

# Nailed | Reditus Affiliate Partner Terms

Version 1.0 | January 2021

These are the terms and conditions applicable to (affiliate) partner agreements concluded and/or performed through the Reditus SaaS partner management platform, located at [www.getreditus.com](http://www.getreditus.com) (hereinafter: “**Reditus**”), between online service provider **Nailed App S.L.**, with its principal office located at C/Gardenias 12, 4º C in Madrid, Spain and registered at RMC in Spain under registration no. ESB88486048 (hereinafter referred to as “**SaaS Business**”) and Reditus users intending to provide the SaaS Business with referral services.

## 1. Definitions

The capitalized terms used in these Affiliate Partner Terms, both in the singular and the plural, are understood to have the meaning as described in this article.

- 1.1. **Account:** the account through which Partner and the SaaS Business access the Reditus platform.
- 1.2. **Affiliate Partner Terms:** the terms and conditions contained herein, as well as any annexes, which together form an integral part of the Partner Agreement.
- 1.3. **Intellectual Property Rights:** all intellectual property rights and related rights, including but not limited to copyrights, database rights, domain name rights, trademark rights, brand rights, model rights, neighbouring rights, patent rights and rights to know-how.
- 1.4. **Lead:** a potential customer directed to the SaaS Business’ services by Partner as a result of Partner’s performance of Referral Services, for example via a referral link or other agreed referral tools.
- 1.5. **Partner Agreement:** an agreement between Partner and the SaaS Business, of which these Affiliate Partner Terms form an integral part, and under which Partner will provide the Referral Services. The Partner Agreement and these Affiliate Partner Terms applicable to it are offered independently by the SaaS Business.
- 1.6. **Partner:** a legal entity or natural person that uses the Reditus platform with the purpose of concluding and performing Partner Agreements in exchange for commission.
- 1.7. **Partner Program:** the SaaS Business’ offer, published on Reditus, for Partners to enroll in a partner program and thus conclude a Partner Agreement.
- 1.8. **Party:** Partner and SaaS Business (plural), or either Partner or the SaaS Business (singular).
- 1.9. **Referral Services:** referral services provided by the Partner to the SaaS Business in exchange for a commission in accordance with the Partner Agreement, as specified in Annex 1 to these Affiliate Partner Terms.

## 2. Conclusion of the Partner Agreement

- 2.1. A Partner Agreement is concluded by Partner’s request to enroll in the SaaS Business’ Partner Program, Partner’s acceptance of these Affiliate Partner Terms, Annex 1 and (if provided and applicable) the additional terms and conditions contained in Annex 2 to these Affiliate Partner Terms – and the SaaS Business’ subsequent acceptance and confirmation of Partner’s enrollment and of the conclusion of the Partner Agreement

– all of which are performed and provided through Reditus. Upon conclusion of the Partner Agreement, Partner will be authorized to perform Referral Services on behalf of the SaaS Business, in accordance with the terms and conditions set out in the Partner Agreement.

- 2.2. The following order of precedence will apply in the event of inconsistencies between the applicable documents:
  - a. (if applicable) the Additional Terms (Annex 2);
  - b. the Referral Services and Variable Term Sheet (Annex 1);
  - c. these Affiliate Partner Terms.
- 2.3. The SaaS Business reserves the right to evaluate each application to enroll in the Partner Program. As a result, it may decide that it does not want to conclude a Partner Agreement, and thus reject the application, at its sole discretion.
- 2.4. The right to perform Referral Services for the SaaS Business is provided on a non-exclusive basis. The SaaS Business may engage other partners or affiliates for the performance of similar or identical activities and services, and will always remain entitled to perform such activities, and any other conceivable promotional activities by itself.
- 2.5. By entering into the Partner Agreement, the Parties will not (legally) form a partnership, general partnership, public partnership, joint venture or equivalent partnership. Neither Party will be authorized to enter into agreements on the other party's behalf.

