

POND5 REFERRAL PROGRAM TERMS

These Terms governs your participation in the Referral Program (the "Program") of Pond5 Inc., its subsidiaries, and its corporate affiliates (collectively, "Pond5", "we" or "us") for referrals of customers to the Pond5 website, www.pond5.com (the "Website").

We reserve the right, in our discretion, to change, terminate or modify all or any part of the Program or these Terms at any time, effective immediately upon notice published on the Website.

Who Is Eligible to Participate in the Program; these Terms

The Program is open to all Website registered users. By participating in the Program, you are agreeing to be legally bound by these Terms and the [Website Terms of Use](#), as are in effect at the relevant time.

Referrals, Referral Links and the APIs

After you have logged in as a user of the Website (a "User"), in order to allow the referral information to be set for you, you need to do the following (each, a "Referral"):

- copy one of the links, banners or embeddable player/widgets available on the Referral page of the Website (each a "Referral Link") onto your website, blog or app; or
- add Pond5 search functionality to your website, blog or app by using one of our API's (a "API") as described on the Referral page of the Website.

The Referral Links and API have been designed with the aim that if a Referral Link set for you is used by a person to link to the Website and the person registers (personally or on behalf of a company, organization or other entity) as a User of the Website, and hasn't previously registered as a User (i.e., becomes a "New User"), you will be recognized as the User who introduced the New User to us (the "Referring User").

Referral Payments Credited and Payable to You

If you are recognized by us as the Referring User, you will be eligible to receive a percentage of the net license fees paid by the New User to us for downloads from the Website within the first 12 months after the New User first registers as a User of the Website or up to \$500 USD per New User (your "Referral Share"), whichever occurs first, on the terms and subject to the conditions and limitations described in these Terms. The percentage will be the applicable percentage set out in the Referral Program page of the Website or other applicable percentage agreed upon in writing by you and us.

The license fees paid by the New User will be determined based on the license fees actually paid and collected during the 12 month period after the New User first registers as a User of the Website, net of: (i) taxes or other withholdings that we determine are required by applicable law; (ii) unpaid amounts owed by the New User to us; (iii) fees, charges and/or costs payable to or deducted by financial institutions for the processing of the payments received by us from the New User; (iv) refunds, charge backs, or bad debt due or made to the New User; (v) discounts and (vi) amounts set aside as a potentially false transaction, regardless of when accrued or determined.

Your ability to receive any payments available under the Program is conditioned upon you providing the information required by our registration process, clicking through your acceptance of these Terms and the [Website Terms of Use](#) in the place provided by us and complying with the same.

If you select the automatic payout option in the payout preference field ("Payout Preferences") on your account dashboard, your Referral Share will be paid on the 15th of each month in U.S. Dollars using the payout method that you select subject to a minimum payout of US\$25. We reserve the right in our sole discretion to expire any unpaid Referral Share amount which remains in your account for one (1) year or more from the date such amount was credited to your account. The Referral Share will be calculated and made in USD.

Payment of your Referral Share may be delayed by us for up to 90 days and will be net of applicable taxes or withholdings required by applicable law, overpayment of fees in a prior period, legal and other reasonable fees incurred in enforcing these Terms and any other amount owing by you to Pond5 under these Terms or otherwise. Pond5 reserves

the right in its sole discretion to determine whether and to which Pond5 product(s) a Referral may apply. Any overpayment of your Referral Share by us will be refunded by you to us on request.

Rules of the Program

In order to qualify as an effective Referral:

- The New User may only be a (i) new or (ii) current or past User of Pond5.com that has never made a paid purchase on the Pond5 Website and must complete, submit and have accepted a valid Pond5 membership registration through your Referral Link.
- The New User must have cookies enabled on their browser when clicking on your Referral Link to the Website, when reaching the Website, when completing the Pond5 membership application, and when a license to media from the Website (otherwise we can't track it).
- When coming to the Website and making the required purchase, the New User must still have the cookie enabled that was placed on their computer when clicking on the Referral Link and the cookie must not have expired. This means the purchase must be within 30 days of clicking the Referral Link.

Your participation in the Program and right to receive your Referral Share are subject to the following terms, compliance with which are conditions to your right to use the Referral Links and APIs or receive your Referral Share:

