

Finale Partner Program Terms & Conditions

June 2022

Our Partner Program (the “**Program**”) is meant to encourage you to promote our software and services, to bring us to new audiences and to make sure that you are rewarded for your activity. This Partner Program Agreement (the “**Agreement**”) is a binding agreement between Finale Inventory, Inc. (“Finale Inventory”, the “**Company**”) and you, the individual or business entering into this Agreement, (“**Partner**”), (collectively “the **Parties**”). This Agreement governs your participation in the Finale Partner Program as further described herein (the “**Program**”).

PLEASE READ THIS AGREEMENT CAREFULLY. IT CONTAINS ARBITRATION PROVISIONS AND LIABILITY LIMITS, AMONG OTHER CLAUSES. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THIS AGREEMENT, IN WHICH CASE THE TERMS “PARTNER,” “YOU” OR “YOUR” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE PROGRAM.

YOU MAY NOT PARTICIPATE IN THE PARTNER PROGRAM IF YOU DO NOT ACCEPT THIS AGREEMENT.

1. Purpose

Company is in the business of offering a cloud hosted inventory management service and barcode scanner software that integrates with mobile barcode scanners. The Partner is in a position to refer prospective customers to the Company. This Agreement provides the terms and conditions under which the Partner will do so as part of the Partner Program.

2. Referral Arrangement

By accepting this Agreement and participating in the Partner Program, the Partner may refer new prospective customers (the “**New Customers**”) to the Company on a non-exclusive basis. Company will pay the Partner a Referral Fee for each Successful Referral. A “Successful Referral” occurs where: a New Customer signs up for a Finale Inventory Management Subscription as a result of a shared lead referral from the Partner. Further, a referral will only be a “Successful Referral” if the New Customer is not a customer that (i) the Company has already contracted with or contacted about its services or (ii) has already been referred to Company by a third party or (iii) has been suspended for non-payment or for violation of the Finale Inventory Terms of Use or (iv) has not already created an account with Finale.

3. Referral Fee

For each Successful Referral, Company shall pay Partner a Referral Fee based on the upgraded subscription of each New Customer that Partner refers. For the specific payouts, see here: <https://finaleinventory.partnerstack.com>.

4. Payments

Payments in the Finale Inventory Partner Program are handled by Finale's payment provider platform (the "Payment Provider"). In order to receive payments under this Agreement, Partner must create and maintain an account with Payment Provider in the Payment Provider's online or app-based dashboard ("Payment Provider Platform"), which is provided pursuant to terms directly between the Payment Provider and Partner. Partners must keep all information updated and complete within the Payment Provider Platform to receive proper payments. Payments returned due to incorrect payment email addresses or other incorrect information will not be returned. The Payment Provider Platform will reflect payment history to Partner, and the parties agree that: (a) the data shown in the Payment Provider Platform will govern payments to be made, subject to Company's right to correct errors based on its own records and (b) records and payments will be deemed complete, incontestable, and final twelve (12) months after the applicable Successful Referral occurs.

5. Relationship of the Parties

Partner is an independent contractor of Company and nothing in this Agreement shall be construed to create any association, partnership, joint venture, employee or agency relationship between the Company and Partner for any purpose. Partner has no authority (and shall not hold itself out as having authority) to bind Company and Partner shall not make any agreements or representations on Company's behalf. Either Party is solely responsible for paying all of its costs and expenses related to this Agreement. You acknowledge and agree that Finale may be independently creating applications, content and services that may be similar to or competitive with your products or services, and nothing in this Agreement will be construed as restricting or preventing Finale from creating and fully exploiting such applications, content and other items, without any obligation to you.

6. Term

This Agreement shall commence upon the date that Partner joins the Program (Upon approval) and will continue until otherwise terminated by one of the Parties pursuant to Section 8: Termination Clause of the Agreement.

7. Confidentiality

During the course of this Agreement, it may be necessary for either Party to share proprietary and/or confidential information with the other Party, including, but not limited to trade secrets and non-public industry knowledge (the "Confidential Information"). Either Party will not share any Confidential Information with any third party at any time. Partner will also not use any

Confidential information for his/her or a third party's personal benefit at any time. This section remains in full force and effect even after termination of the Agreement.

