

## WIX AFFILIATION PROGRAM – TERMS AND CONDITIONS

**THESE AFFILIATION PROGRAM TERMS AND CONDITIONS** (the “**Agreement**”) set forth the terms of participation in the Affiliation Program of **Wix.com Ltd.** a company with principal offices located at 40 Namal St. Tel-Aviv, Israel (together with its affiliated companies - “**Wix**” or the “**Company**”). A participant in the Wix Affiliation Program is hereinafter referred to as “**Affiliate**” or “**you**”.

### 1. General.

WELCOME TO WIX!

THIS AGREEMENT CONTAINS THE TERMS AND CONDITIONS THAT APPLY TO AFFILIATE’S PARTICIPATION IN THE WIX AFFILIATION PROGRAM (THE “**PROGRAM**” OR “**AFFILIATION PROGRAM**”). CAREFULLY READ THESE TERMS AND CONDITIONS, WHICH REPRESENT A LEGALLY BINDING AGREEMENT BETWEEN WIX AND YOU. YOU MUST AGREE AND ACCEPT THE TERMS OF THIS AGREEMENT IN ORDER TO BECOME A WIX AFFILIATE.

BY CLICKING “I AGREE” BOX ON THE APPLICATION, YOU AGREE TO SIGN UP TO BE AN AFFILIATE IN THE AFFILIATION PROGRAM AND CERTIFY THAT (A) YOU HAVE READ THIS AGREEMENT AND UNDERSTAND ALL OF ITS CONTENTS; AND (B) YOU AGREE TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ALL DOCUMENTS, POLICIES AND PROCEDURES INCORPORATED HEREIN BY REFERENCE AND ANY POSSIBLE FUTURE AMENDMENT THEREOF OR ADDITIONS THERE TO; AND (C) YOU HAVE NO CONFLICT OR OTHER RESTRICTION IN ENTERING OR PERFORMING THIS AGREEMENT OR ANY PART THEREOF, INCLUDING RECEIPT OF ALL THE APPLICABLE APPROVALS REQUIRED UNDER THE APPLICABLE LAW FOR THE PERFORMANCE OF THIS AGREEMENT BY YOU.

VIOLATION OF ANY OF THE TERMS OF THIS AGREEMENT OR ANY OTHER DOCUMENT INCORPORATED INTO THIS AGREEMENT BY REFERENCE WILL RESULT IN THE IMMEDIATE TERMINATION OF YOUR PARTICIPATION IN THE PROGRAM, WITHOUT ANY NEED TO INFORM YOU IN WRITING, AND FOR FORFEITURE OF ANY OUTSTANDING AFFILIATE FEE PAYMENTS EARNED DURING THE VIOLATION. YOU AGREE TO PARTICIPATE IN THE PROGRAM AT YOUR OWN RISK AND EXPENSE.

### 2. Definitions.

For purposes of this Agreement, the following terms shall mean:

- 2.1. “**Ad(s)**” means anchor text, banners, button links, text links, or other graphic devices that Wix makes available to Affiliate and that is used for linking from the Affiliate Site to Wix Site.
- 2.2. “**Affiliate Application**” means the application submitted by an Affiliate to participate in the Program, as contained in the Wix Site.
- 2.3. “**Affiliate Fee**” or “**Fee**” or “**Referral Fee**” means the approved and undisputed amount due and payable one time only to an Affiliate in accordance with the Referral Fee Plan.
- 2.4. “**Affiliate Site**” means websites owned, controlled or used by Affiliate, on which the Affiliate will place its links to Wix Site.
- 2.5. “**Affiliation Term**” the term of the activity of an Affiliate as a participant in the Program commencing upon approval of Affiliate’s participation and ending according to the provisions of Section 12 below.
- 2.6. “**Affiliation Transaction**” means a purchase by a Premium Referred User (referred to Wix through Affiliate’s Tracking Codes) of a Wix Premium Package.
- 2.7. “**Affiliation Transactions Per Month**” means the aggregate number of Affiliation Transactions during each calendar month.
- 2.8. “**Content Restrictions**” has the meaning ascribed to it in Section 3.3 herein.
- 2.9. “**Conversion Requirements**” means such requirements set forth by Wix at its sole discretion and specified in the Affiliate’s Dashboard, for determining a Referred User’s successful conversion into a Premium Referred User.

