

## **BAREFOOT BESTIES CUSTOMIZED LABEL MAKER PROGRAM**

### **TERMS & CONDITIONS**

#### **NO PURCHASE OR PAYMENT NECESSARY TO PARTICIPATE**

**OPEN TO LEGAL RESIDENTS OF THE FIFTY (50) UNITED STATES AND THE DISTRICT OF COLUMBIA (EXCLUDING ALABAMA, GEORGIA, OREGON, SOUTH CAROLINA, SOUTH DAKOTA, AND VIRGINIA), WHO ARE AT LEAST TWENTY-ONE (21) YEARS OF AGE AT THE TIME OF PARTICIPATION.**

**VOID IN ALABAMA, GEORGIA, OREGON, SOUTH CAROLINA, SOUTH DAKOTA, VIRGINIA, AND WHERE PROHIBITED OR RESTRICTED BY LAW**

The Barefoot Besties Customized Label Maker Program ("Program") is sponsored by E. & J. Gallo Winery, 600 Yosemite Blvd. Modesto, CA 95354 ("Sponsor"), and is administered by Prize Logic, LLC ("Administrator"), 25200 Telegraph Road, Suite 405, Southfield, MI USA 48033.

- 1. PROGRAM PERIOD:** The Program begins on June 5, 2019 at 12:00 PM Eastern Time ("ET") and ends on October 20, 2019 at 11:59:59 PM ET, or when the maximum number of labels available is reached, whichever occurs first ("Program Period").
- 2. ELIGIBILITY:** Only legal residents of the fifty (50) United States and the District of Columbia (excluding Alabama, Georgia, Oregon, South Carolina, South Dakota, and Virginia) who are at least twenty-one (21) years old will be able to participate in the Program. Void in Alabama, Georgia, Oregon, South Carolina, South Dakota, Virginia and where prohibited or restricted by law.
- 3. HOW TO PARTICIPATE:** Internet access and a valid e-mail address are required to participate. During the Program Period, eligible participants can visit the website ("Website") <https://barefootbestielabel.com>. Participants must then register by entering the information requested on the registration form, which may include without limitation: his/her first and last name (initials are not permitted), valid e-mail address, complete mailing address (P.O. Boxes are not permitted), date of birth, telephone number and affirmation that he/she has read and agrees to be bound by these Official Rules. Participant can then follow the links and instructions to create a personalized wine label ("Label"). Each Label will be mailed to the participant at the address provided during registration up to two (2) to three (3) weeks after the end of the Program Period. Limit: Each Participant can create two (2) unique Labels per day during the Program Period (while supplies last). There will be thirty thousand (30,000) Labels available during the Program Period (fifteen thousand [15,000] Rose Label styles, nine thousand [9,000] Moscato Label styles and six thousand (6,000) Merlot Label styles).

Participant understands that he/she is creating a Label for his/her own personal use. No compensation will be provided by the Sponsor or any of its affiliates, in any way or form. There are no prizes in this Program.

Each Label created must comply with these Official Terms, including the Label Guidelines and Requirements set forth below. By creating a Label, participant hereby agrees to be bound by these Terms and Conditions and the decisions of Sponsor regarding the administration of the Program. Further, participant grants Sponsor and its agents an unlimited, worldwide,

irrevocable, perpetual license and right, but not obligation, to publish, reproduce, exhibit, use, publicly display, distribute, edit, crop or otherwise exploit and create derivative works of the Label (as well as any name or likeness embodied therein) in any way, in any and all media, now known or hereafter devised, without limitation, and without further consideration or approvals. Each participant waives any intellectual property rights, publicity/privacy rights or other legal or moral rights relating to such use. BY CREATING A LABEL, PARTICIPANT AGREES THAT THE PHOTO, ALONG WITH HIS/HER FIRST NAME, AND LAST INITIAL, MAY BE POSTED ON THE WEBSITE, OTHER SOCIAL MEDIA PLATFORMS, INCLUDING BUT NOT LIMITED TO OTHER PAGES ON FACEBOOK, TWITTER, ETC., THE INTERNET, TELEVISION, RADIO, AND PRINT AT SPONSOR'S SOLE DISCRETION, AND PARTICIPANTS ACKNOWLEDGE THAT THEIR LABELS MAY BE REPOSTED BY THE PUBLIC OR OPEN TO PUBLIC COMMENTARY, FOR WHICH SPONSOR AND THE PROMOTION ENTITIES SHALL NOT BE LIABLE.

