



## WIX RESELLERS PROGRAM – TERMS AND CONDITIONS

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

### 1. General

WELCOME TO WIX!

THIS AGREEMENT CONTAINS THE TERMS AND CONDITIONS THAT APPLY TO RESELLER'S PARTICIPATION IN THE WIX RESELLER PROGRAM (**THE "PROGRAM" OR "RESELLER'S 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 RESELLER.

BY CLICKING “I AGREE” BOX ON THE APPLICATION, YOU AGREE TO SIGN UP TO BE A RESELLER IN THE WIX RESELLERS 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 RESTRICION IN ENTERING OR PERFORMING THIS AGREEMENT OR ANY PART THEREOF, INCLUDING RECEIPT OF ALL THE APPLICABLE APPROVLAS 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 RESELLER COMMISSION 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. “**Reseller Application**” means the application submitted by a Reseller to participate in the Program, as contained in the Wix Site.
- 2.2. “**Fee**” or “**Reseller Fee**” or “**Referral Fee**” means the approved and undisputed amount due and payable one time only to a Reseller in accordance with the Referral Fees Plan.
- 2.3. “**Reseller Site**” means websites owned, controlled or used by Reseller.
- 2.4. “**Reseller Term**” or “**Term**” the term of the activity of a Reseller as a participant in the Program commencing upon approval of Reseller's participation and ending according to the provisions of Section 7 below.
- 2.5. “**Claim My Site**” or “**CMS Request**” means any written request made by Reseller through the registered and approved Reseller account using the applicable Wix tool and specifically stating all the relevant and identifying marks of such Resellers’ Premium Packages.
- 2.6. “**Content Restrictions**” has the meaning ascribed to it in Section 3.3 herein.



- 2.7. **"Fraud Traffic"** means any deposits or traffic generated at the Site(s) through illegal means or in bad faith 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 Reseller Fees, directly or indirectly, with Users, and any other unauthorized use of any third party accounts, copyrights or trademarks.
- 2.8. **"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.
- 2.9. **"Referral Fees Plan"** means a Reseller compensation plan where Reseller shall be paid in accordance with the number of Premium Packages purchased by Users who were referred by such Reseller to the Wix Site (unless stated otherwise in such plan).
- 2.10. **"Referred User"** means a user that opened an account in Wix Site for the first time, based on reference made directly from the Reseller Site, email, or other communications.
- 2.11. **"Trial Period"** means a period of not less than Fourteen (14) days, commencing at the day in which the Referred User has purchased Premium Package.
- 2.12. **"User"** means referred Users by Reseller who purchased Premium Package(s).
- 2.13. **"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.
- 2.14. **"Premium Package"** or **"Wix Premium Package"** means any of the charged and upgraded packages offered by Wix in the Wix Site, as may be updated and/or modified from time to time by Wix. Charged package which was: (i) cancelled during the Trial Period; or (ii) refunded in accordance with Wix refund policies or the applicable law, as may be from time to time; (iii) not duly and fully paid by Referred User(s) - will not be considered as a Premium Package. For the avoidance of doubt, "Connect Domain" package, as offered on Wix Site from time to time, will not be deemed to be Premium Package.
- 2.15. **"Wix Site"** means 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.
- 2.16. **"Reseller Content"** means any content that is submitted to, stored on or distributed or disseminated by Reseller (and/or its customer and clients). Reseller Content also includes content of Reseller's customers and/or users of Reseller Site.

### 3. Joining the Program.

- 3.1. To begin the enrollment process, the Reseller shall submit a complete Reseller Application via Wix Site. Wix will evaluate Reseller's Application in good faith and may notify him/her/it of its acceptance or rejection within thirty (30) business days. Unless Reseller received a clear written notice from Wix confirming his participation in the Program, Reseller shall not be deemed to be part of the Program.
- 3.2. Wix may reject Reseller Application if Wix determines, in Wix's sole discretion, that the Reseller Site is unsuitable for the Program for any reason. If Wix accepts Reseller Application and thereafter the Reseller Site is determined (in Wix's sole discretion) to be unsuitable for the Program, Wix may terminate the Reseller's participation in the Program at any time.



- 3.3. Unsuitable Reseller Sites may include, but not be limited to, sites containing 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 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 a Reseller Application by Wix shall not derogate from Reseller's right to reapply to the Program at any other time thereafter provided that the Reseller complies with the provisions of this Agreement.