### 3. **Obligations of the Partner**

- 3.1. On conclusion of the Partner Agreement through Reditus, the Partner will gain access to functionalities and environments of the Reditus platform intended to facilitate and track the performance of Referral Services. The Partner ensures that its Account will not be shared with third parties.
- 3.2. Through Reditus, depending on the type of Referral Services agreed, Partner will be provided with tools, such as referral links, to perform the Referral Services.
- 3.3. Partner will:
  - a. adhere to all applicable laws and regulations in its performance of the Partner Agreement;
  - b. refrain from performing Referral Services via websites (or other channels) of an unlawful or illegal nature;
  - c. refrain from performing Referral Services through electronic communication in a way that would constitute 'spam' and is in violation of applicable law, such as the unsolicited performance of promotional activities through e-mail, SMS or a similar medium;
  - d. follow reasonable recommendations and requests made by the SaaS Business with regard to its performance of the Referral Services;
  - e. refrain from distorting the tracking of the performance of the Referral Services by performing self-referrals;
  - f. refrain from buying or bidding on keywords in Google Ads or doing the same with any similar service(s) from other providers for the same or similar purpose, consisting any parts of a tradename, service- or trademark, that belongs to the SaaS Business;

- g. refrain from search engine ads (especially on branded terms or domain names), Facebook ads or other ads that would compete with the SaaS Business' marketing and cause potential confusion for customers the SaaS Business.
- 3.4. The SaaS Business may provide Partner with promotional materials regarding the SaaS Business' services, which may be used by Partner in its performance of Referral Services. Partner is not entitled to alter such materials. If Partner opts to use such materials, it will at all times use the latest versions of the materials, information and pricing as provided by the SaaS Business from time to time.
- 3.5. Partner will inform and advise the parties it targets in its performance of Referral Services in an honest and sincere manner. Under no circumstances may Partner provide information concerning the SaaS Business or its services that could be misleading or would be difficult to prove. Partner will refrain from making any representation or promise that cannot be verified or that cannot be fulfilled by the SaaS Business.
- 3.6. The SaaS Business may conduct a satisfaction research regarding Partner's (promotional) activities among Leads provided by Partner. For this purpose, the SaaS Business may request feedback from these Leads, and Partner will, insofar the SaaS Business deems it necessary, offer its reasonable cooperation and support in this regard. The SaaS Business may terminate the Partner Agreement with immediate effect when the research, according to the SaaS Business' reasonable opinion, shows that further affiliation with Partner will or might have a negative effect on the SaaS Business' reputation.
- 3.7. Any abuse of the tools provided to perform and/or track the Referral Services by the Partner will result in the SaaS Business' right to terminate the Partner Agreement with immediate effect without notice being required. Any rights of Partner accrued prior to the moment of termination for aforementioned reasons will lapse, unless the SaaS Business decides otherwise.
4. **Commission and payment**
- 4.1. Depending on the type of Referral Services agreed between the Parties, Partner may, on the conditions specified in Annex 1 to these Affiliate Partner Terms, obtain the right to a certain amount of commission when a Lead undertakes certain actions with the SaaS Business, such as account registration or purchases.
- 4.2. Attribution of commission owed to Partner is reported and calculated automatically through the Reditus platform. The SaaS Business will maintain its use and implementation of the tools provided by the Reditus platform to this end for the full duration of the Partner Agreement.
- 4.3. The SaaS Business will pay the commission owed to Partner through the agreed payment method and in the agreed currency, specified in Annex 1 to these Affiliate Partner Terms. Partner is responsible for payment of any taxes applicable to the commission. The commission as paid out by the SaaS Business is considered to be inclusive of VAT and/or other levies. Any costs payable for the exchange of currency, as well as any other payment associated costs, are at the expense of Partner
- 4.4. The frequency with which the commission will be paid out (hereinafter: "**Payment Period**") is specified in Annex 1 to these Affiliate Partner Terms. Payout will occur provided that the payment threshold specified in Annex 1 (hereinafter: "**Payment Threshold**") is met.
- 4.5. When the commission accrued during a Payment Period is less than the Payment Threshold, the accrued amount will be carried over to the following Payment Period until the Payment Threshold is met.

- 4.6. The SaaS Business will provide Partner with a specification of the commission due (or rolled over) at the end of each Payment Period. If the Payment Threshold is met, the SaaS Business will additionally issue a self-billed invoice on behalf of Partner. These may be made available within the Reditus portal. Partner is responsible for verifying the accuracy and completeness of the aforementioned specification and/or invoices. The SaaS Business must be notified of any errors or inconsistencies within one (1) week after the specification is issued, otherwise these will be deemed final and correct.