- Pond5 reserves the right for any reason to refuse any New User application, Referral relationship, Referral Share, or purchase transaction in its discretion, without notice or any communication to you. We will not be required to provide you with any information or updates regarding the New User, except to confirm the Referral.
- You shall not use spam or do anything that would bring the Program or Pond5 into any kind of disrepute in the course of using any Referral Link, API or Referral.
- You may not be a member of any affiliate marketing network or any other organization or entity that agrees to pay, give, distribute, reward or otherwise provide any kind of benefit to you, in any manner whatsoever, for bringing or referring potential members to the Website.
- We will be entitled to determine in our sole good faith discretion any questions as to who, if anyone, made an effective Referral for a New User or is eligible to receive a Referral Share.
- You may not share your online payment processing service account (e.g., PayPal, Payoneer or Skrill) with another Pond5 member, User, Contributor or Licensee. You further agree that Pond5's payment to PayPal, Payoneer, or Skrill or the like using the information you provide to Pond5, shall be deemed to be full satisfaction of Pond5's obligation to compensate you as provided herein.
- You may not use any Referral Links or API in any manner that could damage, disable, overburden, or impair the Website or any other site or interfere with any other party's use and enjoyment of the Website, their own site or their use of Referral Links or an API.
- You will not use any of our trademarks or intellectual property or make any representations, warranties or other statements concerning Pond5, the Website or any of our products, services or policies, except as permitted by these Terms or with our written consent.
- Pond5 may modify Referral Share percentages and/or payment schedules at any time and notify you by posting the modified percentages or schedule on the Referral Program page of the Website. If Pond5 does modify any percentage, only your Referral Share earned after the effective date of change will be affected by the changed percentage.
- Participation in the Program may make the New and Referring User ineligible to participate in other referral or affiliate programs. Participation in other referral or affiliate programs may make the New and Referring User ineligible to participate in the Program.

Use of Referral Links and the APIs:

- We hereby grant to you a non-exclusive and non-transferable license to use Referral Links and APIs for placement on your blog, app or internet site, for the sole and exclusive purpose of referring potential New Users to the Website, on the terms and subject to the conditions and limitations contained in these Terms.
- We reserve the right to revoke the license to use the Referral Links and APIs, in whole or part, at any time.
- You acknowledge and agree that all aspects of each of the Referral Links and APIs, in any language, format or medium, are and remain our valuable and exclusive property and are protected under trade secret, copyright, trademark and/or patent law.
- You shall have no rights to any Referral Link or APIs except as expressly set forth in these Terms.
- Except as expressly permitted in these Terms, you shall not, and shall not assist anyone else to: (a) copy, use, publish, disclose, distribute, give access to, broadcast, or offer any Referral Link or API to any third party except for the purpose of making a Referral to the Website and as permitted by these Terms, (b) remove or modify any disclaimer or copyright or trademark notice contained in any Referral Link or API, or (c) reverse engineer, disassemble, de-compile, or use any other means to attempt to discover or to discover source code contained in a Referral Link or API.
- We reserve the right to review your blog, app or internet site and require you to modify your use of the any Referral Link or API following review of the same. If we issue or change any policies or rules in connection with Referrals or usage of the Referral Link and/or APIs, you agree to promptly conform your Referrals and use of the Referral Links and APIs to said policies or rules, as same may be amended from time to time.
- You may not use any Referral Links or APIs to market, promote, or endorse the goods, services, and/or cause of any other individual or entity or to otherwise benefit any third party, except the benefit of the New User in accessing and using the Website.
- You agree that you shall not bid on, register or purchase search engine keywords, domain names, or other identifying search terms or titles that are similar to the trademarks owned or controlled by Pond5, to promote your participation in the Program or otherwise.
- You acknowledge that, by participating in the Program and/or using any Referral Links or APIs, Pond5 may receive information from or about visitors to your blog, app or internet site to track Referrals and New Users.

Indemnity

You agree to indemnify, defend and hold Pond5 and its affiliates, and their respective directors, officers, employees, shareholders and agents (collectively, the "Pond5 Parties") harmless from and against any and all claims, actions, liability, losses, costs and expenses (including reasonable attorneys' fees) incurred by any Pond5 Party relating to or arising from any breach by you or your employee or other representative of these Terms. Pond5 reserves the right, at your expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, and in such case, you agree to cooperate with Pond5's defense of such claim.

Term and Termination

These Terms are effective so long as you participate in the Program, your participation is terminated by Pond5 or until the Program is discontinued by Pond5, whichever first occurs. The Referral Program or any aspect of it can be discontinued at any time in Pond5's discretion upon notice posted on the Website. Upon posting of such notice, the Program and these Terms shall be thereby terminated. Pond5 may terminate these Terms upon 30 days' notice by e-mail at the last address contained in your membership information. You may terminate these Terms by ceasing to participate in the Program at any time.

Limitation Of Liability, Warranties And Disclaimers Of Warranty

The terms and provisions of the Website Terms of Use relating to Limitations of Liability, Warranties and Disclaimers of Warranty (i) shall apply fully to the Program, our related services and the Website and, (ii) as applied to the foregoing, are hereby incorporated into these Terms to the same extent as if fully set forth herein.

Age and Responsibility

You represent and warrant that you are of sufficient legal age to use the Website and to create binding legal obligations for any liability you may incur as a result of the use of the Website and your participation in the Program.