#### **4. Reseller's Responsibilities**

- 4.1. Reseller will conduct itself in a professional manner and will maintain a reputation and exemplary service among its customers or clients, including without limitation, services which refers to billing, support and maintenance of Reseller Site. Reseller will not make any statement, or take any action, that could reasonably be expected to reflect poorly on Wix or on the reputation of Wix or its products and services.
- 4.2. Reseller will cause its personnel who are responsible for Reseller's activities under this Agreement (if applicable) to remain well-informed concerning Wix Site. Among other things, Reseller will cause such personnel to review Wix Site occasionally to ensure that such personnel are reasonably familiar with Wix Sites' offerings, pricing, promotions and terms and conditions.
- 4.3. Reseller is solely responsible for the quality, performance and all other aspects of the Reseller Content and the goods or services provided through the Reseller Site.
- 4.4. Reseller assumes full responsibility for providing its customers and end users with any required disclosure or explanation of the various features of the Reseller Site and any goods or services described therein, as well as any rules, terms or conditions of use. Notwithstanding the foregoing, Reseller shall be fully responsible for uploading all content to the Reseller Site and supplementing, modifying and updating the Reseller Site.
- 4.5. Reseller is solely responsible for making back-up copies of the Reseller Site and Reseller Content.
- 4.6. Reseller will maintain and comply with Wix's Privacy Policy, as amended from time to time, which can be reviewed at: <http://www.wix.com/about/privacy>.

#### **5. Claim My Site(s) and Referral Fees**

- 5.1. Subject to Section 5.6 below, for every new Wix Premium Package purchased through the Reseller and following CMS Request, Reseller shall be entitled to receive from Wix a total amount of US\$40, provided that Reseller fully complied with the provisions of this Agreement. In case a referred User purchased a Premium Package which is paid on a monthly basis (as offered on Wix Site from time to time) – Reseller will be entitled for a Fee for such Premium Package, provided that the referred User has not cancelled the payment for such monthly package during a four (4) months period commencing on the day they such package was purchased.
- 5.2. CMS Request(s) may be submitted by Reseller to Wix only after Reseller has joined the Program in accordance with the terms of this Agreement. Any Premium Package which was purchased prior to the day in which Reseller joined the Program will not entitle Reseller for any Referral Fees.
- 5.3. Reseller is entitled to perform CMS Request only once per one Premium Package.



- 5.4. If the Reseller has not submitted the applicable CMS Request per the relevant Premium Package within a period of ninety (90) days from the first day the applicable user has purchased the Premium Package, then the Reseller will not be entitled to any Reseller Fees for such Premium Package.
- 5.5. It is hereby clarified that Referral Fees are payable to a Reseller only for a first purchase of Wix Premium Package. The Referral Fee shall not apply on any renewals, participation in other programs, exercise of any type of voucher, coupons, external benefits to the Program, or otherwise.
- 5.6. For the avoidance of doubt and unless specifically stated otherwise herein, Referral Fees will not include any "Connect Domain" and will not be paid as additional payment for participation in other programs offered by Wix, including but not limited to the Wix Affiliation Program or Wix Pro (Arena) program.

## 6. Reseller Fee Payment and Reporting

- 6.1. Subject to the provisions of this Agreement, Reseller Fees will be payable within forty five (45) days following the end of each calendar month in which the CMS Request was approved by Wix (the "**Payment Day**").
- 6.2. Unless otherwise determined by Wix, in no event will Wix pay to a Reseller for the first time in accordance with the Program an amount lower than two hundred US dollars (US\$200), and therefore in the event such Reseller balance at the Payment Day is lower than two hundred US dollars (US\$200), such balance shall be carried over and added to the next month's Reseller Fees. In the event, the balance amount carried over does not total to at least two hundred US dollars (US\$200) within a twelve (12) consecutive calendar months, then such Reseller will be regarded as an Non-Active Reseller, the amount due will be voided and cancelled, and Wix may terminate this Agreement with no liability, including any payment liabilities, whatsoever to Reseller.
- 6.3. Upon Wix request, Reseller will present Wix all the invoices issued by Reseller in the last twelve (12) months period. In any case of conflict between the invoices issued by Reseller and Wix internal records – the values appear in Wix internal records will prevail.
- 6.4. Wix will pay Reseller Fees only on Premium Packages that are registered and approved in the Reseller account using the applicable Wix tool.
- 6.5. All payments of the Reseller Fees will be due and payable in United States Dollars only. Payment will be made through PayPal, wire transfer or any other method chosen by Wix, in its sole discretion.
- 6.6. In the event of any activity deemed suspicious by Wix at its sole determination, Wix may delay payment of the Reseller Fees to Reseller 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 Reseller Fees accordingly and in its sole discretion. It is hereby clarified that in any event that Wix shall determine that Reseller is involved, directly or indirectly, in any fraudulent, deceptive, manipulative or otherwise illegal activity connected to Wix, including without limitation to the Wix Site 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 immediately block Reseller access to the Program, with no compensation to Reseller. Reseller hereby irrevocably waives any claim or demand against Wix, its directors, officers, shareholders or employees in respect of such action taken by Wix.
- 6.7. The Reseller is responsible for the payment of all taxes applicable to the conduct of Reseller's business. The payment to the Reseller 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.



