

Affiliate Program Agreement

Last Modified: June 26, 2023

PLEASE READ THIS MARKETING AFFILIATE PROGRAM AGREEMENT CAREFULLY.

This is a contract between you (the “Affiliate”) and us (“My X Wellness”). It describes how we will work together and other aspects of our business relationship. It is a legal document so some of the language is necessarily “legalese” but we have tried to make it as readable in lay terms as possible.

The Marketing Affiliate Program Agreement applies to your participation in our Marketing Affiliate Program (the “Affiliate Program”). These terms are important and we cannot have you participate in our Affiliate Program unless you agree to them.

We periodically update these terms. We might also choose to replace these terms in their entirety if, for example, the Affiliate Program changes, ends, or becomes part of an existing program. If we update or replace the terms, we or the Affiliate Tool will let you know via electronic means, which may include an in-app notification or by email. If you do not agree to the update or replacement, you can choose to terminate as we describe below.

Definitions

“My X Wellness” (Company) is a health and wellness company that develops, manufactures, markets and sells hemp-based botanical products.

“Affiliate” (Marketing Affiliate; MA) means an independent company or individual that markets, promotes or otherwise drives traffic to the Company website.

“Affiliate Link” means the unique identifying tracking link that connects the affiliate and its customers to the Company page. This link or its corresponding code may be in multiple forms allowed under promotion materials. See Program Policies Page

“Marketing Affiliate Program” means our marketing affiliate program as described in this Agreement.

“Affiliate Lead” means a Customer prospect who clicks on the Affiliate Link that we have made available to you via the Affiliate Tool.

“Affiliate Marks” means any logo, trademark, trade name, design, domain name, insignias, or similar identifying material that is owned by and/or licensed to the Affiliate.

“Affiliate Policies” means the compilation of rules and expectations for the Parties engaging in the Affiliate Program.

“Affiliate Tool” means the affiliate software program made available to the Affiliate upon acceptance into the Affiliate Program to facilitate participation in the Affiliate Program.

“Affiliate Scripts” or “Promotional Materials” means marketing materials supplied to the MA by the Company or materials approved by the Company that the MA will use to promote the products and brand.

“Agreement” means this Marketing Affiliate Program Agreement and all materials referred to or linked to in here.

“Commission” means an amount described in the Affiliate Tool (or if applicable, in the Program Policies) for each Customer Transaction.

“Coupon Code” means a special offer for which the Customer takes advantage of a special promotion made available to an Affiliate Lead which may still lead to a Commission. Said Commission may include Commission rate adjustments agreed upon by the Company and MA for the purposes of a Special Offer.

“Customer” means the actual user of the My X Wellness Products who has purchased the Products after being an Affiliate Lead.

“Customer Transaction” means transactions by an Affiliate Lead that are eligible for Commission processing as set forth in the Customer Transactions section of this Agreement.

“Customer Data” means all information the Customer submits or provides, and the Company collects from the Customer or MA. This shall include, but not be limited to posts, uploads, inputs, and submissions for public display through any Company media, websites, social media, and so forth. All customer data acquired by Company belongs to the Company and may be incorporated into its business model and or marketing program.

“Parties” means Company and MA.

“My X Wellness content” means all information, data, text, messages, software, sound, music, video, photographs, graphics, images, and tags that we incorporate into our services.

“My X Wellness Products” (Products) means the products labeled under the My X Wellness brand and eligible for the Program.

“New Customer” means a Customer whom the Marketing Affiliate directs to My X Wellness and is not actively in our Customer database as having purchased products from us before.

“Program Policies Page” means the Affiliate Partner Program documents page https://myxwellness.com/affiliate_documents where we will provide all the up-to-date guidelines and policies for the Affiliate Program.

“Special Offer” means a mutually agreed upon price and Commission terms between the Company and Affiliate, which is in writing and accompanies this agreement.

“Termination” means the cessation of this Agreement due to the designated time period or as allowed by one or both Parties in the Termination section of this Agreement.

"We", "us", “our”, and “My X Wellness means My X Wellness.

“You”, “Affiliate”, and “MA” means the party, other than My X Wellness, entering into this Agreement and participating in the Affiliate Program.

A. Non-Exclusivity

This Agreement does not create an exclusive agreement between you and us. Both you and we will have the right to recommend similar products and services of third parties and to work with other parties in connection with the design, sale, installation, implementation, and use of similar services and products of third parties.

