a prototype of such product) or on the market for six (6) months or less prior to the start of the Program; and (c) have at least a twelve (12) month business plan or equivalent; (iv) the Business Entity must be in the health, beauty and wellness market ; (v) the Business Entity must not have been awarded any funding by investors; (vi) neither you nor any of your immediate family members or anyone living in your household may be or has been within the past one (1) year employees, contractors, officers, directors or agents of any of the following: (a) Poosh, any entity owned, controlled or affiliated with Poosh or its founders or directors, or any parent, subsidiary, affiliated or related entity of any of the foregoing, (b) any person or entity involved in the development, production, distribution or other exploitation of the Program, (c) any person or entity supplying services or prizes for the Program; (vii) you are not currently a candidate for public office and agree that you will not become a candidate for public office from the date of this Applicant Agreement until one (1) year after the conclusion of your participation in the Program; (viii) you have not been convicted of a felony and do not have any felony or misdemeanor criminal charges pending against you; and (ix) you shall voluntarily submit to a background check if requested by Poosh (and agree to execute all consents, authorizations, and releases in connection therewith). You acknowledge that Poosh reserves the right at any time to render ineligible any person who Poosh determines, in its sole discretion, is sufficiently connected with the production, administration, or distribution of the Program such that his or her participation in the Program could create the appearance of impropriety. You further understand and agree that Poosh reserves the right to change any of the eligibility requirements at any time.

2. **Application Entry Period.** Poosh will begin to accept applications for the Program on April 2, 2021 at 12:00:00am PT and ends on May 2, 2021 at 11:59:59pm PT (“**Entry Period**”). Poosh’s computer is the official time keeping device for the Entry Period.

3. **How to Enter. NO PURCHASE OR PAYMENT OF ANY KIND IS NECESSARY TO PARTICIPATE IN THE APPLICATION PROCESS.** During the Entry Period, eligible Applicants must complete an “Application Package,” including, without limitation, a 2:00 to 4:00 minute video explaining why your Business Entity is a good candidate for the Program, pitching your dream product to collaborate with Poosh, what it does and why it aligns with Poosh’s brand, describing how you conceived and developed your product, what gap this product would fill in the

marketplace and your unique selling proposition for the product, providing links to your Business Entity's website and social media pages, etc.

**If a Business Entity has more than one owner, only one owner may be deemed the Applicant representing the Business Entity in the Application Package. If an Applicant owns more than one Business Entity, the Applicant may only submit a Submission for one Business Entity. Limit one (1) Application Package per Business Entity and per Applicant.** In the event more than one Business Entity is submitted by an Applicant or more than one Applicant makes a submission for the same Business Entity, only the first Application Package will be accepted, all other Application Packages will be void. Multiple entries received from any person in excess of the stated limitation will be void.

By submitting your Application Package, you represent and warrant that your Application Package material:

- is truthful and accurate;
- is your own original work of authorship or that you have all rights necessary to submit the entry material and to grant the rights to Poosh to use your entry material as set forth in this Agreement;
- does not contain content that violates or infringes another's rights, including but not limited to, privacy, publicity, copyright, trademark, trade secret, trade dress, patent, or intellectual property rights;
- does not contain advertisements or promotions of any brand or product other than those belonging to your Business Entity;
- does not disparage Poosh or any third parties;
- does not contain material that is inappropriate for viewing by a general audience, indecent, lewd, pornographic, obscene, profane, hateful, tortious, defamatory, slanderous or libelous, or that promotes violence, illegal conduct or animal cruelty; and
- does not contain material that is unlawful in any jurisdiction where the Application Package is created.

Poosh reserves the right in its sole and unfettered discretion to disqualify any Application Package that does not comply with this Agreement or that is not consistent with the spirit of Poosh or the Program.

4. **Winner Selection and Notification.** All timely Application Package submissions by eligible applicants will be reviewed by Poosh's editorial panel to ensure that the content falls within the parameters under the submission requirements detailed in this Agreement ("**Qualifying Application Packages**"). Qualifying Application Packages will be scored in each of the following categories: (i) 30% on the Business Entity's promotion of the values of diversity, equity and inclusion; (ii) 25% on the ability to clearly articulate the value of the solution and competitive advantage of the product or service in the health, beauty and wellness market as a sizable market opportunity with room for growth; (iii) 25% on the Business Entity's product alignment with the Poosh brand; and (iv) 20% on the Business Entity's track record, experience or likelihood of management to be successful, including but not limited to the Business Entity's P&L projections.