- 2.10. **“Dashboard”** means a dedicated online interface made available by Wix to participants of its Affiliation Program, through which the Affiliate may manage and monitor its participation in and performance under the Affiliation Program.
- 2.11. **“Fraud Traffic”** means any deposits or traffic generated at the Affiliate Site(s) and/or via the Affiliate’s activity through illegal means or in bad faith or with the intent to defraud the Company, regardless of whether or not it actually causes harm to the Company. Fraud Traffic includes but is not limited to spam, false advertising, deposits generated by stolen credit cards, collusion, manipulation of the service, system, bonuses or promotions, offers to share the Affiliate Fees, directly or indirectly, with Users, and any other unauthorized use of any third party accounts, copyrights or trademarks.
- 2.12. **“Intellectual Property Rights”** means copyrights, trademark rights, patent rights, trade secrets, moral rights, right of publicity, authors’ rights, contract and licensing rights, goodwill and all other intellectual property rights as may exist now and/or hereafter come into existence and all renewals and extensions thereof, regardless of whether such rights arise under the laws of the United States or any other state, country or jurisdiction.
- 2.13. **“License”** has the meaning ascribed to it in Section 4.3 herein.
- 2.14. **“Minimum Transaction Requirement”** means the number of Affiliate Transactions Per Month that is defined by Wix as the minimal number of Affiliation Transactions each Affiliate is required to achieve in order to continue participation in the Affiliation Program.
- 2.15. **“Non-Active Affiliate”** has the meaning ascribed to it in Section 10.2 herein.
- 2.16. **“Opt Out Request”** has the meaning ascribed to it in Section 6.3.4 herein.
- 2.17. **“Premium Referred User(s)”** means a Referred User that has fully met the Conversion Requirements specified in the Dashboard, within thirty (30) days of such user first becoming a Referred User as set forth hereunder (each, a “Conversion”).
- 2.18. **“Referral Fees Plan”** means an Affiliate compensation plan where Affiliate shall be paid for Premium Referred Users referred by him/it pursuant to this Agreement, in accordance with the Fees specified in the Dashboard.
- 2.19. **“Referred User”** means a user that opened an account in Wix Site for the first time, through the Affiliate’s Tracking Codes from the Affiliate Site, email, or other communications.
- 2.20. **“Special Sale Terms”** means such special discounts or other special benefits which Wix may determine to apply to certain Premium Package offers, excluding however any individual coupons used by Referred Users.
- 2.21. **“Sponsored Link”** means a link offered, created, or displayed for a fee (whether on a “cost-per-click” basis, commission, or any other commercial arrangement) by any internet search engine, portal, sponsored advertising service or other search or other referral service which uses search terms or key words to identify, draw attention to, or direct internet traffic to an internet site.
- 2.22. **“Tracking Code(s)”** means specific unique code(s) that Wix will provide the Affiliate to track the traffic and users which arrive via the Affiliate activity (including but not limited, from the Affiliate Site). This Tracking code will be special “tagged” URL links to be used by the Affiliate in creating links to Wix Site. Wix tracks its users by cookies, which shall expire within thirty (30) days. If any users will not have cookies for any reason whatsoever (including if the applicable cookies have expired), such users will not be considered as Referred User of the Affiliate.
- 2.23. **“User”** means both Referred Users and Premium Referred Users.
- 2.24. **“Wix Marks”** means, without limitations, Wix trademarks, service marks, trade dress, trade names, corporate name, logos and any other distinctive brand features used in or related to Wix’s business.
- 2.25. **“Premium Package”** or **“Wix Premium Package”** means any of the charged packages offered by Wix in the Wix Site, as may be updated and/or modified from time to time by Wix. Charged package which: (i) was either cancelled within fourteen (14) calendar days from the day it was purchased; or (ii) was refunded in accordance with Wix refund policies or the applicable law, as may be from time to time; or (iii) was not duly and fully paid by Premium Referred User(s), will not be considered as a Premium Package.
- 2.26. **“Wix Site”** means [www.wix.com](http://www.wix.com) and/or any other website as may be added by the Company, in its sole and absolute discretion, from time to time.

### **3. Joining the Program.**

3.1. To begin the enrollment process, the Affiliate shall submit a complete Affiliate Application via Wix Site. Affiliate must provide full, true and accurate information in the Affiliate Application. Wix will evaluate Affiliate's Application in good faith and may notify him/her/it of its acceptance or rejection within thirty (30) business days. Unless Affiliate received a clear written notice from Wix confirming his participation in the Program, Affiliate shall not be deemed to be part of the Program.

3.2. Wix may reject Affiliate Application if Wix determines, in Wix's sole discretion, that the Affiliate Site or activities are unsuitable for the Program for any reason. If Wix accepts Affiliate Application and thereafter the Affiliate Site or activity is determined (in Wix's sole discretion) to be unsuitable for the Program, Wix may terminate the Affiliate's participation in the Program at any time.

3.3. Unsuitable Affiliate Sites or activities may include, but not be limited to, sites containing or activities related to illegal, offensive, abusing, infringing content, or which incorporate images or content that is, in any way, unlawful, harmful, threatening, defamatory, obscene, harassing or racially, ethically or otherwise objectionable, including without limitation, sites or activities that: promote violence; promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age; promote illegal activities or incorporate any materials which infringe or assist others to infringe on any copyright, trademark or other intellectual property rights of any third party (collectively, "**Content Restrictions**").