B. Affiliate Acceptance

Once you complete an application to become an Affiliate, we will review your application and notify you whether you have been accepted to participate in the Affiliate Program, or not. Before we accept an application, we may want to review your application with you, so we may reach out to you for more information. We may require that you complete certain requirements or certification(s) before we accept your application. If we do not notify you that you are accepted to participate in the Affiliate Program within thirty (30) days of your application, your application is considered to be rejected.

If you are accepted to participate in the Affiliate Program, then upon notification of acceptance, the terms and conditions of this Agreement shall apply in full force and effect, until terminated, pursuant to the terms set forth below. Further, you will need to complete any enrollment criteria set out in the Program Policies Page, if applicable. Failure to complete any enrollment criteria within thirty (30) days of your acceptance will result in the immediate termination of this Agreement and you will no longer be able to participate in the Affiliate Program.

You will always comply with the terms and conditions of this Agreement, including any applicable Program Policies. Failure to comply will result in termination of the Agreement.

C. Customer Transactions

1. Affiliate Program Limits. Each accepted Affiliate Lead will expire according to the information provided in the Affiliate Tool (or if applicable, in the Program Policies) from the date the Affiliate Lead clicked on the Affiliate Link that was made available by you. We will pay you Commission as described in the Affiliate Tool (or if applicable, in the Program Policies) for each new Customer who completes an applicable Customer Transaction after clicking on an Affiliate Lead made available by you, provided that you remain eligible to receive Commission pursuant to the terms of this Agreement. We will pay you a Commission on the first purchase of an eligible product(s) by the new Customer for that Customer Transaction, as well as future purchases of this new Customer, as outlined in the Affiliate Tool (or if applicable, in the Program Policies), provided that you remain eligible to receive Commission pursuant to the terms of this Agreement.
2. Eligibility. To be eligible for Commission (i) an Affiliate Lead must be accepted and valid in accordance with the 'Acceptance and Validity' section; (ii) a Customer Transaction must have occurred; (iii) the Customer must not return the Product for a refund. You are not eligible to receive a Commission or any other compensation from us if (i) such compensation is disallowed or limited by federal, state, or local law or regulation in the United States or the laws or regulation of your jurisdiction; (ii) the Customer has paid or will pay such compensations, referral fees, or other compensation directly to you, or (iii) the Commission payment has been obtained by fraudulent means, misuse of the Affiliate Link, in violation of any Affiliate Program Policies that we make available to you, misuse of the Affiliate Tool or by any other means that we deem to breach the spirit of the Marketing Affiliate Program. In competitive situations with other affiliates, we may elect to provide the Commission to the affiliate that we deem to be the most eligible for Commission, at our discretion. We may discontinue Commission payments should any of the eligibility criteria set forth in this subsection fail to be met at any time.

3. Acceptance and Validity. You will only be eligible for a Commission payment for any Customer Transactions that derived from Affiliate Leads generated by the Affiliate Link that we make available to you and are accepted by My X Wellness. An Affiliate Lead will be considered valid and accepted if, in our reasonable determination: (i) it is a new potential customer of ours, and (ii) is not involved in our active sales process. If an Affiliate Lead does not purchase a Product within the time period described on the Affiliate Tool (or if applicable, in the Program Policies) of their first click on the Affiliate Link, you will not be eligible for a Commission payment, even if the Affiliate Lead decides to purchase after the time period has expired. An Affiliate Lead is not considered valid if the first click on the Affiliate Link is after this Agreement has expired or terminated.
4. Engagement with Prospects. Once we have received the Affiliate Lead information, we engage with the prospect directly, regardless of whether the Affiliate Lead is valid. If an Affiliate Lead is not valid then we may choose to maintain it in our database, and we may choose to engage with such Affiliate Lead. Any engagement between My X Wellness and an Affiliate Lead will be at My X Wellness's discretion.
5. Commission and Payment. In order to receive payment under this Agreement, you must have: (i) agreed to the terms of this Agreement (generally completed through the Affiliate Tool); (ii) completed all steps necessary to create your account in the Affiliate Tool in accordance with our directions, (iii) have a valid and up-to-date payment method in the Affiliate Tool with such account (iv) completed any and all required tax documentation in order for Affiliate Tool or my X Wellness to process any payments that may be owed to you.
6. Commission Payment. We, or a My X Wellness Affiliate, will pay the Commission amount due to you within thirty (30) days after the return policy has passed for any Commission amounts that you become eligible for according to the Eligibility section above. We will pay in US dollars for all domestic US companies in the Program. For any Affiliates located outside the US, we will determine the currency in which we pay the Commission, as well as the applicable conversion rate. We will not pay more than one Commission payment or another similar referral fee on any given Customer Transaction (unless we choose to at our discretion). All commissions are based on the final sales price after any discounts and before taxes are applied.
7. Taxes. You are responsible for the payment of all taxes applicable to the Commission. All amounts payable by us to you are subject to an offset by us against any amounts owed by you to us.
8. Commission Amounts. We reserve the right to alter or change the Commission amount. We will post all the information regarding the Commission amount on the Program Policies Page. Current and in-progress Customer Transactions will be determined and paid based on the Agreement and Policies at the time the Transaction was entered into.

