

Xero Referral Program Agreement

Thank you for applying to join Xero's Referral Program! To be eligible to participate, you must review and accept this Xero Affiliate Agreement ("**Agreement**").

Please review these terms carefully. By submitting an application for Xero's Referral Program through the PartnerStack Platform and by clicking on the "Confirm" button, you agree to be bound by and comply with the terms of this Agreement, as updated from time to time in accordance with Section 2.

This Agreement is between you ("**you**", "**your**") and the Xero entity you contract with based on your location ("**Xero**", "**our**", "**we**"). Section 21 sets out which Xero entity you contract with. Each of you and Xero may be referred to in this Agreement as a "**Party**", and may be collectively referred to in this Agreement as the "**Parties**".

1. **Xero Referral Program.** Xero is a cloud-based accounting software platform, accessible at www.xero.com. Xero maintains a website page at xero.com/signup through which non-accounting or bookkeeping small businesses can sign up for Xero's services ("**Xero Sign-Up Page**"). The Xero Referral Program is facilitated on the PartnerStack partner management platform ("**PartnerStack Platform**"). Both Parties acknowledge that they may be party to separate agreements with PartnerStack and may be participants in other PartnerStack programs. You acknowledge that Xero is not an agent or representative of PartnerStack, and is not party to any agreement you have with PartnerStack, nor in any way responsible for the performance of PartnerStack.
2. **Modification.** At any time, and in our sole discretion, we may modify any of the terms and conditions of this Agreement by posting a revised or new agreement through the PartnerStack Platform. Modifications may include, without limitation, changes in the scope of available commission amounts, fee schedules, and payment procedures. If any of the modifications are unacceptable to you, your only recourse is to terminate this Agreement pursuant to Section 15 (Term and Termination). Your continued participation in the Xero Referral Program following Xero's posting of a revised or new agreement will constitute your acceptance of the modifications.
3. **Approval to Participate.** Participation in the Xero Referral Program is subject to Xero's approval, which may be withheld in Xero's sole discretion (including refusing entry to the program based on website content). To apply to participate in the Xero Referral Program, you will be required to complete an application questionnaire and, if you seek to publish the Referral Link (defined below) on your website(s), you will be required to submit the URL for the website(s) that you seek approval for (if you are operating more than one website, you must submit the URL for each website that you seek approval) (each approved website, a "**Site**"). Xero will notify each applicant through PartnerStack as to whether or not you have been approved to participate in the Xero Referral Program. Our approval process is solely for our own assurance, and you are not entitled to rely on it for any purpose.
4. **Referral Link.** You will be provided with a unique URL string which will direct visitors to the Xero Sign-Up Page ("**Referral Link**").
5. **Commissions.**
 - a. For each small, non-accounting or bookkeeping business that:
 - i. is confirmed by Xero to not be an existing subscriber to Xero's services;
 - ii. signs up to a Business Edition subscription to Xero services ("**Subscription**") via your Referral Link;
 - iii. within 35 days of signing up in accordance with (ii), purchases a paying Subscription; and

- iv. meets any and all applicable eligibility requirements set out in Xero's Referral Program profile on the PartnerStack Platform

(each small business that meets criteria (i) through (iv) above, a "**Referred Subscriber**")

You may be eligible to receive a one-time payment ("**Commission**") consistent with this Section 5 and Section 6 (Payments). Each small, non-accounting or bookkeeping business may only be counted as a Referred Subscriber one time and you may only receive up to one Commission per Referred Subscriber.

Referred Subscriber eligibility requirements and Commission amounts available to be earned are published on Xero's Referral Program profile on the PartnerStack Platform, and may be changed from time to time in Xero's sole discretion by publishing new Referred Subscriber eligibility requirements and/or Commission amounts. Commission amounts are inclusive of any applicable taxes. You are responsible for your own tax liabilities (for example, GST, VAT or sales taxes) on the Commission amounts.

- b. Xero may from time to time in its sole discretion, offer Referred Subscribers a discount on Xero's then-current list price for applicable subscriptions ("**Discount**") via your Referral Link, with the Discount amount, term, eligibility requirements and any other offer details to be set out in writing by Xero. Any Discount, and display or reference to such Discount, will be subject to the terms of this Agreement and any additional terms as communicated by Xero.
 - c. Although PartnerStack may track and calculate lead submissions in accordance with the PartnerStack program, determination of whether the lead submission has resulted in a Referred Subscriber for which you are eligible to receive a Commission payment will be made by Xero in its sole discretion.
6. **Payments.** Commissions will be paid by Xero to PartnerStack, and PartnerStack will process and distribute the payments to you. Xero is not a party to your agreement(s) with PartnerStack, and will have no liability, responsibility or obligation for the passage of any Commission payments to you. Xero may, and you consent for Xero to, chargeback to you (for example, debit or offset from any amounts payable) any Commissions paid or credited to you with respect to Referred Subscribers that were procured fraudulently or as a result of any violation of this Agreement or applicable law or were paid in error. For clarity, Xero's only payment obligation is the payment of validly owing Commissions to PartnerStack. You will have no claims against Xero for any additional compensation, Commissions or business derived by or through Referred Subscribers.
7. **License.**
- (a) Xero grants to you a limited, revocable, non-transferable, non-exclusive, non-sublicensable, royalty-free license during the term of this Agreement to use and display the Referral Link and Xero's Brand Elements (defined below) in accordance with Xero's branding guidelines (accessible on Xero's Referral Profile on the PartnerStack Platform and updated from time to time in Xero's sole discretion), solely in connection with the marketing and promotional activities set out in this Agreement.
 - (b) "**Brand Elements**" means any trademarks, service marks, names, logos, images, collateral or similar materials, including but not limited to, marketing materials that are accessible via the asset library in Xero's Referral Program profile on the PartnerStack Platform. For clarity, Xero's Brand Elements does not include Xero's products or services themselves.
 - (c) All goodwill arising out of the use of Xero's Brand Elements will inure to the benefit of Xero. Except as expressly licensed under this Agreement, the Xero retains all right, title and interest in

and to its Brand Elements, including, without limitation, all intellectual property rights.