3.4. A rejection of an Affiliate Application by Wix shall not derogate from Affiliate's right to reapply to the Program at any other time thereafter provided that the Affiliate complies with the provisions of this Agreement.

### **4. Tracking Codes and Ads.**

4.1. To permit accurate tracking, reporting, and Referral Fee accrual, Wix will provide Affiliate with a specific Tracking Code. Affiliate must ensure that each of the links between its Affiliate Site and Wix Site properly utilizes the Tracking Codes provided to Affiliate.

4.2. Affiliate is not authorized to alter, modify or change any of the Tracking Codes. Affiliate will only earn payments in accordance with the Referral Fees Plan. Wix will not be held liable to the Affiliate with respect to any failure by Affiliate to use such Tracking Codes. Wix will not be responsible for errors which may occur in the tracking of transactions if the Affiliate has made or caused any such modification to the Tracking Code. For the avoidance of doubt, Affiliate will use the Tracking Code only for the purposes of the Program. Any other use of the Tracking Code will be considered void and subject to Wix sole discretion - shall be deemed as breaching this Agreement and will not entitle Affiliate to any Fee, which is based on such unauthorized use.

4.3. Wix hereby grants to Affiliate a non-exclusive, non-transferable, limited license to use the Wix Marks contained in the Ads provided to Affiliate by Wix for the sole purpose of this Agreement (the "License"). Wix will provide Affiliate with the necessary information to allow Affiliate to make appropriate Ads from the Affiliate Site to Wix Site. Affiliate may not use any of the Wix Marks in any manner other than as contained in the Ads. Furthermore, Affiliate may not modify any of the Ads in any way, whatsoever. The License shall expire upon the expiration or termination of the Affiliation Term.

4.4. Affiliate shall display the Ads in good taste, adjacent to any with the first or most prominent use of such Ads in piece of advertising means, in which such Ads appear, subject to other requirements as Wix may from time to time impose and provide to Affiliate, including Wix trademark guidelines. Affiliate may not use the Ads and the Wix Marks contained therewith in a manner that, in Wix's sole discretion, is disparaging or otherwise portrays Wix in a negative light. Affiliate shall have no other right, title or interest in or to the Ads and Wix Marks contained therewith other than as specified in the limited License granted herein.

4.5. AFFILIATE WILL BE SOLELY RESPONSIBLE FOR THE CONTENT AND MANNER OF ITS MARKETING ACTIVITIES. ALL MARKETING ACTIVITIES MUST BE PROFESSIONAL, PROPER AND LAWFUL UNDER APPLICABLE RULES OR LAWS.

4.6. Wix may at any time, without prior notice, require the Affiliate to remove or modify the Ads, or dynamically replace the Wix creative or text with creative or text suitable to Wix in Wix's sole discretion.

4.7. As between Affiliate and Wix, Wix shall own all right, title and interest, including all Intellectual Property Rights, in and to the Wix Site, the Program and Wix Marks.

## 5. Minimal Achievement Requirement.

- 5.1. The participation in the Affiliation Program is contingent and depending upon each Affiliate achieving the Minimum Transaction Requirement in each calendar month during such Affiliate's participation in the Program.
- 5.2. The Minimal Transaction Requirement is the achievement of at least three (3) Affiliation Transactions in each calendar month. Wix shall have the right to change the Minimal Transaction Requirement at any time at its sole discretion. In event of such change, Wix shall provide a notice to all active Affiliates participating in the program.
- 5.3. In event an Affiliate does not achieve the Minimal Transaction Requirement, Wix shall have the right, at its sole discretion to discontinue the participation of such Affiliate in the Affiliation Program. In event of such discontinuation, Wix shall provide a notice to the Affiliate informing him/her that his/her participation in the Program was terminated (a "**Terminated Affiliate**"). In such event, the Terminated Affiliate shall have no claims or demands towards Wix as result of such termination.
- 5.4. A Terminated Affiliate shall not be entitled to rejoin the Affiliation Program for a period of six (6) months following the date of termination of such Affiliate's Participation in the Program.