One (1) winner will be chosen based on the final point scores as calculated by Poosh in its sole discretion. The winner will be notified on or around June 30, 2021 by an email sent to the email address specified on your Application. The name of the winner and its Business Entity can be found on the Poosh website for at least sixty (60) days following the announcement of same.

Each Applicant's right to participate in the Program on behalf of their Business Entity is subject to verification of eligibility, including verification of age, residency, and Business Entity establishment. Poosh reserves the right to perform background checks. As a condition to Applicant's right to participate in the Program, he or she must also (i) provide Poosh with the Business Entity's Certificate of Status or equivalent documentation (e.g. Certificate of Existence, Certificate of Good Standing, etc.) ("**Status Certificate**") upon request and (ii) sign and return any documents requested by Poosh (collectively the "**Qualification Requirements**").

If Applicant (i) is determined to be ineligible or otherwise disqualified by Poosh, (ii) fails to respond to the first

notification message regarding selection to participate in the Program within forty-eight (48) hours of notification or after two (2) attempts (whichever occurs first), or (iii) fails to timely complete the Qualification Requirements, Applicant will be disqualified and forfeit all interest in the Pitch spot and the next highest scoring Applicant will be declared the winner.

5. **Grant of Rights.** In consideration for your possible participation in the Program, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, you (including any entity set forth below) hereby grant Poosh and each of its respective employees, contractors, agents, representatives, officers, directors, assignees, designees, licensees ("**Poosh Parties**") and affiliated and related entities the following:

a. The absolute and irrevocable right and permission (but not the obligation) to interview you, audition you, photograph, film, tape and otherwise visually, audiovisually and/or by audio means record you and/or your voice ("**Likeness**") by any method whatsoever in and in connection with the Program and the business activities of Poosh.

b. The absolute and irrevocable right and permission (but not the obligation) to photograph, film, tape and otherwise visually, audiovisually and/or by audio means record any idea, product, invention, service or business owned or controlled by you, including without limitation any names, logos, artwork, packaging, trademarks and service marks related thereto, (collectively "**Business Indicia**") by any method whatsoever in and in connection with the Program and the business activities of Poosh.

c. All rights of every kind and character whatsoever, whether now known or hereafter devised, in perpetuity throughout the universe in and to (i) any and all footage, tapes and/or other recordings taped, filmed, photographed, recorded and/or otherwise produced hereunder depicting you and any performances or actions made by you, (ii) statements (whether scripted or unscripted, written, spoken, sung, or otherwise uttered or expressed by me) and information given by you and/or captured on any such footage, tapes, and/or recordings ("**Statements**"), and (iii) all of the results and proceeds thereof (collectively, (i), (ii) and (iii) shall be referred to as the "**Material**"). You acknowledge that the Material is specially ordered by Poosh for use as part of an audiovisual work and shall be considered a work made for hire for Poosh, and therefore Poosh shall be the author and copyright owner thereof for all purposes throughout the universe in perpetuity. To the extent that such Material is not deemed a work-for-hire in any jurisdiction, you hereby irrevocably assign, transfer and convey such Material to Poosh including, without limitation, all copyrights, renewals, and extensions of copyrights therein, in all media now known or hereafter devised, throughout the universe in perpetuity. For the avoidance of doubt, the Material shall include neither the Business Indicia nor any other intellectual property relating to your business.

d. The absolute, perpetual, and irrevocable right and license to distribute, broadcast, and otherwise exploit any materials or content submitted by you as part of your Application or otherwise in connection with the Program ("**Submitted Material**"), gratis, throughout the universe, in any and all manner, formats and media, whether now known or hereafter devised, in and in connection with the Program or otherwise, including, without limitation, the non-exclusive, fully paid, worldwide license to use, copy, digitize, sublicense, transmit, distribute, publicly perform, publish, delete or display such Submitted Material, or any portion thereof, in any media now known or hereafter devised. You authorize the Poosh Parties, and any entities affiliated, related or in privity with Poosh Parties, to utilize on a non-exclusive basis, throughout the universe, in perpetuity and in any manner they see fit, the Submitted Material (including without limitation use in advertising, publicity, marketing, promotional and commercial tie-in purposes in connection with the Program, all allied, ancillary and subsidiary rights therein and thereto), and to make derivative works from such materials. You agree that such use shall be freely assignable by Poosh and that Poosh and Poosh's assignees and licensees shall have no obligations whatsoever to you (including without limitation no obligation to make any payments to you or to obtain your approval). You