## 7. Reseller Term and Termination

- 7.1. The term of Reseller's participation in the Program shall commence upon Wix's acceptance of the Reseller Application and shall end upon providence of a termination notice by Wix in accordance with the provisions of this Section 7 (the "**Reseller Term**").
- 7.2. Either party may terminate Reseller Term at any time, with or without cause, by giving the other party a ten (10) days prior written notice of termination.
- 7.3. Subject to Section 7.4 herein, termination of the Reseller Term will result in the deactivation or deletion of the Reseller's account or its access to the Reseller account in the Wix Site, and the forfeiture and relinquishment of all potential or to-be-paid Reseller Fees in the Reseller account.
- 7.4. Subject to the provisions of Section 6 above, upon termination of the Reseller Term, Reseller will be entitled to receive Reseller Fees for Premium Packages which were purchased during the Term of this Agreement.
- 7.5. In the event of a material breach of this Agreement by Reseller, Wix may, at its sole and absolute discretion, terminate the Reseller Term immediately, without prior notification, and the Reseller will not be entitled to receive any unpaid Reseller Fees, which accrued prior to such termination.
- 7.6. Upon the termination of the Reseller Term for any reason, Reseller will immediately cease use of, and remove from Reseller Site, including any reference to Wix Site, all of Wix Marks, and all other materials provided by or on behalf of Wix to the Reseller pursuant here to or in connection with the Program.
- 7.7. Sections 4, 6 and Sections 8 through 17 of this Agreement and any other provisions that by their express terms do, or by their nature should survive termination of Reseller Term, shall continue to be in force despite the termination of the Reseller Term.

## 8. Confidentiality; Non Solicitation

- 8.1. Wix may disclose to Reseller certain information as a result of Reseller'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 Reseller or Reseller Site and not generally available to other Reseller s 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 Reseller) either prior or subsequent to the Reseller'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.
- 8.2. Reseller 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.
- 8.3. During the Term of the Agreement and for two years following expiration or termination of the Agreement, Reseller will not, directly or indirectly, solicit or recruit the services of any employee of Wix, while such employee is employed Wix and for a period of six months after such employee has left the employment Wix



## 9. Wix Intellectual Property

- 9.1. Wix hereby grants to Reseller a non-exclusive, revocable, non-transferable, limited license to use the Wix Marks for the sole purpose of this Agreement (the "**License**"). Reseller may not use any of the Wix Marks in any manner other than as permitted in this Agreement. Furthermore, Reseller may not modify any of the Wix Marks in any way, whatsoever. The License shall expire upon the expiration or termination of the Reseller Term.
- 9.2. Reseller shall display Wix Marks in good taste, adjacent to any with the first or most prominent use of such Wix Marks in piece of advertising means, in which such Wix Marks appear, subject to other requirements as Wix may from time to time impose and provide to Reseller, including Wix trademark guidelines. Reseller may not use the Wix Marks in a manner that, in Wix's sole discretion, is disparaging or otherwise portrays Wix in a negative light. Reseller shall have no other right, title or interest in or to the Wix Marks other than as specified in the limited License granted herein.
- 9.3. RESELLER 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.
- 9.4. Wix may at any time, without prior notice, require the Reseller to remove or modify the Wix Marks, or dynamically replace the Wix creative or text with creative or text suitable to Wix in Wix's sole discretion.
- 9.5. Without derogating from any of its rights under the applicable laws, as between Reseller 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.