## 6. E-mails and Publications.

- 6.1. If Affiliate sends, or cause to be sent, any messages or communications by electronic means, including but not limited to email and instant messages ("**Emails**") in connection, directly or indirectly, with this Agreement and/or the Program, then Affiliate agrees, acknowledges, represents and warrants that all such Emails shall be in full-compliance with all applicable federal and state laws and regulations regarding the use of electronic messages, including without limitation the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 ("**CAN-SPAM Act**") and the Children's Online Privacy Protection Act of 1998 ("**COPPA**") and all other laws in the applicable the Affiliate and Affiliate Site and including, but not limited to, all European laws and Directives and the Federal Trade Commission regulations.
- 6.2. Affiliate agrees to not utilize SPAM in promoting Wix. Wix maintains a ZERO tolerance policy towards the sending of SPAM, including, but not limited to, unsolicited commercial E-mails. This action may result in the immediate suspension or termination of Affiliate account with a cancellation of and possible forfeiture of any pending Fees. Affiliate will also be in violation of this Agreement and subject to legal action and be held liable for any financial loss incurred by Wix.
- 6.3. SPAM is defined as including, but not limited to, the following:
- 6.3.1. Send, initiate or procure the sending of an Email to any person who has either not explicitly requested to receive such messages (or has explicitly requested to receive no further Emails) specifically from Affiliate, including without limitation for the purposes of sending unsolicited bulk email, executing any "mass mailings" or "email blasts," or for the purpose of spamming any public forum, including without limitation, any blog, message board, classified listings, auction sites, altnet, newsgnet, newsgroups, or similar service.
  - 6.3.2. Employ any false or deceptive information regarding Affiliate's identity, or regarding the intent, subject, or origin of the message or fail to include accurate information regarding Affiliate identity, and the intent, subject, and origin of the Email.
  - 6.3.3. Exploit documented or undocumented security holes on any client or server machine.
  - 6.3.4. Fail to (i) include clear, valid, and conspicuously displayed "From" and "Subject" lines in the Email, (ii) include a functioning return address (or hyperlink) in the Email that enables the recipient to submit a request to receive no further messages from Affiliate ("Opt Out Request") for no less than thirty (30) days from the date the Email was sent; or (iii) honor any Opt-out Request within ten (10) days of receipt of such Opt-out request by Affiliate.
  - 6.3.5. Obtain email addresses via automated means or send any Email to any address which was obtained via automated means, including via the automated combination of names, letters, or numbers, dictionary attacks, or the use of spyware, viruses, or other means of bypassing system security or invading consumer privacy.
  - 6.3.6. Employ any fraudulent, deceptive, false or misleading information in connection with the Emails.
  - 6.3.7. Send any commercial marketing Email or promotion to, or collect any personally identifiable information from, any person who is under eighteen (18) years of age.

6.4. Affiliate may use Tracking Codes within Emails that Affiliate sends to registered users of the Affiliate Site.

## **7. Compliance with Law and Regulations; No conflict.**

7.1. Affiliate shall comply with any and all regulations, statutes and applicable laws of the United States or any other state, country or jurisdiction in which he acts related to Email, and/or electronic communications. It is Affiliate's responsibility to be aware of all such regulations, statutes and laws.

7.2. Affiliate may only send Emails containing a Tracking Code and/or a message regarding Wix or Wix's Program. Failure by Affiliate to abide by this Section 7, CAN-SPAM Act or COPPA, in any manner, will be deemed a material breach of this Agreement by Affiliate and foreclose any and all rights Affiliate may have to any Affiliate Fee.

7.3. Affiliate acknowledges that Wix's shares, are publicly traded on the NASDAQ. As such, Affiliate acknowledges the restrictions imposed by the United States securities laws on the purchase or sale of securities by any person who has received material, non-public information about Wix, and on the communication of such information to any other person who may purchase or sell such securities in reliance upon such information. Affiliate will comply with all applicable securities laws in connection with the purchase or sale, directly or indirectly, of Wix securities for as long as Affiliate is in possession of or has knowledge of material non-public information about Wix. Without derogating from the provisions of this Agreement, in the event of a breach of this Section 7.3, this Agreement shall terminate immediately without prior notice.

7.4. Affiliate undertakes to immediately inform Wix in writing in case Affiliate participates in other programs offered by Wix, including but not limited to the Wix Reseller Program or Wix Pro (Arena) program. In such case, Wix, in its sole discretion, may choose to appoint Affiliate to be either its affiliate or Reseller (as described in the Reseller Program), but in any event – not both unless confirmed otherwise in writing by Wix. In case Wix has any doubt that Affiliate participates in two or more different programs without Wix prior written approval, Wix may terminate the Agreement immediately and any unpaid or earned (whether from one or all the programs) will be void and cancelled, all on Wix sole discretion. Notwithstanding the foregoing, Wix will be entitled to claim back all Fees paid to Affiliate who participated in two or more different programs without Wix prior written approval.

## **8. Prohibition on Sponsored Links.**

8.1. Affiliate shall not use, procure, bid on, or otherwise arrange for a Sponsored Link which uses or includes any of the Wix Marks.

8.2. Affiliate shall not register, procure, or use any internet domain name that includes any of the Wix Marks or any variations thereof.