5. **Term and termination**

- 5.1. The Partner Agreement will commence on the date of conclusion as indicated in Article 2 and will have an indefinite duration.
- 5.2. Both Parties are entitled to terminate the Partner Agreement without cause and with immediate effect, at any time, upon written notice to the other Party.
- 5.3. In any event of termination without cause by either Party, or termination by Partner on the basis of Article 10, any commission accrued in accordance with the terms of the Partner Agreement prior to the moment of termination will be paid to Partner at the end of the applicable Payment Period.

6. **Intellectual property**

- 6.1. Nothing in the Partner Agreement will be interpreted or construed so as to transfer any right, title, or interest in any Intellectual Property Rights of a Party to the other Party.
- 6.2. The SaaS Business, its licensors and/or its suppliers retain all Intellectual Property Rights to or in its services and any other software or materials provided or made available by the SaaS Business.
- 6.3. Rights to or in any information made available by Partner to the SaaS Business is and remains vested in Partner (and/or its licensors).
- 6.4. The SaaS Business is entitled to mention Partner on its website(s) and in other promotional materials. To this end, the SaaS Business is entitled to use Partner's trade name, trademarks and logos.
- 6.5. The Partner is granted the right to use relevant names and logos of the SaaS Business for the sole purpose of providing Referral Services. The SaaS Business can stipulate conditions for how these materials are used or reproduced, which the Partner must comply with strictly.

7. **Liability**

- 7.1. The SaaS Business can only be liable towards Partner for direct damages as a result of an attributable failure in the performance of the Partner Agreement. The SaaS Business' liability for indirect damages is excluded. For the purposes of the Partner Agreement, indirect damages include lost savings, loss of data, loss of profit, damage to reputation and damage due to business interruption or stagnation.
- 7.2. Without prejudice to the foregoing, the SaaS Business' liability for direct damages is limited to the amount (excluding VAT) of commission paid to Partner (if any) in the three (3) months prior to the damage-causing incident.
- 7.3. The limitation of liability as referred to in the previous paragraphs of this Article 7 will lapse if and to the extent that the damage is the result of intent or deliberate recklessness on the part of the SaaS Business' management.
- 7.4. Any right to compensation is subject to the condition that Partner notifies the SaaS Business in writing of the damage within 30 days after discovery.

8. **Force majeure**

8.1. Neither Party can be obliged to perform any obligation under the Partner Agreement if such performance is prevented due to force majeure. Neither Party is liable for any loss and/or damage due to force majeure.

8.2. Force majeure is considered to exist in any event in case of power outages, Internet failures, telecommunication infrastructure failures, network attacks (including D(DOS) attacks), attacks by malware or other harmful software, civil commotion, natural disaster, terror, mobilisation, war, import and export barriers, strikes, stagnation in supplies, fire, floods and any circumstance whereby a Party is not enabled to perform or prevented from performing by its suppliers, irrespective of the reason.

9. **Confidentiality**

9.1. The Parties will treat as confidential and not disclose, except as expressly permitted herein, (i) the contents of the Partner Agreement and (ii) the information they provide to each other before, during or after the performance of the Partner Agreement if this information has been marked as confidential or if the receiving Party knows or should reasonably assume that this information was intended to be confidential. The Parties also impose this obligation on their employees and on the third parties engaged by them for the performance of the Partner Agreement.

9.2. This Article 9 will not apply to any information which:

- a. is or becomes generally available to the public other than as a result of a disclosure by the receiving Party in breach of the Partner Agreement;
- b. was within the receiving Party's possession prior to its disclosure to it by or on behalf of the disclosing Party;
- c. becomes available to the receiving Party on a non-confidential basis from a source other than the disclosing Party not under obligation to keep such information confidential; or
- d. is developed independently by the receiving Party.

9.3. In the event that a receiving Party becomes legally compelled to disclose any confidential information provided pursuant to the Partner Agreement, such receiving Party will provide the disclosing Party with prompt written notice so that disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the confidentiality provisions of the Partner Agreement.

9.4. Promptly after the expiration or termination of the Partner Agreement for any reason, each receiving Party will deliver to each disclosing Party all originals and copies of any material in any form containing or representing the confidential information in its possession or will destroy the same at the request of the disclosing Party.