## 10. E-mails and Publications; Compliance with Law and Regulations; No conflict.

- 10.1. If Reseller 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 Reseller 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 Reseller and Reseller Site and including, but not limited to, all European laws and Directives and the Federal Trade Commission regulations.
- 10.2. Reseller 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 Reseller account with a cancellation of and possible forfeiture of any pending commissions. Reseller will also be in violation of this Agreement and subject to legal action and be held liable for any financial loss incurred by Wix.
- 10.3. SPAM is defined as including, but not limited to, the following:
  - 10.3.1. 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 Reseller, 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, newsgroup, or similar service.



- 10.3.2. Employ any false or deceptive information regarding Reseller's identity, or regarding the intent, subject, or origin of the message or fail to include accurate information regarding Reseller identity, and the intent, subject, and origin of the Email.
- 10.3.3. Exploit documented or undocumented security holes on any client or server machine.
- 10.3.4. 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 Reseller ("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 Reseller.
- 10.3.5. 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.
- 10.3.6. Employ any fraudulent, deceptive, false or misleading information in connection with the Emails.
- 10.3.7. 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.
- 10.4. Reseller 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 Reseller's responsibility to be aware of all such regulations, statutes and laws.
- 10.5. Reseller may only send Emails containing a message regarding Wix or Wix's Program. Failure by Reseller to abide by this Section 10, CAN-SPAM Act or COPPA, in any manner, will be deemed a material breach of this Agreement by Reseller and foreclose any and all rights Reseller may have to any Reseller Fee.
- 10.6. Reseller acknowledges that Wix's shares, are publicly traded on the NASDAQ National Market in the United States. As such, Reseller 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. Reseller will comply with all applicable securities laws in connection with the purchase or sale, directly or indirectly, of Wix securities for as long as Reseller 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 10.6, this Agreement shall terminate immediately without prior notice.
- 10.7. Unless specifically stated herein, Reseller will not be entitled for a fee in case Reseller participates in more than one program offered by Wix. Reseller undertakes to immediately inform Wix in writing in case Reseller participate in other programs offered by Wix, including but not limited to the Wix Affiliation Program or Wix Pro (Arena) program. In such case, Wix, on its sole discretion, may choose to appoint Reseller to be either its Reseller or Affiliate (as described in the Affiliation Program), but in any event – not both unless confirmed otherwise in writing by Wix. In case Wix has any doubt that Reseller participates in two different programs without Wix written approval, Wix may terminate the Agreement immediately and any Fees due till such date will be void and cancelled.

## **11. Reseller Representations and Warranties; General Provisions**

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





- 11.2. Reseller hereby warrants and represents that he/it is not a citizen or resident of the State of Israel and that the entity you filled-in in the Reseller Application Form is not an Israeli entity or located in Israel.
- 11.3. Reseller will provide accurate and complete details regarding his/its identity and personal details such as: PayPal account, address or other required information.
- 11.4. Reseller will be solely responsible for the development, operation, and maintenance of Reseller Site and for all materials that appear in the Reseller Site.
- 11.5. Reseller hereby represents and warrants to Wix that materials posted on his/its Reseller Site do not violate or infringe upon the rights of any third party, and that materials posted on his/its Reseller Site are not libelous or otherwise illegal. Wix disclaim all liability for all such matters.
- 11.6. As a condition to Reseller's participation in the Program, Reseller hereby represents and warrants that during the Term of this Agreement, Reseller will comply with all laws, ordinances, rules, regulations, orders, licenses, permits, judgments, decisions or other requirements of any governmental authority as applicable to Reseller, whether those laws are now in effect or later come into effect during the Term of this Agreement.
- 11.7. This Agreement has been duly and validly executed and delivered by Reseller (by acceptance of its terms) and constitutes Reseller's legal, valid, and binding obligation, enforceable against Reseller in accordance with the terms contained herein.
- 11.8. The execution, delivery, and the performance by Reseller 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 Reseller's assets or properties; any provision of Reseller's by-laws or certificate of incorporation, or any agreement or other instrument applicable to Reseller or binding upon Resellers assets or properties.
- 11.9. 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 Reseller in connection with the execution, delivery, and performance of this Agreement or the taking by Reseller of any other action hereunder.
- 11.10. To the best of Reseller's knowledge, there is no pending threatened claim, action, or proceeding against him/it, or any Reseller 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.
- 11.11. Reseller 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 Reseller Site.
- 11.12. Wix has the right, in Wix's sole discretion, to monitor Reseller Site at any time and from time to time to determine if the Reseller 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.