D. Trademarks

You grant us a nonexclusive, nontransferable, royalty-free right to use and display your trademarks, service marks, and logos ("Affiliate Marks") in connection with the Affiliate Program and this Agreement.

During the term of this Agreement, if we make our trademark available to you within the Affiliate Tool, you may use our trademark as long as you follow the usage requirements in this section. You must: (i) only use the images of our trademark that we make available to you, without altering them in any way; (ii) only use our trademarks in connection with the Affiliate Program and this Agreement; and (iii) immediately comply if we request that you discontinue use. You must not: (i) use our trademark in a misleading or disparaging way; (ii) use our trademark in a way that implies we endorse, sponsor or approve of your services or products; or (iii) use our trademark in violation of applicable law or in connection with an obscene, indecent, or unlawful topic or material.

E. Proprietary Rights

1. My X Wellness's Proprietary Rights. The My X Wellness Products are protected by intellectual property laws. The My X Wellness Products belong to and are the property of us or our licensors (if any). We retain all ownership rights in the My X Wellness Products. You agree not to copy, rent, lease, sell, distribute, or create derivative works based on the My X Wellness Content, or the My X Wellness Products in whole or in part, by any means, except as expressly authorized in writing by us. My X Wellness, the Web Design, the My X Wellness logos, and other marks that we use from time to time are our trademarks and you may not use them without our prior written permission, except as otherwise set forth in this Agreement. We encourage all customers, affiliates, and partners to comment on the My X Wellness Products, provide suggestions for improving them, and vote on suggestions they like. You agree that all such comments and suggestions will be non-confidential and that we own all rights to use and incorporate them into the My X Wellness Products, without payment to you.
2. Customer's Proprietary Rights. As between you and Customer, Customer retains the right to access and use the Customer portal associated with the My X Wellness Products. For the avoidance of doubt, the Customer will own and retain all rights to the Customer Data.

F. Confidentiality

As used herein, "Confidential Information" means all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), (i) whether orally or in writing, that is designated as confidential, and (ii) My X Wellness customer and prospect information, whether or not otherwise designated as confidential. Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party or (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party. The Receiving Party shall: (i) protect the confidentiality of the Confidential Information of the Disclosing Party using the same degree of care that it uses with its own confidential information, but in no event less than reasonable care, (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, (iii) not disclose Confidential Information of the Disclosing Party to any third party, and (iv) limit access to Confidential Information of the Disclosing Party to its employees, contractors, and agents. The Receiving Party may disclose Confidential

Information of the Disclosing Party if required to do so under any federal, state, or local law, statute, rule or regulation, subpoena, or legal process.

G. Term and Termination

1. Term. This Agreement will apply for as long as you participate in the Affiliate Program until terminated.
2. Termination Without Cause. Both you and we may terminate this Agreement on fifteen (15) days' written notice to the other party.
3. Termination for Agreement Changes. If we update or replace the terms of this Agreement, you may terminate this Agreement on five (5) days' written notice to us, provided that you send us written notice within ten (10) days after we send you notice of the change.
4. Termination for Cause. We may terminate this Agreement: (i) upon thirty (30) days' notice to you of a material breach if such breach remains uncured at the expiration of such period, (ii) upon fifteen (15) days' notice to you of non-payment of any amount due to us if such amount remains unpaid at the expiration of such period, (iii) immediately, if you become the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, or (iv) immediately if we determine that you are acting, or have acted, in a way that has or may negatively reflect on or affect us, our prospects, or our customers.
5. Effects of Expiration/Termination. Expiration of this Agreement, and termination of this Agreement: (i) without cause by us, (ii) by you with cause, (iii) by you according to the 'Termination for Agreement Changes' section, shall not affect our obligation to pay you a Commission, so long as the related payment by the Customer Transaction is recognized by us within thirty (30) days after the date of such termination or expiration. We will not pay you fees on Customer Transactions recognized by us after thirty (30) days after the date of such termination or expiration set out above. Provided however, in the event of termination without cause by you, or for cause by us, our obligation to pay and your right to receive any Commission will terminate upon the date of such termination, regardless of whether you would have otherwise been eligible to receive Commission prior to the date of termination. Except as expressly set forth in this section, you are not eligible to receive a Commission payment after the expiration or termination of this Agreement. Upon termination or expiration, you will discontinue all use of and delete the Affiliate Tool that we make available to you for your participation in the Affiliate Program. Upon termination or expiration, an Affiliate Lead is not considered valid, and we may choose to maintain it in our database and engage with such a prospect. Upon termination or expiration, you will immediately discontinue all use of our trademark and references to this Affiliate Program from your website(s) and other collateral. For the avoidance of doubt, termination or expiration of this Agreement shall not cause a Customer's purchase to be terminated.