hereby grant Poosh permission to and Poosh shall have the right and sole discretion to edit, alter, modify or change any part of the Submitted Material for any reason in connection with Poosh's (or Poosh's assignee's or licensee's) use thereof. It is hereby understood and agreed that the licenses granted in this paragraph shall be exclusive to Poosh Parties from the date hereof through and until six (6) months after the conclusion of your participation in the Program; provided that Poosh's license with respect to Business Indicia shall be non-exclusive.

e. The irrevocable right to reproduce, edit, dub, subtract from, add to, modify or juxtapose the Likeness, Business Indicia, Statements and/or Material in any manner and to combine them with any other material. You understand, acknowledge and agree that Poosh shall have no obligation to use any of the Likeness, Business Indicia, Statements and/or Material in or in connection with the Program.

f. The irrevocable, perpetual, nonexclusive right to use, copy, digitize, sublicense, transmit, distribute, publicly perform, publish, display, and make any other uses of the Likeness, Business Indicia, Statements, whether or not embodied in the Material, in any media now known or hereafter devised, throughout the universe, including without limitation the advertising, promotion, marketing or exploitation of the business activities of Poosh.

g. You understand, acknowledge and agree that Poosh may exercise any aspect of the foregoing granted rights without review by, compensation to, or approval by you or any other party, except as prohibited by law.

h. You grant the rights hereunder whether or not you are selected to participate as a contestant in the Program, in any manner whatsoever. Without limiting paragraph 5 below, you release Releasees (as that term is defined herein below) from any and all liability arising out of its use of the Likeness, Business Indicia, Statements, Material, and/or Submitted Material, and you agree not to make any claim against the Poosh Parties or any other Releasees as a result of the recording or use of the Likeness, Business Indicia, Statements, Material, and/or Submitted Materials (including, without limitation, any claim that such use invades any right of privacy and/or publicity and/or any claims based on defamation, libel and/or false light and/or copyright, trademark or patent infringement).

6. **Submitted Materials.** You acknowledge and agree that, but for your agreement to the terms set forth herein, Poosh would not agree to accept for consideration or review the Submitted Materials. Accordingly, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, you hereby acknowledge and agree to the following:

a. You acknowledge and agree that, if Poosh selects you as the winner of the Program, you will complete and execute further agreements requested by Poosh (collectively "**Participant Agreements**"). You acknowledge and agree that (i) unless and until you execute such Participant Agreements, Poosh will not consider you the winner of the Program and (ii) Poosh is accepting your Submitted Material in reliance on your completion and execution of the Participant Agreements.

b. You shall not receive any compensation or credit for submitting the Submitted Material to Poosh and understand that Poosh may view the Submitted Material.

c. You recognize the possibility that the Submitted Material may be identical with or similar to material which has or may come to Releasees and/or Releasees' affiliated or related entities from other sources. Receiving identical or similar material has given rise to litigation in the past so that unless Releasees can obtain adequate protection in advance, Releasees will refuse to consider or post the Submitted Material. The protection for Releasees must be sufficiently broad to protect Releasees and all related parties, including without limitation Releasees' parent, subsidiary, affiliated and related entities and their respective officers, directors, shareholders, employees, contractors, agents, representatives,



broadcasters, distributors, licensees, assigns, and all parties to whom the foregoing submit material or have been or may be involved in developing, financing or exploiting materials and properties generally. Accordingly, as a further inducement to Producer to examine the Submitted Material and to consider you for selection as a participant in the Program, you represent, warrant and agree, as follows:

