<u>Online Sellers' Bill of Rights Section-by-Section Analysis</u>

Section 1. Identifies the bill's short title, "The Online Sellers' Bill of Rights Act of 2025."

Section 2. Describes the current state of the market, where dominant online platforms exploit their market power over third-party sellers in ways that deny many small- and medium-sized businesses transparency and due process. It also details the bill's purpose, which is to give third-party sellers transparency, adequate notice, and access to a clear, impartial, and timely method of resolving disputes while maintaining competitive and safe online markets.

Section 3. Directs the Federal Trade Commission (FTC) to promulgate rules that promote fair terms of doing business for major e-commerce platforms and third-party sellers. In crafting these rules, it requires the FTC to factor in the public's health and safety, and allows the FTC to consider other relevant priorities. Critically, this section includes six specific points that must be addressed by the FTC's rules, explained in detail below:

Inventory Holds: Section 3(a)1 directs the FTC to address improper inventory holds in its rule by requiring platforms to return any goods either back to the seller or back on their platform if the platform cannot substantiate that goods are unlawful within 30 days. It also requires that a platform notify a seller within 72 hours with the rationale and appeals process for any inventory hold.

Fund Holds: Section 3(a)2 directs the FTC to use the same standard towards goods as they do funds. A dominant platform would be prohibited from holding a seller's funds for more than 30 days unless it sets forth legally valid evidence that a seller violated a specific platform rule, policy, or the law. A dominant platform would also be required to provide actionable notice to sellers within 72 hours of any hold.

Gated Products: Section 3(a)3 directs the FTC to address goods that are received and processed by a dominant platform's fulfillment center before a new restriction or requirement is put in place. Sellers must be allowed to sell through that inventory, or the platform must return it to the seller at no cost.

Policy Changes: Section3(a)4 directs the FTC to require that a dominant platform give ample notice to third-party sellers prior to any meaningful policy change. Platforms must give sellers 30 days' advance notice of any change that affects a product's eligibility for sale on the platform including category or listing restrictions, compliance or documentation requirements, and commission or fee structures.

Transparency in Investigations: Section 3(a)5 directs the FTC to require a floor for transparency in communications from dominant platforms to the platform's sellers. Platforms must communicate the specific rule or policy they allege a seller has violated; any relevant facts, reporting, or documentation supporting the platform's allegations; the proposed penalty; the steps a seller could take to appeal or resolve the issue; and an anticipated timeline for resolution.

Presumption of Innocence: Section 3(a)6 directs the FTC to prevent a dominant platform from suspending, deactivating, withholding inventory, or freezing funds based solely on unsubstantiated suspicions or speculation. It also squarely places the burden of proof on the platform to prove that a seller violated a rule or law before penalizing a seller for a period of more than 30 days.

Section 4. Specifies a deadline for the FTC's issuance of rules and its enforcement mechanism. It directs the FTC to issue rules within 180 days of this bill's enactment, and empowers the FTC, Department of Justice (DOJ), and state attorneys general to enforce the rule. It also allows state attorneys general to bring cases on behalf of their constituents in any district with jurisdiction over the platform in question, and includes a private right of action for civil enforcement.

Section 5. Clarifies important definitions used throughout the bill.

Critical Trading Partner: Section 5(a) defines a "critical trading partner" as an online platform that has the power to impede or prevent a third-party seller from accessing their customer base.

Third-Party Seller: Section 5(b) defines a "third-party seller" as any person selling goods on a platform that it does not own or control.

Legally Valid Standard of proof: Section 5(c) defines "legally valid standard of proof" as a legal threshold determined by the FTC, and recommends the FTC use a preponderance of the evidence as that standard.

Gated Product: Section 5(d) defines "gated product" as a product restricted by a dominant platform only to one or more approved sellers as determined by the platform.

Section 6. Establishes a rule of construction to clarify that nothing in this bill limits the powers of the FTC or DOJ under the antitrust laws, or the application of any other law.

Section 7. Clarifies that if any portion of this law is held to be unconstitutional, the rest of the law would still apply.

Section 8. Establishes that this law will go into effect 180 days after it is enacted.