Interpretation.

Unless the context requires otherwise, in any part of these Terms: (a) "including" (and any of its derivative forms, e.g. "includes"), "e.g." and "for example" means "including but not limited to"; (b) "must not", "should not", "shall not" and "may not" are expressions of prohibition, and "will", "must", "should" and "shall" are expressions of command, and not merely expressions of future intent or expectation; (c) use of the singular imports the plural and vice versa; and (d) references to one or no gender include the other or no gender.

Miscellaneous Provisions.

- The parties to these Terms are independent contractors, and nothing in these Terms, any Referral or access to or use of any Referral Links or APIs shall create a joint venture, partnership, employment relationship, or franchise or fiduciary relationship between the parties. Neither party shall have any authority to obligate or bind the other in any respect.
- If any provision, or portion thereof, of these Terms, or its application to any Person or circumstance, shall be invalid, illegal or unenforceable to any extent, the remainder of these Terms, such provision and their application shall not be affected thereby, but shall be interpreted without such unenforceable provision or portion thereof so as to give effect, insofar as is possible, to the original intent of the parties, and shall otherwise be enforceable to the fullest extent permitted by law.
- These Terms shall be construed in accordance with the laws of the United States and the State of New York without regard to its choice of law provisions. The United Nations Convention on Contracts for the International Sale of Goods does not govern these Terms. The Program, each Referral, any use of any Referral Links or API, access to and use of the Website and the entering into these Terms will be deemed to take place in the United States.
- Any dispute regarding these Terms, the Program, any Referral, your Referral Share or use of any Referral Links or API will be resolved exclusively by a State or Federal court in New York City in the United States. We and you hereby waive any objection to venue, or to the inconvenience of the forum, of any such court or right to trial by jury to resolve any such dispute. The parties hereby consent to the jurisdiction of such courts.
- You will promptly reimburse us for any reasonable attorneys' fees and court costs that are incurred by us in enforcing these Terms.
- These Terms are personal to you and is not assignable by you without our prior written consent. We may assign these Terms without your consent to any other party so long as such party agrees to be bound by its terms. All of the covenants, terms, provisions and agreements contained in these Terms shall be binding upon, and inure to the benefit of, the parties hereto and, to the extent permitted by these Terms, their respective heirs, legal representatives, successors and permitted assigns.
- The Pond5 Parties are intended third party beneficiaries of these Terms. Nothing in these Terms, express or implied, is intended to or shall confer upon any other third Persons any rights, benefits or remedies of any nature whatsoever. Without limiting the generality of the foregoing, no provision herein shall be for the benefit of or enforceable by any creditor of any party hereto.
- If you breach any provision of these Terms and we take no action, we will still be entitled to use our rights and remedies in any other situation where you breach these Terms.
- Your obligations and our rights and remedies set out in these Terms are cumulative and are in addition to your obligations and our rights and remedies at law or in equity.
- These Terms are in addition to [the Website Terms of Use](#), as any of the foregoing may be modified by us from time to time (which are all incorporated by this reference into these Terms), all of which together embody the parties' entire agreement and supersedes and cancels any prior agreement, express or implied, written or oral, with respect to its subject matter; provided that in the event of any inconsistency between these Terms and any such Website Terms, the terms of these Terms shall govern.

Our Right to Make Changes to These Terms.

- Notwithstanding anything else in this or any other agreement, we will have the right, in our sole discretion, to make changes to these Terms and/or the Website Terms at any time and for any reason.
- No modification, deletion, amendment of any provision is binding on us unless in writing signed by our authorized representative or posted by us on the Website.

Consent to Electronic Communications; Your Personal Data.

- We may send any notice to you by an email to the User account at the email address that has been provided to us on your User registration page. You consent to receive communications from us electronically and you agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing.
- You consent to your personal information being shared with and processed in the course of our business by (a) us and our Subsidiaries, which are located in various different countries, including the U.S., which provide varying and in some cases less privacy protection than your country, and (b) in some cases the Content User in case of questions about clearances or claims of infringement.

Acceptance of these Terms.

You acknowledge that you have read these Terms, understand it, and have had an opportunity to seek independent legal advice prior to agreeing to it. By participating in the Program, clicking "I Agree" or otherwise signifying acceptance, you accept and agree to be bound by these Terms for yourself and on behalf of your employer or other Person that is identified as the User, and agree to be bound by its provisions. If you are accepting on behalf of your employer or other person or entity, you represent and warrant that you have full legal authority to bind your employer or such other person or entity and to participate in the Program on behalf of such employer or other person or entity. Additionally, you acknowledge and agree that you have reviewed the Website Terms and any other agreements which may be incorporated by reference herein and therein, and to the extent of their incorporation in these Terms, you (and as applicable, such other person or entity) agree to be bound by them.