## **9. Referral Fees.**

9.1. For every new Wix Premium Package purchased by a Premium Referred User through Affiliate's Tracking Codes and subject to the compliance of the Affiliate with the provisions of this Agreement, Affiliate shall be entitled to receive Affiliate Fees in according with the Referral Fees Plan stated in the Dashboard for such Affiliate.

9.2. Notwithstanding the foregoing Section 9.1, in the event that any Referred User purchases a new Premium Package through Affiliate's Tracking Codes, and such purchase is subject to Special Sale Terms, the Affiliate Fees payable to Affiliate (if any) shall be subject to and reduced in accordance with the discount or other special benefits applicable to the Premium Package under the Special Sale Terms.

9.3. During the Term of this Agreement, Wix shall keep track of any Referred User by attaching such Referred User a Tracking Code which shall be kept for a period of thirty (30) days, provided that such period is within the Affiliation Term. If within such period the Referred User has not registered as a Premium Referred User, then the Affiliate will not be entitled to any Affiliate Fees with respect to such user, even if at a later time such Referred User will perform such actions as determined under the applicable Conversion Requirements.

9.4. Wix is entitled to grant additional rewards to any of its affiliates at Wix's sole discretion.

9.5. It is hereby clarified that Referral Fees are payable to an Affiliate only for a first purchase of Wix Premium Package made by a respective Premium Referred User. The Referral Fee shall not apply on any renewals, trial versions (if applicable), second purchase or otherwise.

## **10. Affiliate Fee Payment and Reporting.**

10.1. Wix will generate periodic reports summarizing the sales activity of the Premium Referred Users as relevant and necessary for purposes of calculating each Affiliate's Fee, which will be available to Affiliate in real time via the Dashboard. The form, content and frequency of the reports shall be determined by Wix at its sole discretion as may be updated from time to time.

10.2. Affiliate Fees will be payable within forty five (45) days following the end of each calendar month ("**Payment Day**").

10.3. In no event will Wix pay to an Affiliate any Fees unless and until at least three (3) Conversions have occurred under Affiliate's account, and therefore in the event that the Affiliate has failed to reach at least three (3) Conversions by the Payment Day, any reached Conversions (and the Fees related thereto) shall be carried over and added to the next month's Affiliate Fees. In the event that the Affiliate fails to reach at least three (3) Conversions within a three (3) consecutive calendar months, then such Affiliate will be regarded as a Non-Active Affiliate, the Fees due to any Conversions and/or Premium Referred Users reached until then will be voided and cancelled, and Wix may terminate this Agreement with no liability, including any payment liabilities, whatsoever to Affiliate.

10.4. Wix will pay Affiliate Fees on Tracking Codes that are automatically tracked by Wix affiliation system and reported via the Dashboard. Wix will not pay Affiliate Fees unless the Tracking Code is tracked by Wix affiliation system and reported via the Dashboard.

10.5. All payments of the Affiliate Fees will be due and payable in United States Dollars only, except as otherwise determined by Wix in its sole discretion. Payment will be made against a valid invoice issued by Affiliate, through wire transfer or any other method chosen by Wix, in its sole discretion. Affiliate is responsible to provide Wix with full and accurate details as required for it to remit the Affiliate Fees, and shall be solely liable for any delay in payment resulting from its failure to duly and timely provide Wix with such details.

10.6. In the event of any activity deemed suspicious by Wix at its sole determination, Wix may delay payment of the Affiliate Fees to Affiliate for up to one hundred and eighty (180) days to verify the relevant transactions and in the event that Wix determines the activity to constitute Fraud Traffic, it shall recalculate or withhold the Affiliate Fees accordingly and in its sole discretion. It is hereby clarified that in any event that Wix shall determine that Affiliate is involved, directly or indirectly, in any fraudulent, deceptive, manipulative or otherwise illegal activity connected to Wix, including without limitation to the Wix Site, Tracking Codes and/or Users, Wix shall have the right, in addition to any other right or remedy available to it under this Agreement or applicable law, to render the Tracking Codes assigned to such Affiliate inoperative, and immediately block Affiliate access to the Program, with no compensation to Affiliate. Affiliate hereby irrevocably waives any claim or demand against Wix, its directors, officers, shareholders or employees in respect of such action taken by Wix.

10.7. The Affiliate is responsible for the payment of all taxes applicable to the conduct of Affiliate's business. The payment to the Affiliate shall be subject to any withholding tax obligations applicable by law. It is agreed that the Referral Fees are inclusive of any and all taxes applicable by any law including VAT.

## **11. Wix Transactions Processing Services Policies and Pricing.**

11.1. Wix will process transactions placed by Users who used the Tracking Codes from the Affiliate Site to Wix Site.

11.2. Wix reserves the right to reject transactions that do not comply with any certain reasonable requirements that Wix may periodically establish.