8. Termination

This Agreement may be terminated at any time by: (a) either Party upon 30 days written notice to the other Party or (b) by Company immediately upon notice if Partner breaches any provision of this Agreement. If Company terminates the Agreement, payment obligations of the Agreement for Successful Referrals shall survive for a period of one (1) month after termination of the Agreement; provided that Partner is only entitled to Referral Fees for New Customers which it has referred to Company through a Successful Referral sent prior to the effective date of termination of the Agreement. Upon termination of this Agreement for any reason, you shall cease all use of Finale products and services and you shall destroy and remove from all computers, hard drives, networks, and other storage media all copies of the software and any other data, and shall so certify, if requested, to Finale that such actions have occurred.

9. Representations and Warranties

Both Parties represent that they are fully authorized to enter into this Agreement and that each Party shall comply with all applicable laws, rules, and regulations and will not violate or infringe upon any third-party rights in its performance of its rights and obligations under this Agreement. Partner further represents and warrants that:

1. it will comply with all laws, rules, and regulations;
2. it will conduct itself in an ethical manner and refer only *bona fide* New Customers to the Company.
3. it will not infringe or otherwise violate any third-party right;
4. its website will not be identical, copied in any way, nor will it mirror the look and feel of our site. Partner cannot in any way create an impression that its site is Company's website or even mirror a part of Company's website in any manner;
5. it will not engage in any behavior that is fraudulent, abusive or harmful to the site or program at our discretion;
6. it will not send unsolicited bulk-email (spam). Partner shall not create advertising sites that contain adult content, pornography, weapons, graphic violence (including any violent video game images), alcohol, drugs, tragedy, transportation accidents, sensitive social issues or gambling, or content that is abusive, profane, hateful, threatening, harmful, abusive, abusive, harassing, or discriminatory (whether by race, ethnicity, religion, religion, sex, sexual orientation, physical disability, or otherwise);
7. it must only use branded ad copy, content and media provided by the Company. Any ad copy, content or media not provided by Company must be approved by Company prior to use.

10. Limitation of Liability

UNDER NO CIRCUMSTANCES WILL COMPANY BE LIABLE TO PARTNER OR ANY THIRD PARTY UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION AND THE LIKE), WHETHER FORESEEABLE OR UNFORESEEABLE, REGARDLESS OF THE BASIS OF THE CLAIM AND EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE. COMPANY WILL HAVE NO LIABILITY FOR THE ACTS OR OMISSIONS OF THE PAYMENT PROVIDER OR THE PAYMENT PROVIDER PLATFORM.

11. Disclaimer of Warranties

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, COMPANY DOES NOT MAKE ANY OTHER REPRESENTATION, WARRANTY, OR GUARANTY, AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE PROGRAM PROVIDED OR OFFERED HEREUNDER. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PROGRAM IS PROVIDED STRICTLY ON AN "AS IS" BASIS AND ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR ANY WARRANTIES ARISING FROM USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. IN PARTICULAR, COMPANY DOES NOT MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING COMPENSATION OR ANY OTHER BENEFITS THAT PARTNER WILL RECEIVE. ALL OF COMPANY'S OBLIGATIONS ARE AS, AND ONLY AS, EXPRESSLY STATED IN THIS AGREEMENT. PARTNER HAS NO RESPONSIBILITY TO COMPANY IF REFERRALS DO NOT LEAD TO SUCCESSFUL REFERRALS.

12. FTC Endorsement Compliance

It is the mission of the Company to treat all our customers well. In line with this, we require all Partners to comply with applicable laws, regulations and guidelines regarding advertising and marketing, including without limitation, the Federal Trade Commission (FTC) Endorsement Guides, which requires disclosure of communications between advertisers and sponsors. This means that all of Partner's materials (e.g. emails, websites, blogs) must clearly disclose the fact that you are receiving compensation for referred customers. Company reserves the right to withhold the Referral Fee and terminate the relationship if Partner does not comply with any of the foregoing guidelines or other FTC regulations or guidelines that we deem appropriate. Finale Inventory reserves the right to permanently withhold the Referral Fees and terminate this agreement if we determine, in our sole discretion, that you do not comply with any of the foregoing guidelines or other FTC regulations or guidelines that we deem appropriate.