## **12. Relationship of Parties**

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





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

### **13. Disclaimers**

13.1. WIX MAKE 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.

13.2. WIX MAKES NO REPRESENTATION AS TO ANY OF THE INFORMATION FOUND ON WIX'S SITE. THE MATERIALS ON WIX'S SITE AND FOR THE RESELLER 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.

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

13.4. Reseller will indemnify and hold harmless Wix, its subsidiaries, officers, employees, agents, and third parties ("**Indemnified Parties**") from and against any claims, demands, proceedings, actions, liabilities, losses, costs, damages or expenses (including attorney's fees) arising or relating, directly or indirectly, in connection with the development, maintenance, operations and contents of Reseller Site or out of any disputes between Reseller and any other party relating to: (i) this Agreement or the participation in the Program, the Site or to services provided by Wix; or (ii) to any act or omission by Reseller or to Reseller's breach of this Agreement; (iii) or to any negligence, willful or improper misconduct by Reseller; or (iv) any allegation that Reseller's site or content infringes a third person's copyright, trademark or proprietary or intellectual property right, or misappropriates a third person's trade secrets. The terms of this section 13 shall survive any termination of this Agreement. Reseller shall defend and settle at its sole expense all proceedings arising out of the foregoing. Reseller agrees that Wix shall have the right to participate in the defense of any such claim through counsel of its own choosing. Reseller agrees to notify Wix of any such claim promptly in writing and to allow Wix to control the proceedings. Reseller agrees to cooperate fully with Wix during such proceedings.

### **14. Limitations Of Liability**

14.1. 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 RESELLER, 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.

14.2. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, WIX ITS SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES OR SUPPLIERS WILL NOT BE LIABLE TO RESELLER 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..

## **15. Modification**

- 15.1. Wix may modify any of the terms and conditions contained in this Agreement, at any time and in its sole discretion by providing Reseller fourteen (14) days prior notice of such modification. Notice of any change by e-mail, to Reseller'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 Reseller 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 Reseller Fees, payment procedures and schedules, and Reseller Program rules.
- 15.2. Notwithstanding the foregoing in Section 15.1 hereof, 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 Reseller of such change of the Referral Fees Plan. Reseller 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.
- 15.3. If any modification is unacceptable to Reseller, its/his/her sole recourse shall be to terminate this Agreement. Reseller'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.

## **16. Governing Law; Jurisdiction**

- 16.1. Any controversy or claim arising out of or relating to the Agreement, the formation of the Agreement or the breach of the Agreement, including any claim based upon arising from an alleged tort, shall be governed by the substantive laws of Israel. ANY SUIT, ACTION OR PROCEEDING CONCERNING THE AGREEMENT MUST BE BROUGHT IN TO THE APPLICABLE COURT IN TEL AVIV, ISRAEL, AND EACH OF THE PARTIES HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS (AND OF THE APPROPRIATE APPELLATE COURTS THEREFROM) IN ANY SUCH SUIT, ACTION OR PROCEEDING AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION WHICH IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT OR THAT ANY SUCH SUIT, ACTION OR PROCEEDING WHICH IS BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

## **17. Miscellaneous.**

- 17.1. 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.
- 17.2. 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 Reseller'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.
- 17.3. 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.

- 17.4. Reseller may not assign or transfer the Agreement, or any of its rights or obligations hereunder, without the prior written consent of Wix. Any attempted assignment in violation of the foregoing provision shall be null and void and of no force or effect whatsoever.

#### **18. Independent Investigation**

- 18.1. Wix encourages Reseller to consult with legal and/or financial and/or tax and/or accounting advisors prior to entering the Program.
- 18.2. Reseller acknowledges and agrees that nothing herein and no statement by Wix or any of its employee or other person associated with Wix has prevented Reseller in any way from seeking such advice before entering into this Agreement.
- 18.3. Reseller 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.
- 18.4. RESELLER HAS READ THIS AGREEMENT CAREFULLY AND UNDERSTANDS IT, HAS HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL AND ACCEPT THE OBLIGATIONS, WHICH IT IMPOSES UPON RESELLER WITHOUT RESERVATION. RESELLER 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 RESELLER TO INDUCE HIM/IT TO SIGN THIS AGREEMENT. RESELLER AGREES TO THE TERMS OF THIS AGREEMENT VOLUNTARILY AND FREELY.

☐ I READ THE AGREEMENT ABOVE AND I AGREE TO BE A RESELLER IN THE WIX RESELLER PROGRAM.