11.3. Wix will be responsible for all aspects of transactions processing and fulfillment.

11.4. Wix will track purchases generated by Users referred through the Affiliate Site. To permit accurate tracking, reporting, and Affiliate Fees accrual, the Affiliate shall ensure that Tracking Codes are properly formatted. Wix will not be responsible for improperly formatted Tracking Codes.

11.5. Wix may change the pricing, policies and operating procedures at any time consistent with applicable laws. For example, Wix will determine the prices to be charged for services in accordance with Wix's own pricing policies. In the event that such changes affect items that Affiliate already has presented on the Affiliate Site, the Ads or any other information provided by Affiliate to third parties in respect with this Agreement and its participation in the Program, Affiliate must track such changes and reflect them in the Affiliate Site or in any other relevant marketing means.

## **12. Affiliation Term and Termination.**

12.1. The term of Affiliate's participation in the Program shall commence upon Wix's acceptance of the Affiliate Application and shall end upon provision of a termination notice by either party in accordance with the provisions of this Section 122 (the "**Affiliation Term**").

12.2. Either party may terminate Affiliation Term at any time, with or without cause, by giving the other party a ten (10) days prior written notice of termination.

12.3. Subject to Section 12.4 herein, termination of the Affiliation Term will result in the deactivation or deletion of the Affiliate's account or its access to the Affiliate account in the Wix Site, and the forfeiture and relinquishment of all potential or to-be-paid Affiliate Fees in the Affiliate account.

12.4. Subject to the provisions of Section 99 above, and except as stated otherwise, upon termination of the Affiliation Term, Affiliate will be entitled to receive Affiliate Fees for Premium Referred User accrued during the Term of this Agreement.

12.5. In the event of a material breach of this Agreement by Affiliate, Wix may, at its sole and absolute discretion, terminate the Affiliation Term immediately, without prior notification, and the Affiliate will not be entitled to receive any unpaid Affiliate Fees, which accrued prior to such termination.

12.6. Upon the termination of the Affiliation Term for any reason, Affiliate shall promptly remove all Tracking Codes, Ads and other Program related content from Affiliate Site or any other communication means used by the Affiliate. Affiliate will immediately cease use of, and remove from Affiliate Site, all links to Wix Site, and all of Wix Marks, and all other materials provided by or on behalf of Wix to the Affiliate pursuant here to or in connection with the Program.

12.7. Sections 2, 4.5 and Sections 122 through 20 of this Agreement and any other provisions that by their express terms do, or by their nature should survive termination of Affiliation Term, shall continue to be in force despite the termination of the Affiliation Term.

## **13. Confidentiality.**

13.1. Wix may disclose to Affiliate certain information as a result of Affiliate's participation in the Program, which information we consider to be confidential (herein referred to as "Confidential Information"). For purposes of this Agreement, the term "**Confidential Information**" shall include, but not be limited to ((i) any modifications to the terms and provisions of the Program made specifically for the Affiliate or Affiliate Site and not generally available to other affiliates of the Program; (ii) price guidelines, future service releases, trade secrets, know-how, inventions, processes, programs, schematics, data, pricing and discount schedules, customer lists, financial information and sales and marketing plans relating to Wix or Wix's services. Confidential Information shall also include any information that Wix designate as confidential during the term of this Agreement. Confidential Information shall not include information which is: (a) previously known to the other party without obligation of confidence or without breach of this Agreement; (b) which is publicly disclosed (other than by the Affiliate) either prior or subsequent to the Affiliate's receipt of such information; (c) required to be disclosed by the other party by law or by the order of a court or similar judicial or administrative body.

13.2. Affiliate shall at all times, both during the Term and at all times thereafter, keep and hold such Confidential Information in the strictest confidence, and shall not use such Confidential Information for any purpose other than as may be reasonably necessary for the performance of its duties pursuant to this Agreement, without Wix's prior written consent.

## **14. General Provisions, Responsibilities of the Affiliate, Representations and Warranties.**

14.1. Affiliate hereby warrants and represents that he/she is over the age of eighteen (18) and in all respects Affiliate is qualified and competent to enter into this agreement.

14.2. Affiliate will provide accurate and complete details regarding his/its identity and personal details such as: bank account, wiring instruction, address or other required information.

14.3. Affiliate will be solely responsible for the development, operation, and maintenance of Affiliate Site and Affiliate's activities and for all materials related thereto. Affiliate will indemnify and hold Wix harmless from all claims, damages and expenses incurred by Wix due to any third party claims relating to the development, operation, maintenance, manner and contents of the Affiliate Site or activities.

14.4. In the event that any entity (including any employee, agent, subcontractor or representative of Affiliate (each, an "**Affiliate Agent**") participates in the Program or otherwise acts on behalf of Affiliate with respect thereto, Affiliate shall ensure that such Affiliate Agent fully complies with the terms of this Agreement, and Affiliate shall be fully liable for any act or omission of such Affiliate Agent.