**LABEL GUIDELINES AND REQUIREMENTS:** Each Label:

- Must not contain material that violates or infringes another's rights, including, but not limited to, privacy, publicity or intellectual property rights, including copyright infringement, or legal or moral rights of any third party, living or deceased;
- Must not disparage Sponsor, Administrator or any other person or party affiliated with the promotion and administration of this Program;
- Must not include any personally identifiable information;
- Must be the original work of the participant and must not contain images or artwork, music, quotes, parodies or other materials not created by entrant;
- Must not feature brand names, logos or trademarks other than Sponsor's trademarks in any other element of the entry or image, which Sponsor has granted, as respect to the Sponsor's trademarks, participant a limited license to use for purposes of this program;
- Must not contain, facilitate, reference, or use material that is fraudulent, inappropriate, indecent, lewd, pornographic, obscene, hateful, tortious, defamatory, slanderous or libelous;
- Must not contain, facilitate, reference or use material that contains prohibited content which shall include, but is not limited to content that promotes, suggests, or encourages:
  - a. gambling, including without limitation, any content related to online casinos, sports books, bingo or poker;
  - b. the use of firearms/weapons/ammunition, any illegal drugs, prostitution, pornography, nudity, profanity or other adult content, violence, or the use of alcohol or tobacco products;
  - c. the taking up of arms against any person, government or entity or otherwise challenge or seek to overthrow any government;
- Must not contain, facilitate, reference, or use material that promotes bigotry, racism, hatred or harm against any group or individual or promotes discrimination based on race, gender, ethnicity, religion, nationality, disability, sexual orientation, political orientation, citizenship, ancestry, marital status, or age; and
- Must not contain material that is unlawful, in violation of or contrary to the laws or regulations in any jurisdiction where the Photo was created.

Sponsor will donate \$1 to Broadway Cares/Equity Fights AIDS for every Label made. Regardless of the number of Labels made during the Promotion Period, Sponsor will make a minimum donation of \$10,000 and a maximum donation of 20,000 as a result of this Program.

**Note:** Only the Sponsor will make all of the donations to Broadway Cares/Equity Fights AIDS. Participants are not making any donations in the Program and will not receive a receipt nor

will they be eligible to claim any charitable deductions on their tax returns as a result of this Program. The Sponsor and Administrator are not tax professionals and do not provide tax advice. For more information, or to contribute to Broadway Cares/Equity Fights AIDS, visit <https://broadwaycares.org/>.

**IMPORTANT:** MESSAGE AND DATA RATES MAY APPLY IF A PARTICIPANT ENTERS THIS PROMOTION ON HIS/HER MOBILE DEVICE. NOT ALL MOBILE TELEPHONE/WIRELESS PROVIDERS CARRY THE SERVICE NECESSARY TO PARTICIPATE IN THESE PROMOTIONS. PARTICIPANTS SHOULD CONSULT THEIR WIRELESS PROVIDER'S PRICING PLANS. MOBILE PARTICIPATION IS NOT REQUIRED.

- 4. LIMITATION OF LIABILITY:** By participating in this Program, each participant agrees: (i) to be bound by these Terms & Conditions; (ii) to waive any rights to claim ambiguity with respect to these Terms & Conditions; (iii) to waive all of his/her rights to bring any claim, action or proceeding against any employees, directors, officers and agents of Sponsor, Administrator, and each of their respective parent companies, divisions, dealers, affiliates, subsidiaries, distributors, advertising and promotional agencies and suppliers involved in the Program and each of their respective affiliates, subsidiaries, representatives, consultants, contractors, legal counsel, advertising, public relations, promotional, fulfillment and marketing agencies, website providers and each their respective officers, directors, stockholders, employees, representatives, designees and agents (the "Released Parties") in connection with the Program; and (iv) to forever and irrevocably agree to release and hold harmless each of the Released Parties from any and all claims, lawsuits, judgments, causes of action, proceedings, demands, fines, penalties, liability, costs and expenses (including, without limitation, reasonable attorneys' fees) that may arise in connection with: (a) the Program, including, but not limited to, any Program-related activity or element thereof, and a participant's participation or inability to participate in the Program; (b) the violation of any third-party privacy, personal, publicity or proprietary rights; (c) human error; (d) any wrongful, negligent, or unauthorized act or omission on the part of any of the Released Parties; or (e) the negligence or willful misconduct by participant.

If, for any reason, the Program is not capable of running as planned, or the integrity and or feasibility of the Program is severely undermined by any event beyond the control of Sponsor, including but not limited to fire, flood, epidemic, earthquake, explosion, labor dispute or strike, act of God or public enemy, satellite or equipment failure, riot or civil disturbance, war (declared or undeclared), terrorist threat or activity, or any federal, state or local government law, order, or regulation, order of any court or jurisdiction, infection by computer virus, unauthorized intervention, technical failures or other cause not reasonably within the control of Sponsor (each a "Force Majeure" event or occurrence), Sponsor reserves the right, at its sole and absolute discretion, to abbreviate, cancel, terminate, modify or suspend the Program and/or proceed with the Program in a manner it deems fair and reasonable. If Sponsor, in its discretion, elects to alter this Program as a result of a Force Majeure event, a notice will be posted at <https://barefootbestielabel.com>.