H. Affiliate Representations and Warranties

You represent and warrant that: (i) you have all sufficient rights and permissions to participate in the Affiliate Program and to provision My X Wellness with Affiliate Leads for our use in sales and marketing efforts or as otherwise set forth in this Agreement, (ii) your participation in this Affiliate Program will not conflict with any of your existing agreements or arrangements; and (iii) you own or have sufficient rights to use and to grant to us our right to use the Affiliate Marks. You further represent and warrant that: (i) you will ensure that you are compliant with any trade or regulatory requirements that may apply to your participation in the Affiliate Program (for example, by clearly stating you are a My X Wellness Affiliate on any website(s) you own where you make an Affiliate Link available); (ii) you will accurately provide in the Affiliate Tool all websites and domains you own where you intend to use Affiliate Links to generate Affiliate Leads; (iii) you will not purchase ads that direct to your site(s) or through an Affiliate Link that could be considered as competing with My X Wellness's own advertising, including, but not limited to, our branded keywords; (iv) you will not participate in cookie stuffing or pop-ups, false or misleading links are strictly prohibited; (v) you will not attempt to mask the referring URL information; (vi) you will not use your own Affiliate Link to purchase My X Wellness products for yourself. See Program Policies for information about Marketing Affiliate Coupons for personal use of products.

I. Indemnification

You will indemnify, defend and hold us harmless, at your expense, against any third-party claim, suit, action, or proceeding (each, an "Action") brought against us (and our officers, directors, employees, agents, service providers, licensors, and affiliates) by a third party not affiliated with us to the extent that such Action is based upon or arises out of (a) your participation in the Affiliate Program, (b) our use of the prospect data you provided us, (c) your noncompliance with or breach of this Agreement, (d) your use of the Affiliate Tool, or (e) our use of the Affiliate Marks. We will: notify you in writing within thirty (30) days of our becoming aware of any such claim; give you sole control of the defense or settlement of such a claim; and provide you (at your expense) with all information and assistance reasonably requested by you to handle the defense or settlement of the claim. You shall not accept any settlement that (i) imposes an obligation on us; (ii) requires us to make an admission; or (iii) imposes liability not covered by these indemnifications or places restrictions on us without our prior written consent.

J. Disclaimers; Limitations of Liability

1. Disclaimer of Warranties. We and our affiliated companies and agents make no representations or warranties about the suitability, reliability, availability, timeliness, security, or accuracy of the My X Wellness products, My X Wellness content, the affiliate program, or the affiliate tool for any purpose. Application programming interfaces (APIs) and the affiliate tool may not be available at all times. To the extent permitted by law, My X Wellness products and affiliate tool are provided "as is" without warranty or condition of any kind. We disclaim all warranties and conditions of any kind regarding the My X Wellness products and the affiliate tool including all implied warranties or conditions of merchantability, fitness for a particular purpose, title, and non-infringement.

2. No Indirect Damages. To the extent permitted by law, in no event shall either party be liable for any indirect, punitive, or consequential damages, including lost profits or business opportunities.
3. Limitation of Liability. If, notwithstanding the other terms of this agreement, we are determined to have any liability to you or any third party, the parties agree that our aggregate liability will be limited to the total commission amounts you have actually earned for the related customer transactions in the twelve-month period preceding the event giving rise to a claim.
4. Affiliate Tool. We disclaim all liability with respect to any Affiliate Tool that you use, that we have not made available to you.
5. Cookie duration. Cookies used as part of this affiliate program have a set duration. If a potential customer clears their cookies during this period, My X Wellness shall not be liable for any commissions that may have been owed to you. A reasonable effort may be made to determine a Potential Customer and Customer Transaction if supporting data is available to reasonably make such verification.