14.5. Affiliate hereby represents and warrants to Wix that materials posted on his/its Affiliate Site do not violate or infringe upon the rights of any third party, and that materials posted on his/its Affiliate Site are not libelous or otherwise illegal nor may cause Affiliate to violate any of its representations and obligations under this Agreement. Wix disclaim all liability for all such matters.

14.6. As a condition to Affiliate's participation in the Program, he/it is hereby represents and warrants that during the Term of this Agreement, Affiliate will comply with all laws, ordinances, rules, regulations, orders, licenses, permits, judgments, decisions or other requirements of any governmental authority as applicable to Affiliate, whether those laws are now in effect or later come into effect during the Term of this Agreement.

14.7. This Agreement has been duly and validly executed and delivered by Affiliate (by acceptance of its terms) and constitutes Affiliate's legal, valid, and binding obligation, enforceable against Affiliate in accordance with the terms contained herein.

14.8. The execution, delivery, and the performance by Affiliate of duties pursuant to this Agreement will not, with or without the giving of notice, the lapse of time, or both, conflict with or violate: any provision of law, rule, or regulation to the extent applicable; any order, judgment, or decree applicable or binding upon Affiliate's assets or properties; any provision of Affiliate's by-laws or certificate of incorporation, or any agreement or other instrument applicable to Affiliate or binding upon Affiliates assets or properties.

14.9. No consent, approval, or authorization of, or exemption by, or filing with, any governmental authority or any third party is required to be obtained or made by Affiliate in connection with the execution, delivery, and performance of this Agreement or the taking by Affiliate of any other action hereunder.

14.10. To the best of Affiliate's knowledge, there is no pending threatened claim, action, or proceeding against him/it, or any affiliate thereof, with respect to the execution, delivery, or consummation of this Agreement, or with respect to any intellectual property infringement, and, to the best of your knowledge, there is no basis for any such claim, action or proceeding.

14.11. Affiliate understands that Wix may at any time (directly or indirectly) solicit customer referrals on terms that may differ from those contained in this Agreement or operate sites that are similar to or compete with the Affiliate Site.

14.12. Wix has the right, in Wix's sole discretion, to monitor Affiliate Site at any time and from time to time to determine if the Affiliate is in compliance with the terms of this Agreement. Any deviations from the guidelines and treatment described in this Agreement must be approved in advance and in writing by Wix.

## **15. Relationship of Parties.**

15.1. Wix and Affiliate are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties.

15.2. Affiliate will have no authority to make or accept any offers or representations on Wix's behalf. Affiliate will not make any statement, whether on its/his Affiliate Site or otherwise, that reasonably would contradict anything in this Agreement.



**16. Disclaimers.**

16.1. WIX MAKES NO EXPRESS OR IMPLIED WARRANTIES OR REPRESENTATIONS WITH RESPECT TO THE AGREEMENT, THE PROGRAM AND THE INFORMATION TO BE DELIVERED PURSUANT HERETO. INCLUDING, WITHOUT LIMITATION, WARRANTIES OF FITNESS, MERCHANTABILITY, NON-INFRINGEMENT, OR ANY IMPLIED WARRANTIES ARISING OUT OF A COURSE OF PERFORMANCE, DEALING, TRADE USAGE OR FITNESS FOR A PARTICULAR PURPOSE.

16.2. WIX MAKES NO REPRESENTATION AS TO ANY OF THE INFORMATION FOUND ON WIX'S SITE. THE MATERIALS ON WIX'S SITE AND FOR THE AFFILIATED SITES ARE PROVIDED "AS IS" WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND. WIX DOES NOT WARRANT THE ACCURACY OR COMPLETENESS OF THE INFORMATION, TEXT, GRAPHICS, LINKS OR OTHER ITEMS CONTAINED ON THE WIX'S SITES. ANY OF THE INFORMATION OFFERED ON WIX'S SITE MAY CHANGE AT ANY TIME WITHOUT NOTICE.

16.3. Should the materials or services provided prove defective and/or cause any damage to equipment or any loss or inconvenience to the Affiliate or anyone claiming through the Affiliate, the Affiliate assumes the entire cost and responsibility for them.

16.4. Affiliate will indemnify and hold harmless Wix, its subsidiaries, officers, employees, agents, and third parties from and against any claims, liabilities, losses, costs, damages or expenses (including attorney's fees) arising, directly or indirectly, in connection with Affiliate's operations or website or out of any disputes between Affiliate and any other party relating to this Agreement or the participation in the Program, the Site(S) or to services provided by Wix.