13. No License Grant

Nothing in this Agreement shall be construed as granting Partner, by implication, estoppel or otherwise, any license or other right under any intellectual property rights of the Company. EXCEPT AS EXPRESSLY PERMITTED HEREUNDER, YOU SHALL NOT AND ARE NOT PERMITTED TO (i) USE THE FINALE TRADEMARK, NAME, LOGO OR ANY OF OUR OTHER INTELLECTUAL PROPERTY, INCLUDING WITHOUT LIMITATION, THE LINKS, AND THE LICENSED MATERIALS (COLLECTIVELY, THE “FINALE INVENTORY IP”) (OR ANY MISPELLINGS OR VARIATIONS THEREOF OR OTHER TERM OR TERMS SIMILAR TO ANY OF THE FOREGOING) WITHOUT FINALE INVENTORY’S EXPRESS PRIOR WRITTEN PERMISSION; (ii) USE FINALE INVENTORY IP IN A DOMAIN OR WEBSITE NAME, IN ANY BIDS FOR KEYWORDS OR GOOGLE ADWORDS (OR SIMILAR PROGRAMS AT OTHER SEARCH ENGINES), IN ANY SEARCH ENGINE ADVERTISING (PAID OR OTHERWISE), IN ANY META TAGS, GOOGLE ADWORDS (OR SIMILAR PROGRAMS AT OTHER SEARCH ENGINES), SEARCH TERMS, KEYWORDS, CODE, OR ADVERTISING; (iii) ACT IN ANY WAY THAT CAUSES OR COULD CAUSE, CREATES OR COULD CREATE AN “INITIAL INTEREST CONFUSION” OVER THE USE OF FINALE INVENTORY IP ON THE INTERNET OR IN ANY SEARCH ENGINE ADVERTISING. YOUR USE OF FINALE INVENTORY IP IN ANY MANNER, OTHER THAN AS EXPRESSLY PERMITTED HEREUNDER SHALL CONSTITUTE UNLAWFUL INFRINGEMENT OF FINALE INVENTORY’S INTELLECTUAL PROPERTY RIGHTS, AND MAY SUBJECT YOU TO THE CLAIMS FOR DAMAGES (INCLUDING POTENTIAL DAMAGES FOR KNOWING OR WILFUL INFRINGEMENT), AND THE OBLIGATION TO PAY FINALE INVENTORY’S LEGAL COSTS AND FEES IN CONNECTION WITH ANY ACTION OR PROCEEDING IN WHICH FINALE INVENTORY SEEKS TO IMPLEMENT ITS RIGHTS UNDER THIS AGREEMENT OR IN REGARD TO ANY OF FINALE INVENTORY’S INTELLECTUAL PROPERTY RIGHTS.

14. Social Media Restrictions

When advertising or promoting the program on Facebook, Twitter, Instagram, YouTube and any other social media platforms, you indicate and warrant that you will comply with the following requirements:

1. You can only promote programs and links on your social media page.
2. You are prohibited from posting your links on our Facebook, Twitter, Pinterest, or any other company’s social media account or page in an effort to convert those links into affiliate partner sales.
3. You are prohibited from creating a social media account that includes our trademark in the page name and/or username.

15. Severability

In the event any provision of this Agreement is deemed invalid or unenforceable, in whole or in part, that part shall be severed from the remainder of the Agreement and all other provisions should continue in full force and effect as valid and enforceable.

16. Waiver

The failure by either Party to exercise any right, power or privilege under the terms of this Agreement will not be construed as a waiver of any subsequent or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

17. Governing Law and Jurisdiction

This Agreement, and any disputes, actions, claims, or causes of action arising out of or related to this Agreement, will be governed by the *Federal Arbitration Act*, applicable federal law, and the laws of the state of California, excluding its conflicts of law rules. Any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Notwithstanding the foregoing, each Party shall have the right to institute an action in any court of competent jurisdiction for injunctive relief.