- i. You acknowledge that the Submitted Material is submitted voluntarily and not in confidence or in trust and that no confidential or fiduciary relationship is intended or created between Releasees and you by reason of such submission or otherwise. Nothing in this Agreement, or the submission of the Submitted Material, shall be deemed to place Releasees in any worse position than any member of the public with respect to the Submitted Material. Accordingly, without limiting any of the rights and releases you have granted herein, any part of the Submitted Material which could be freely used by any member of the public may be used by Releasees without liability to you or any other party claiming from or through you.
- ii. You understand and agree that Releasees' use of material similar to or identical with the Submitted Material or containing features or elements similar to or identical with those contained in the Submitted Material shall not obligate Releasees to negotiate with you nor entitle you to any compensation or other entitlement if Releasees determine that Releasees have an independent legal right to use such other material (either because, e.g., such features or elements were not new or novel, or were not originated by me, or were or may hereafter be independently created by or submitted to Releasees).
- iii. You represent and warrant that the description provided above is true and accurate and that (i) you either solely own the Submitted Material, free of any lien or encumbrance, or have obtained all necessary rights to grant Releasees the right and/or to permit Releasees to use the Submitted Material in connection with the Program or otherwise, in any and all media, now known or hereafter devised, through the universe in perpetuity, and that you have all production, distribution and/or exploitation rights in and to the Submitted Material, including without limitation all rights to the likenesses, names, voices and biographical information incorporated in the Submitted Material, any locations, any artwork, any logos or other intellectual property, and any and all other elements or content in the Submitted Material; (ii) it is original to you and not based on any other material or source; (iii) the use and exploitation thereof will not violate or infringe any third party rights; and (iv) you have the right to submit and to offer such material to Releasees without obligation to any third party, and the consent of no other person or entity is required for Releasees to fully exploit the Submitted Material as provided herein. You further represent that you are the sole copyright owner in all music and scoring incorporated in the Submitted Material as set forth herein or have obtained all necessary rights to grant Releasees the right and/or to permit Releasees to use all music and scoring incorporated therein. You further represent and warrant that you will not assert, maintain or assist other persons in asserting or maintaining against Releasees any claim, action, suit or demand of any kind or nature whatsoever related to the use of the Submitted Material, including without limitation those grounded upon copyright, trademark or patent infringement, invasion of privacy or publicity rights, other civil rights, or any other ground in connection with the use of the Submitted Material in the Program .
- d. You assume full responsibility for any loss of the Submitted Material for any reason including, without limitation, whether it is destroyed in connection with electronic submission (if permitted), mailed submission or otherwise. Releasees shall have no obligation to read or consider the Submitted Material or to return the Submitted Material to me.
- e. You agree that no obligation of any kind is assumed by Releasees or may be implied against

Releasees (including, without limitation, any obligation to pay money) by reason of Releasees' receipt or potential or actual review of the Submitted Material or any discussions or negotiations you may have. Some of Poosh's ideas may be similar to ideas contained within the Submitted Material. While we do not wish to deprive you of an original idea, an idea that is new to you may not be new to us; similar or identical ideas may also be conceived independently. Without limiting the foregoing, you specifically acknowledge and agree that (a) you do not and will not under any circumstances have or assert any so-called "idea submission," implied contract or similar claim against Releasees; (b) Releasees are free to use (i.e., Releasees will not owe you any money or other obligation for using) any portion of the Submitted Material; and (c) you waive any claim that Poosh has misappropriated any idea submitted by you relating to any Submitted Material, as well as any claims relating to your rights in and to any Submitted Material.

7. **Representations and Warranties.** You hereby represent and warrant that: (i) you, alone or in concert with any collaborators listed on the Application (collectively "**Collaborators**"), have the right to grant the rights granted hereunder; (ii) you, alone or in concert with any Collaborators, have the right to enter into this Agreement; (iii) you, alone or in concert with any Collaborators, own and control all rights in and to the idea, product, invention, service or business that you desire to present as part of your participation in the Program; (iv) the consent of no other person, firm, corporation or labor organization (other than any Collaborators) is required to make your desired presentation or to enable Poosh to use the Likeness, Business Indicia, Statements and the Material as described herein; (v) Poosh's use of the Material, Business Indicia, Statements and Likeness hereunder will not violate the rights of any third party other than any Collaborators; (vi) Poosh shall have the right to use the Material free and clear of any claims for royalties, residuals or other compensation, either by virtue of this Agreement or any guild or union agreement, which you acknowledge does not govern your relationship with Poosh; (vii) you have answered all questionnaire and application questions completely, honestly and accurately, and you acknowledge that if any of the foregoing information is found to be false, that this will be grounds for your dismissal from the Program participant selection process and/or from the Program, if selected; (viii) you further understand and acknowledge that you will be required to enter into further agreements with Poosh relating to your Business Entity and participation in the Program; and (ix) you understand and agree that all decisions by Poosh concerning the selection of the participants and winners are final and not subject to challenge or appeal.