Without limiting the foregoing, everything regarding this Program is provided "as is" without warranty of any kind, either express or implied, including but not limited to, the implied warranties of merchantability, fitness for a particular purpose or non-infringement.

- 5. DISPUTES:** THIS PROGRAM IS GOVERNED BY, AND WILL BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF MICHIGAN, AND THE FORUM AND VENUE FOR ANY DISPUTE SHALL BE IN OAKLAND COUNTY, MICHIGAN. IF THE

CONTROVERSY OR CLAIM IS NOT OTHERWISE RESOLVED THROUGH DIRECT DISCUSSIONS OR MEDIATION, IT SHALL THEN BE RESOLVED BY FINAL AND BINDING ARBITRATION ADMINISTERED BY JAMS IN ACCORDANCE WITH ITS ARBITRATION RULES AND PROCEDURES OR SUBSEQUENT VERSIONS THEREOF (“JAMS RULES”). THE JAMS RULES FOR SELECTION OF AN ARBITRATOR SHALL BE FOLLOWED, EXCEPT THAT THE ARBITRATOR SHALL BE EXPERIENCED AND LICENSED TO PRACTICE LAW IN MICHIGAN. ALL PROCEEDINGS BROUGHT PURSUANT TO THIS PARAGRAPH WILL BE CONDUCTED IN OAKLAND COUNTY, MICHIGAN. THE REMEDY FOR ANY CLAIM SHALL BE LIMITED TO ACTUAL DAMAGES, AND IN NO EVENT SHALL ANY PARTY BE ENTITLED TO RECOVER PUNITIVE, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR TO HAVE DAMAGES MULTIPLIED OR OTHERWISE INCREASED, INCLUDING ATTORNEYS’ FEES OR OTHER SUCH RELATED COSTS OF BRINGING A CLAIM, OR TO RESCIND THIS AGREEMENT OR SEEK INJUNCTIVE OR ANY OTHER EQUITABLE RELIEF. PARTICIPANTS AGREE THAT THE RIGHTS AND OBLIGATIONS OF ANY PARTICIPANT AND/OR RELEASED PARTIES AND/OR ANY OTHER PARTY SHALL BE RESOLVED INDIVIDUALLY, WITHOUT RESORT TO ANY FORM OF CLASS ACTION. ANY DEMAND FOR ARBITRATION MUST BE FILED WITHIN ONE (1) YEAR OF THE TIME THE CAUSE OF ACTION OCCURRED, OR THE CAUSE OF ACTION SHALL BE FOREVER BARRED.

6. **PRIVACY AND PUBLICITY RIGHTS:** Sponsor's Privacy Policy is available at <https://www.barefootwine.com/privacy-policy>.

By participating in the Program, each Participant agrees to allow Sponsor and/or Sponsor's designee the perpetual right to use his/her name, biographical information, photos (including, without limitation, profile photo) and/or likeness, voice recording, video images and all related footage, and statements for promotion, trade, commercial, advertising and publicity purposes, at any time or times, in all media now known or hereafter discovered including live television, worldwide, including but not limited to on television, radio, the World Wide Web and Internet, without notice, review or approval and without additional compensation except where prohibited by law.

7. **GENERAL:** This Program is subject to all federal, state and local laws and regulations. Any attempted form of participation in this Program other than as described herein is void. **CAUTION AND WARNING: ANY ATTEMPT TO DELIBERATELY DAMAGE ANY WEBSITE OR TO UNDERMINE THE LEGITIMATE OPERATION OF THIS PROGRAM IS A VIOLATION OF CRIMINAL AND CIVIL LAWS. SHOULD SUCH AN ATTEMPT BE MADE, THE SPONSOR RESERVES THE RIGHT TO SEEK DAMAGES OR OTHER REMEDIES FROM ANY SUCH PERSON(S) RESPONSIBLE FOR THE ATTEMPT TO THE FULLEST EXTENT PERMITTED BY LAW.** If any provision of these Terms & Conditions or any word, phrase, clause, sentence or other portion thereof should be held unenforceable or invalid for any reason, then that provision or portion thereof shall be modified or deleted in such manner as to render the remaining provisions of these Terms & Conditions valid and enforceable. The invalidity or unenforceability of any provision of these Terms & Conditions will not affect the validity or enforceability of any other provision. Sponsor's failure to enforce any term of these Terms & Conditions shall not constitute a waiver of that provision and such provision shall remain in full force and effect. In the event of any conflict with any Program details contained in these Terms & Conditions and the Program details contained in any promotional materials (including, but not limited to, point of sale, television and print advertising, promotional packaging and other promotional media), the details of the Program as set forth in these Terms & Conditions shall prevail.

**Sponsor:** E. & J. Gallo Winery, 600 Yosemite Blvd. Modesto, CA 95354.