K. General

1. Amendment; No Waiver. We may update and change any part or all of this Agreement, including by replacing it in its entirety. If we update or change this Agreement, the updated Agreement will be made available to you via the Affiliate Tool and we will let you know by email. The updated Agreement will become effective and binding on the next business day after we have notified you. When we change this Agreement, the "Last Modified" date above will be updated to reflect the date of the most recent version. We encourage you to review this Agreement periodically. If you do not agree to the update, change, or replacement, you can choose to terminate as we describe above. No delay in exercising any right or remedy or failure to object will be a waiver of such right or remedy or any other right or remedy. A waiver on one occasion will not be a waiver of any right or remedy on any future occasion.
2. Applicable Law. This agreement shall be governed by the laws of Oregon, without regard to the conflict of law provisions thereof. In the event either of us initiates an action in connection with this Agreement or any other dispute between the parties, the exclusive venue and jurisdiction of such action shall be in the state and federal courts in Portland, Oregon. You are responsible for complying with your own local laws, which may vary with respect to certain activities or people (e.g., MINORS).
3. Force Majeure. Neither party will be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; an act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions; or other events outside the reasonable control of the obligated party. Each party will use reasonable efforts to mitigate the effect of a force majeure event.
4. Actions Permitted. Except for actions for nonpayment or breach of a party's proprietary rights, no action, regardless of form, arising out of or relating to this Agreement may be brought by either party more than one (1) year after the cause of action has accrued.

5. Relationship of the Parties. Both you and we agree that no joint venture, partnership, employment, or agency relationship exists between you and us because of this Agreement.
6. Compliance with Applicable Laws. You shall comply and shall ensure that any third parties performing sales or referral activities on your behalf comply, with all applicable foreign and domestic laws (including without limitation export laws and laws applicable to sending unsolicited email), governmental regulations, ordinances, and judicial administrative orders. You shall not engage in any deceptive, misleading, illegal, or unethical marketing activities or activities that otherwise may be detrimental to us, our customers, or the public.
7. Severability. If any part of this Agreement is determined to be invalid or unenforceable by applicable law, then the invalid or unenforceable provision will be deemed superseded by a valid, enforceable provision that most closely matches the intent of the original provision and the remainder of this Agreement will continue in effect.
8. Notices. Notice will be sent to the contact address set forth herein (as such may be changed by notice given to the other party) and will be deemed delivered as of the date of actual receipt.

To us: My X Wellness 16395 SW Blanton St. Beaverton, OR. 97078.

To you: your address as provided in our affiliate account information for you.

We may give electronic notices specific to you by email to your e-mail address(es) on record in our account information for you. We may give notice to you by telephone calls to the telephone numbers on record in our account information for you.

Entire Agreement. This Agreement is the entire agreement between us for the Affiliate Program and supersedes all other proposals and agreements, whether electronic, oral, or written, between us. We object to and reject any additional or different terms proposed by you, including those contained in your purchase order, acceptance, or website. Our obligations are not contingent on the delivery of any future functionality or features of the My X Wellness Products or dependent on any oral or written public comments made by us regarding future functionality or features of the My X Wellness Products. It is the express wish of both you and us that this Agreement and all related documents be drawn up in English. We might make versions of this Agreement available in languages other than English. If we do, the English version of this Agreement will govern our relationship, and the translated version is provided for convenience only and will not be interpreted to modify the English version of this Agreement.

Assignment. You will not assign or transfer this Agreement, including any assignment or transfer by reason of merger, reorganization, sale of all or substantially all its assets, change of control, or operation of law, without our prior written consent. We may assign this Agreement to any affiliate or in the event of a merger, reorganization, sale of all or substantially all our assets, change of control, or operation of law.

No Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any person or entity (other than the parties hereto) any right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

Program Policies Page. We may change the Program Policies from time to time. Your participation in the Affiliate Program is subject to the Program Policies, which are incorporated herein by reference.

No License. We grant to you only the rights and licenses expressly stated in this Agreement, and you receive no other rights or licenses with respect to us, the My X Wellness Products, our trademarks, or any other property or right of ours.

Sales by My X Wellness. This Agreement shall in no way limit our right to sell the My X Wellness Products, directly or indirectly, to any current or prospective customers.

Authority. Each party represents and warrants to the other that it has full power and authority to enter into this Agreement and that it is binding upon such party and enforceable in accordance with its terms.

Survival. The following sections shall survive the expiration or termination of this Agreement: 'Commission and Payment', 'Proprietary Rights', 'Confidentiality', 'Effects of Termination/Expiration', 'Indemnification', 'Disclaimers; Limitation of Liability', 'Non-Solicitation' and 'General'.

This agreement is hereby accepted by you when you apply to the affiliate program through our affiliate tool.