8. **Securities Acknowledgment.** You understand that the announcement, solicitation and/or acceptance of any investment in your Business Entity or any equity interests thereto of any kind from Poosh may be a securities offering and/or a sale of securities governed by federal, state and other securities laws, and you agree to comply with any and all applicable securities laws in connection therewith, including but not limited to laws governing the offer and sale of securities. You also understand that it is your sole responsibility to comply with such securities laws, that Poosh will not be providing you with any advice or assistance of counsel in that regard. In addition, you acknowledge and agree that Poosh will not be acting on your behalf, either directly or indirectly, as an agent, broker or finder, in connection with the offer or sale of any securities and that Poosh will not have any liability for your failure to comply with such securities laws.

9. **Confidentiality.** Without the express prior written consent of Poosh, you shall not at any time, reveal, report, publish or disclose any information or trade secrets obtained or learned by you about the Program, including, without limitation, any information concerning or relating to the Program, the participants, the events taking place in or around the Program, any ideas, products, inventions, services or businesses presented by any participant in connection with the Program or the outcome of the Program or any episode or presentation associated therewith (collectively, "**Confidential Information**"). This confidentiality obligation shall remain in place whether or not you are selected to participate in the Program, and shall continue both during and after your participation in the participant selection and, if selected as a participant, your participation in the Program. You further agree that any Confidential Information of which you become aware will only be used for the express and exclusive purposes for which Poosh has instructed you to use the Confidential Information.

10. **Limitations of Liability; General Release.** To the maximum extent permitted by law, you, your heirs, next

of kin, spouse, guardians, legal representatives, executors, administrators, successors and assigns (collectively “**Releasing Parties**”) hereby irrevocably and unconditionally release and covenant not to sue Poosh, and its parent, subsidiary, affiliated and related entities, their successors, licensees, assigns, and their respective directors, officers, shareholders, members, employees, agents and representatives (collectively “**Releasees**”) from any and all claims, actions, damages, liabilities, losses, costs and expenses of any kind (including, without limitation, attorneys’ fees) (collectively “**Claims**”) arising out of, resulting from, or by reason of your Application for and/or participation in or in connection with the Program, including, without limitation, any damage arising from any website associated with the Program or the downloading from and/or printing of material downloaded from such website; if selected as a winner, the Business Entity’s acceptance or participation, or inability to participate, in the Pitch; any travel you undertake in connection with your participation in the Program; any exploitation, distribution, exhibition, advertising and/or promotion of the Program; any disclosure of your idea, product, invention, service or business; the failure of Poosh to select you as a participant; the cancellation of the Program; the negotiation, entry into or breach of any agreement between Poosh and you (whether during or after your participation in the Program and whether or not such negotiation culminates in a binding agreement); or the exercise by Poosh or anyone else of any rights granted by you under this Applicant Agreement (including without limitation those granted under Section 5), on any legal theory whatsoever (including without limitation personal injury, property damage, violation of privacy and publicity rights, false light, defamation, intentional or negligent infliction of emotional distress, products liability, breach of express or implied contract, breach of any statutory or other duty of care owed under applicable laws, infringement of copyright, trademark or patent, loss, limitation or reduction of any intellectual property rights and loss of earnings or potential earnings). In the event of any ambiguity or error(s) in this Agreement, Poosh reserves the right to clarify or modify this Agreement however it deems appropriate to correct any perceived ambiguity or error(s). If due to an error or for any other reason, more legitimate winners are announced than the number of winners made available as stated in this Agreement, Poosh reserves the right to award only the number of winners made available as stated in this Agreement.

I SPECIFICALLY UNDERSTAND AND AGREE THAT THIS RELEASE WILL PREVENT ME FROM BRINGING A LAWSUIT, CLAIM, OR OTHER ACTION AGAINST ANY OF THE RELEASEES AND FROM RECOVERING ANY MONEY DAMAGES OR OTHER LEGAL RELIEF FROM ANY OF THE RELEASEES IN CONNECTION WITH ANY OF THE RELEASED CLAIMS ABOVE.