**17. Limitations of Liability.**

17.1. UNDER NO CIRCUMSTANCES SHALL WIX, ITS SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES OR SUPPLIERS BE HELD LIABLE FOR ANY DIRECT OR INDIRECT DAMAGES AND/OR LOSSES, TO THE AFFILIATE, USER, AND/OR OTHER THIRD PARTY THAT MAY ARISE DUE TO "DOWNTIME" AND/OR AVAILABILITY OF WIX SITE OR THE PROGRAM. MOREOVER, WIX ITS SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES OR SUPPLIERS SHALL NOT BE HELD LIABLE FOR ANY LOSSES OF ANY KIND THAT MAY RESULT DUE TO DOWNTIME IN THE PROGRAM AND/OR ANY OTHER THIRD PARTY'S DOWN TIME.

17.2. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, WIX, ITS SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES OR SUPPLIERS WILL NOT BE LIABLE TO AFFILIATE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT UNDER ANY CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF GOODWILL OR ACTUAL OR ANTICIPATED REVENUE, PROFITS OR LOST BUSINESS), EVEN IF WIX, ITS SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**18. Modification.**

18.1. Wix may modify any of the terms and conditions contained in this Agreement, at any time and in its sole discretion by providing Affiliate fourteen (14) days prior notice of such modification. Notice of any change by e-mail, to Affiliate's address as provided to Wix, or the posting on our Site of a change notice or a new agreement, is considered sufficient notice to Affiliate of a modification to the terms and conditions of this Agreement. Modifications may include, but are not limited to, changes in the scope of available Affiliate Fees, payment procedures and schedules, and Affiliation Program rules.

18.2. Notwithstanding the foregoing Section 18.1, the Referral Fees Plan may be altered, modified or changed by Wix, from time to time, in its sole and absolute discretion, provided that Wix will notify Affiliate of such change of the Referral Fees Plan. Affiliate Fees earned prior to such change will be paid according to the conditions in effect prior to such changes. Referral Fees earned after such change is in effect will be paid according to the new conditions of the amended Referral Fees Plan's effective date at which the payment has been made.

18.3. If any modification is unacceptable to Affiliate, its/his/her sole recourse shall be to terminate this Agreement. Affiliate's continued participation in the Program following posting of a change notice or a new agreement on Wix Site will constitute binding acceptance of such change.

**19. Miscellaneous.**

19.1. The headings herein are inserted as a matter of convenience only and do not define, limit, or describe the scope of this Agreement or the intent of the provisions hereof.

19.2. The failure of each of the parties to exercise or enforce any right or provision of the conditions and terms of this Agreement shall not constitute a waiver of such right or provision. Wix failure to enforce Affiliate's strict performance of any provision of this Agreement will not constitute a waiver of Wix's right to subsequently enforce such provision or any other provision of this Agreement.

19.3. This Agreement constitutes the entire understanding between the parties regarding to specific subject matter covered herein. This Agreement supersedes any and all prior written or verbal contracts or understandings between the parties hereto and neither party shall be bound by any statements or representations made by either party not embodied in this Agreement.

19.4. If any dispute arises in connection with the performance of this Agreement and cannot be amicably resolved, such dispute shall be solely and finally governed by and be construed according to the laws of Israel, without regard to the conflict of laws provisions thereto. Any dispute arising under or in relation to this Agreement shall be exclusively resolved in the competent courts of Tel Aviv, Israel.

19.5. The rights and obligations of each party hereunder shall inure to the benefit of the respective successors and assigns of the parties hereto, provided that, except as expressly provided herein, the Agreement and any rights or obligations hereunder shall not be assigned or delegated by Affiliate without the prior written consent of Wix (which shall not be unreasonably withheld).

**20. Independent Investigation.**

20.1. Wix encourages Affiliate to consult with legal and/or financial and/or tax and/or accounting advisors prior to entering the Program.

20.2. Affiliate acknowledges and agrees that nothing herein and no statement by Wix or any of its employee or other person associated with Wix has prevented Affiliate in any way from seeking such advice before entering into this Agreement.

20.3. Affiliate has independently evaluated the desirability of participating in the Program and he/it is not relying on any representations or statements other than as set forth in this Agreement.

20.4. AFFILIATE HAS READ THIS AGREEMENT CAREFULLY AND UNDERSTANDS IT, HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL AND ACCEPT THE OBLIGATIONS, WHICH IT IMPOSES UPON AFFILIATE WITHOUT RESERVATION. AFFILIATE HAS ALSO TAKEN INTO ACCOUNT THE LIMITATION OF LIABILITY AND WARRANTY DISCLAIMER PROVISIONS OF THIS AGREEMENT PRIOR TO ACCEPTING THIS AGREEMENT. NO PROMISES OR REPRESENTATIONS HAVE BEEN MADE TO AFFILIATE TO INDUCE HIM/IT TO ACCEPT THIS AGREEMENT. AFFILIATE AGREES TO THE TERMS OF THIS AGREEMENT VOLUNTARILY AND FREELY.

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