

## Affinity Group Program

Last modified: August 18, 2015

The Affinity Group Program is one whereby nonprofits and tax exempt organizations such as 501(c)(3) organizations ("Affinity Members") volunteer on behalf Xooker, LLC to sign up qualified businesses ("Merchants") who are eligible to participate on Xooker's Web site – www.xooker.com, mobile applications, electronic services, social networking sites, interactive features, online services, or any of our described online activities we own or control (collectively, the "Site"). Xooker will track if a Consumer or Merchant signs up by identifying the specific Affinity Group responsible.

### Rules:

- Affinity Members shall receive a \$100.00 donation for each Merchant signed up. Affinity Members will then receive a donation in the form of a residual percentage of [X%] that the Merchant pays to Xooker. Put another way, the more money a Merchant pays to Xooker, the more money the Affinity Member will earn.
- Affinity Members shall receive a \$1.00 donation for each Consumer signed up. Consumers may select a specific Affinity Member to receive a percentage of what the Consumer spends within Xooker's Site. This can be changed at any time at the discretion of the Consumer.

### Legal Rights:

- Xooker maintains the discretion to terminate an Affinity Member at anytime for any reason or no reason including but not limited to, if Xooker believes you have violated the terms of this Agreement or if Xooker believes your conduct is harmful to Xooker. An Affinity Member can discontinue his or her membership at anytime by providing notice to Xooker.
- Xooker may give general notice to you by sending electronic mail to your email address.
- Affinity Members are independent contractors. Nothing in this Agreement shall be construed to create a joint venture, partnership, franchise, or an agency relationship between Affinity Members and Xooker. Neither Party has the authority, without the other Party's prior written approval, to bind or commit the other Party in any way, or to represent the interests of the other Party in any way.
- Affinity members warrant that they are I.R.S. tax exempt 501(c)(3) organizations. Should an entity lose its tax exempt status, it will provide prompt notice to Xooker and this agreement will terminate.
- **YOU EXPRESSLY AGREE THAT YOUR PARTICIPATION IN THE AFFINITY GROUP PROGRAM IS AT YOUR OWN RISK. THE AFFINITY GROUP PROGRAM IS AVAILABLE ON AN "AS IS" BASIS, WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED. XOOKER EXPRESSLY DISCLAIMS ON ITS OWN BEHALF AND ON BEHALF OF ITS EMPLOYEES, AGENTS, ATTORNEYS, CONSULTANTS, OR CONTRACTORS ANY AND ALL WARRANTIES**

INCLUDING, WITHOUT LIMITATION (i) ANY WARRANTY OR REPRESENTATION WHATSOEVER REGARDING THE OPERATION OF THE AFFINITY GROUP PROGRAM, THE AVAILABILITY, ACCURACY OR CONTENT OF ANY INFORMATION, SERVICES, OR PRODUCTS PROVIDED OR AVAILABLE THROUGH OR IN CONNECTION WITH THE AFFINITY GROUP PROGRAM AND/OR THE XOOKER SITE OR ANY RESULTS OBTAINED THROUGH THE USE THEREOF, AND (ii) THE WARRANTIES OR CONDITIONS OF NONINFRINGEMENT, MERCHANTABILITY, AND FITNESS FOR ANY PARTICULAR PURPOSE. THIS LIMITED WARRANTY GIVES YOU SPECIFIC LEGAL RIGHTS, AND YOU MAY ALSO HAVE OTHER RIGHTS, WHICH VARY FROM STATE TO STATE.

- IN NO EVENT SHALL XOOKER, ITS EMPLOYEES, AGENTS, ATTORNEYS, CONSULTANTS, OR CONTRACTORS BE LIABLE UNDER THIS AGREEMENT FOR ANY CONSEQUENTIAL, SPECIAL, LOST PROFITS, INDIRECT OR OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF BUSINESS, COST OF COVER WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EVEN IF THE AFFINITY MEMBER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. IN ANY EVENT, XOOKER, ITS EMPLOYEES, AGENTS, ATTORNEYS, CONSULTANTS, OR CONTRACTORS, AGGREGATE LIABILITY UNDER THIS AGREEMENT FOR ANY CLAIM SHALL BE STRICTLY LIMITED TO \$50.00. SOME STATES DO NOT ALLOW THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THE ABOVE LIMITATION OR EXCLUSION MAY NOT APPLY TO YOU.
- You acknowledge that Xooker has entered into this Agreement in reliance upon the limitations of liability set forth herein and that the same is an essential basis of the bargain between the parties.
- This agreement constitutes the entire agreement between the parties relating to its subject matter and supersedes all prior or contemporaneous oral or written agreements concerning such subject matter. This agreement may be amended or modified only by Xooker.
- This Agreement shall be governed by and construed in accordance with the laws of the State of Kentucky, without giving effect to principles of conflicts of law. You agree that the exclusive venue for any disputes arising under this Agreement shall be the state and federal courts located in Kentucky.
- You acknowledge and agree that Xooker owns all legal right, title, and interest in any scripts, documents or any other information provided to Affinity Members and any content therein, as well as any comments, information, edits, suggestions and other feedback you provide, including any intellectual property or other proprietary rights which may subsist therein (whether those rights happen to be registered or not, and wherever in the world those rights may exist). To the extent Xooker does not own all such right, title and interest, you hereby assign such rights, title, and interest to Xooker. You therefore acknowledge that you have no intellectual property or other proprietary rights in any of the foregoing.

## SIGNATURES

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