a. Governing Law. You agree that: (i) the Service shall be deemed solely based in California; and (ii) the Service shall be deemed a passive one that does not give rise to personal jurisdiction over us, either specific or general, in jurisdictions other than California. This Agreement shall be governed by the internal substantive laws of the State of California, without respect to its conflict of laws principles. The parties acknowledge that this Agreement evidences a transaction involving interstate commerce. Notwithstanding the preceding sentences with respect to the substantive law, any arbitration conducted pursuant to the terms of this Agreement shall be governed by the Federal Arbitration Act (9 U.S.C. §§ 1-16). The application of the United Nations Convention on Contracts for the International Sale of Goods is expressly excluded. You agree to submit to the personal jurisdiction of the federal and state courts located in Santa Clara County, California for any actions for which we retain the right to seek injunctive or other equitable relief in a court of competent jurisdiction to prevent the actual or threatened infringement, misappropriation or violation of a our copyrights, trademarks, trade secrets, patents, or other intellectual property or proprietary rights, as set forth in the Arbitration provision below, including any provisional relief required to prevent irreparable harm. You agree that Santa Clara County, California is the proper forum for any appeals of an arbitration award or for trial court proceedings in the event that the arbitration provision below is found to be unenforceable.

b. Arbitration. READ THIS SECTION CAREFULLY BECAUSE IT REQUIRES THE PARTIES TO ARBITRATE THEIR DISPUTES AND LIMITS THE MANNER IN WHICH YOU CAN SEEK RELIEF FROM FINALE. For any dispute with FINALE, you agree to first contact us and attempt to resolve the dispute with us informally. In the unlikely event that Finale has not been able to resolve a dispute it has with you after sixty (60) days, we each agree to resolve any claim, dispute, or controversy (excluding any claims for injunctive or other equitable relief as provided below) arising out of or in connection with or relating to this Agreement, or the breach or alleged breach thereof (collectively, "Claims"), by binding arbitration by JAMS, under the Optional Expedited Arbitration Procedures then in effect for JAMS, except as provided herein. JAMS may

be contacted at www.jams.adr.com. The arbitration will be conducted in Santa Clara County, California, unless you and Finale agree otherwise. Each party will be responsible for paying any JAMS filing, administrative and arbitrator fees in accordance with JAMS rules, and the award rendered by the arbitrator shall include costs of arbitration, reasonable attorneys' fees and reasonable costs for expert and other witnesses. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Nothing in this Section shall be deemed as preventing Finale from seeking injunctive or other equitable relief from the courts as necessary to prevent the actual or threatened infringement, misappropriation, or violation of our data security, Intellectual Property Rights or other proprietary rights.

18. No Class Action

Arbitration may only be conducted on an individual, not a class wide, basis. No arbitration proceeding between the Parties may be consolidated with any other arbitration proceeding involving Company and any other person or entity. Each Party shall file and prosecute arbitration proceedings separately and individually in the name of the respective Parties, and not in any representative capacity. Each Party hereby irrevocably waives and agrees not to assert any claim inconsistent with this Section. BY AGREEING TO THIS AGREEMENT, EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT (i) TO A COURT TRIAL OR (ii) TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY LAWSUIT, ARBITRATION OR OTHER PROCEEDING FILED AGAINST COMPANY AND/OR RELATED THIRD PARTIES, EVEN IF ARBITRATION IS NOT REQUIRED UNDER THIS AGREEMENT.

19. Limitations

REGARDLESS OF ANY STATUTE OR LAW TO THE CONTRARY, ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF OR RELATED TO USE OF THE SITE, SERVICES, OR THIS AGREEMENT MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM OR CAUSE OF ACTION ARISES OR IT WILL BE FOREVER BARRED.

20. Assignment

Partner shall not assign, transfer, or delegate any of its rights or obligations under this Agreement, in whole or in part, by operation of law or otherwise, without the prior written consent of the Company. Company may freely assign this Agreement.

21. Notice

Notice to Partner may be given by a notification within the Payment Provider Portal and/or email to Partner to the address provided to Company. Notice will be effective when given. Notice to Company may be given by email to Company at partners@finaleinventory.com and will be effective when received.

22. Entire Agreement

The Parties acknowledge and agree that this Agreement represents the entire agreement between the Parties, and supersedes all prior agreements related to the Program or any other commission-based program. Finale Inventory may amend this Agreement from time to time based on changes to the Program, in which case the new Agreement will supersede prior versions. Finale Inventory will notify Partner of any material changes affecting its rights through a notification within the Payment Provider Portal and/or email referencing the latest version. The Parties may also document modifications to this Agreement by way of an amendment signed (in ink or electronically) by the Parties.