10. **Amendments**

10.1. The SaaS Business is at any time entitled to amend or supplement the Partner Agreement, these Affiliate Partner Terms, including Annex 1 and Annex 2, at any given moment. If the SaaS Business decides to amend the Partner Agreement, it will notify Partner of such amendments in writing. Amendments to the Partner Agreement will take effect two (2) weeks after Partner was notified. If Partner is not willing to accept an amendment, it may terminate the Partner Agreement by the date on which the amendment takes effect.

11. **Miscellaneous provisions**

11.1. This Agreement is governed exclusively by Dutch law.

- 11.2. Any dispute between the Parties in connection with or arising from the Agreement will be submitted to the competent court in the Netherlands in the district where the SaaS Business has its registered office – unless the provisions of mandatory law dictate otherwise.
- 11.3. Where the Agreement refers to “written” or “in writing”, this also includes communication by e-mail or via the Reditus platform, provided the identity of the sender and the integrity of the content can be adequately established.
- 11.4. The version of any communication of information as recorded by the SaaS Business will be deemed to be authentic unless Partner supplies proof to the contrary.
- 11.5. If any provision of the Agreement is found to be contrary to applicable law, or is otherwise unenforceable, this provision will be amended to the extent that it is in accordance with applicable law, with due observance of the intended meaning of the relevant provision.
- 11.6. The SaaS Business will be authorised to transfer the Partner Agreement or any of its rights and obligations arising therefrom to a third party without the consent of Partner. Partner will not be authorised to transfer the Partner Agreement or its rights and obligations arising therefrom to a third party without prior written permission from the SaaS Business.

# **Affiliate Partner Terms | Annex 1**

## Referral Services and Variable Term Sheet

Terms	Description
<p><b>1. Referral Service</b></p>	<p><b>Type: ‘Purchases by Leads’</b></p> <ol style="list-style-type: none"> <li>1. Partner will receive commission based on <b>25 percent</b> of the total value, in € as reported and calculated through the Reditus platform, of eligible purchases made by a Lead as a result of Partner’s Referral Services, excluding discounts, VAT and any other applicable extra charges, during the period (hereinafter: “<b>Commission Period</b>” specified under Term 5. below.</li>   <li>2. ‘Eligible purchases’ will be understood to mean the purchase or renewal of any of the SaaS Business’ following products, subscriptions or services during the Commission Period:               <ol style="list-style-type: none"> <li>a. Naitled, subscriptions for the Pro plan</li> <li>b. Naitled, subscriptions for the Enterprise plan</li> </ol> </li>   <li>3. Partner will not be entitled to commission:               <ol style="list-style-type: none"> <li>a. for the purchase by a Lead of products, subscriptions or services that do not qualify as eligible purchases;</li> <li>b. for purchases of eligible purchases by Leads who have turned to the SaaS Business independently and directly without the intermediary efforts of Partner, which, as a result, are not reported through the Reditus platform;</li> <li>c. in case the SaaS Business has not received payment (including chargeback events) of amounts due by the Lead for the eligible purchase;</li> <li>d. if the Lead is, or was, a customer of the SaaS Business prior to the moment the Lead was referred by Partner through the Referral Services;</li> <li>e. that is generated by Partner by fraudulent acts or acts in violation of the Partner Agreement or applicable law;</li> <li>f. other than the commission explicitly specified in the Partner Agreement.</li> </ol> </li>   <li>4. The consequences of termination without cause by the SaaS Business, or termination by the Partner on the basis of Article 10, will be that the Partner will remain entitled to commission under the Partner Agreement for the full agreed Commission Period for each Lead. In such an event, the amount of commission relating to each Lead owed to Partner in each remaining Payment Period after termination, will be assumed to be the average amount of commission accrued by the Partner under the Partner Agreement during the Payment Periods relating to that specific Lead before termination, unless the SaaS Business provides evidence to the contrary.</li> </ol>



<b>Terms</b>	<b>Description</b>
<b>2. Payment Period</b>	Monthly
<b>3. Payment Threshold</b>	€ 50
<b>4. Payment method</b>	Paypal
<b>5. Commission Period</b>	12 months