11. **Limitation of Remedies.** Without limiting any provision of this Applicant Agreement, your remedies for any breach of this Agreement by Poosh or others will be limited to an action at law for damages (if any), and in no event will you be entitled to rescind this Applicant Agreement or seek injunctive or any other equitable relief (including without limitation through any arbitration proceeding) in connection therewith.

12. **Release of Unknown Claims.** You acknowledge that there is a possibility that after your execution of this Agreement, you may discover facts or incur or suffer claims which were unknown or unsuspected at the time this Applicant Agreement was executed and which, if known by you at that time, may have materially affected your decision to execute this Applicant Agreement. You acknowledge and agree that by reason of this Applicant Agreement, and the release of liability contained herein, you are assuming any risk of such unknown facts and such unknown and unsuspected claims. You have been advised of the existence of Section 1542 of the California Civil Code which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH, IF KNOWN BY HIM OR HER, MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Notwithstanding Section 1542 of the California Civil Code, this Applicant Agreement shall constitute a full release of liability in accordance with its terms. You knowingly and voluntarily waive the provisions of Section 1542, as well as any other statute, law or rule of similar effect, and acknowledge and agree that this waiver is an essential and material term of this Agreement and that without such waiver, Poosh would not have accepted this Applicant Agreement or your Application.

**LEGAL WARNING: ANY ATTEMPT BY AN INDIVIDUAL, WHETHER OR NOT AN APPLICANT, TO DELIBERATELY UNDERMINE THE LEGITIMATE OPERATION OF THE PROGRAM IS A VIOLATION OF CRIMINAL AND CIVIL LAWS, AND SHOULD SUCH AN ATTEMPT BE MADE, POOSH RESERVES THE RIGHT TO SEEK DAMAGES AND PURSUE ALL OTHER REMEDIES AGAINST ANY SUCH INDIVIDUAL TO THE FULLEST EXTENT PERMITTED BY LAW.**

Poosh may prohibit an Applicant from submitting an Application or Entrant's Business Entity from participating in the Program if, in its sole discretion, it determines that said Applicant is attempting to undermine the legitimate operation of the Program by cheating, deception, or other unfair playing practices (including the use of automated quick entry programs) or intending to annoy, abuse, threaten or harass any other Applicants or any Poosh Parties.

13. **Indemnity.** You agree to defend (at indemnitees' option), indemnify and hold harmless the Releasees from any and all Claims caused by or arising out of your Application for and/or participation in and in connection with the Program, including, without limitation, any of the following: (i) any statement, action or omission made or taken by you or anyone else during or in connection with or relating to the Program; (ii) your failure to follow the instructions of Poosh, any of its officers, agents, representatives or employees, or anyone connected with the Program; (iii) your breach of any of your representations, warranties, undertakings, promises or obligations pursuant to this Applicant Agreement or any additional Program Rules (as may be promulgated and amended from time to time); (iv) your possession or use of any prize or investment; or (v) the use by Poosh or any of its licensees or assigns of any of the rights you have granted herein.

14. **Governing Law.** This Agreement shall be deemed to be entered into in Los Angeles County, California, and shall be governed by and interpreted in accordance with the laws of the State of California applicable to agreements executed and fully carried out within California (but not its conflict of laws principles).

15. **Dispute Resolution/Binding Arbitration.** Both Poosh and you acknowledge, understand and agree that any action, proceeding or litigation concerning this Agreement may only be brought in Los Angeles County, California, and that, subject to the arbitration proceeding below, the courts of Los Angeles County, California, shall have exclusive jurisdiction over you and the subject matter of any such proceeding. The parties agree that any and all disputes, controversies or claims arising under or relating to this Applicant Agreement or any of its terms, including without limitation the applicability of this arbitration provision, any effort by any party to enforce, interpret, construe, rescind, terminate or annul this Applicant Agreement, or any provision thereof, and any and all disputes or controversies arising under or relating to your possible appearance or participation in the Program that are not otherwise barred or released pursuant to the terms of this Applicant Agreement (collectively, "**Matters**"), and cannot be resolved through direct discussions, the parties agree to endeavor first to resolve by mediation conducted in the County of Los Angeles by JAMS or its successor ("**JAMS**"). If any Matter is not resolved, as set forth above, the parties then agree that it shall be resolved by binding arbitration conducted in accordance with the Streamlined Arbitration Rules and Procedures of JAMS through its Los Angeles, California office, in accordance with California law. Any such arbitration shall be conducted by a single, neutral arbitrator, who shall also be a retired judge of a state or federal court, experienced in entertainment disputes, and selected from the JAMS' panel of arbitrators proffered by its Los Angeles, California office. If the parties cannot agree upon an arbitrator after good faith discussion, the arbitrator shall be chosen by JAMS pursuant to the requirements of this paragraph. The parties agree that the arbitrator's ruling in the arbitration shall be final and binding and not subject to appeal or challenge. The parties further agree that the arbitration proceedings, testimony, discovery and documents filed in the course of such proceedings, including the fact that the arbitration is being conducted, must be treated as confidential and must not be disclosed to any third party to such proceedings, except the arbitrator(s) and their staff, the parties' attorneys and their staff, and any experts retained by the parties; provided that such arbitrator(s) and their staff, the JAMS and its staff, the parties' attorneys and their staff, and any experts retained by the parties. The Federal Arbitration Act (9 U.S.C. § 1, et seq.) or its successor statute shall apply and govern the enforcement of this arbitration clause. **By agreeing to arbitration, the parties acknowledge that they have waived the right to a jury trial.** You further acknowledge and agree that the business realities of programs of this nature create special

circumstances for which Poosh must be able to maintain its ability to seek injunctive relief and/or other equitable and/or provisional remedies. Accordingly, the parties agree that nothing in this paragraph or in any of the applicable rules of JAMS, shall prevent Poosh from seeking provisional relief outside of arbitration. For example, a participant's premature or threatened disclosure in violation of the confidentiality provisions of this Agreement could result in a reduction of audience or participant interest or other diminution in the value of the Program or Poosh's rights hereunder, which would cause Poosh irreparable injury and damage that could not be reasonably calculated or adequately compensated by damages in an action at law. You hereby expressly agree that Poosh shall be entitled to injunctive and other equitable relief in connection therewith.

16. **Severability, Assignment.** Without limiting the foregoing, any provision of this Agreement that is invalid, illegal, or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective only to the extent of such invalidity, illegality or unenforceability, without affecting in any way the remaining provisions hereof in such jurisdiction or rendering that or any other provision of this Agreement invalid, illegal or unenforceable in any other jurisdiction. Poosh (and its assignees and licensees) may freely assign, in whole or in part, any of their rights or obligations under this Agreement. You may not assign any of your rights or obligations under this Applicant Agreement.

17. **Entire Agreement.** In signing this Agreement, you have not relied on any representations or other statements that are not contained herein. No promises have been made to you other than as expressly set forth herein. This Applicant Agreement shall supersede and replace all prior and contemporaneous oral, written and electronic communications, understandings and agreements between Poosh and you relating to the subject matter hereof. This Applicant Agreement, and the other agreements or other documents, policies, and rules referenced herein, set forth the entire agreement between Poosh and you with respect to the subject matter hereof and may not be altered or amended except by a writing signed by both parties.

18. **Modification or Amendment.** This Applicant Agreement cannot be changed, amended, modified or terminated except in writing signed by Poosh and you.

19. **Waiver.** Any waiver of any term of this Agreement in a particular instance shall not be a waiver of such term for the future. You agree that the invalidity or unenforceability of any part of this Agreement shall in no way affect the validity or enforceability of any other part thereof.

You declare under penalty of perjury that all statements made by you in your Application and the Applicant Agreement are true. The name provided in your Application is your legal name. Any other name(s) or alias(es) used by you within the past seven years are also noted in the Application. You have been given ample opportunity to read, and have carefully read, this entire Applicant Agreement. You represent and warrant that you have had the opportunity to consult with your own legal counsel prior to signing, and you have either so consulted with your own counsel or, in the alternative, you have voluntarily and on your own accord declined such opportunity. By submitting your Application and/or accepting this Applicant Agreement, you are voluntarily and knowingly agreeing to the terms and conditions of this Applicant Agreement.

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Signature

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Print Name

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Date