8. **Site Compliance.** Xero may monitor, review and otherwise investigate your Site(s) to assess your compliance with this Agreement. Where Xero determines in its sole discretion that the Site is not compliant with this Agreement, it may withdraw its approval for the Site, following which you will immediately cease all marketing activities on the applicable Site(s), including use and display of Referral Links and Xero Brand Elements in connection with this Agreement.
9. **Usage Guidelines.** Xero may require that any use or display of the Referral Link, Brand Elements and/or Discount be modified or removed to comply with this Agreement and Xero's then-current branding guidelines. If you do not make the requested changes within five (5) business days, Xero reserves the right to immediately terminate your participation in the Xero Referral Program.
10. **Reporting.** From time to time Xero may request you to provide to Xero a report on one or more of the following: (a) your compliance with this Agreement; (b) each use and display (past and current) of the Referral Link, Brand Elements and/or Discount; and/or (c) number of aggregate clicks on your Site(s) where the Referral Link is displayed ("**Referral Report**"). You will provide the Referral Report to Xero within seven (7) calendar days from the date of the request.
11. **Subscriber Relationship.** Use of Xero's services is governed by the Xero Terms of Use and Xero's Privacy Notice. Xero's Terms of Use are entered into between the subscriber and applicable Xero entity, as set out in Xero's Terms of Use, currently available at <https://www.xero.com/legal/> and each as may be updated from time to time in Xero's sole discretion.
12. **Marketing Activities.** Throughout the Term you may conduct marketing activities that incorporate the Referral Link, each subject to the terms of this Agreement, including without limitation, Section 7 (License) and Section 14 (Prohibited Activities). You represent and warrant that you will perform any marketing activities (including the publishing and distributing of advertisements) in strict compliance with all applicable laws, regulations and guidelines, including without limitation, laws prohibiting deceptive and misleading advertising and marketing, email marketing laws (including without limitation, the CAN-SPAM Act of 2003 or Canada's Anti-Spam Legislation (CASL), as applicable). In connection with the marketing activities, you are solely responsible for (a) obtaining all necessary consents; and (b) ensuring your compliance with all laws. At any time, Xero may, in its sole discretion, withdraw its consent for any or all of the marketing activities, following which you will cease the relevant marketing activity(ies) within three (3) business days.
13. **Relationship with Xero.** It is your sole responsibility to disclose the nature of your relationship with Xero to any actual or potential customers in connection with the marketing activities. You will indemnify and hold harmless Xero against any liability arising from your lack of proper disclosure to an actual or potential customer.
14. **Prohibited Activities.** You will not:
 - a. Display the Referral Link or Xero Brand Elements on any websites that have not been approved for the Xero Referral Program, and/or alongside any content that includes objectionable material (including but not limited to content that promotes sexually explicit material; violence; any form of discrimination; illegal activities; lists Xero coupon codes or discounts that were not officially provided to you by Xero; or infringes or violates any copyright, trademark or other intellectual property rights of Xero or any third party);
 - b. Directly or indirectly make (or knowingly facilitate, encourage, or enable any third parties to make) any alterations to the Xero Brand Elements;

- c. Misrepresent your relationship with Xero, including any implication that Xero sponsors, supports or endorses you;
 - d. In connection with your activities as set out in this Agreement, (i) violate any law, rule or regulation; or (ii) use any false or deceptive material, or otherwise engage in any consumer or other fraud.
15. **Term and Termination.** The effective date of this Agreement will be the date on which you submit your application and/or click “Confirm” and continues until either party terminates this Agreement on fourteen (14) days’ notice to the other party. If Xero wishes to terminate the program in accordance with this Section 15, we may post a notice of termination through the PartnerStack Platform, which will be deemed as notice of termination to you in accordance with this provision. Xero may in its sole discretion terminate this Agreement or suspend your participation in the Xero Referral Program immediately, without penalty, in the event that (a) you are in material breach of this Agreement (which includes without limitation, your breach of Section 12 or Section 14); (b) Xero believes it may be subject to potential claims or liability related to your participation in the Xero Referral Program; (c) Xero believes its brand or reputation may be harmed by your participation in the Xero Referral Program; or (d) fraud is detected or reasonably suspected in connection with your account. Where Xero terminates this Agreement other than for convenience, Xero will be released from all obligations and liabilities owed to you, including rights regarding referrals and the forfeiture of any accrued, but unpaid Commissions. Upon termination of this Agreement, all rights granted to you hereunder will immediately cease (except as otherwise expressly set forth in this Agreement) and you will immediately cease all marketing activities under this Agreement, including use and display of Referral Links, Xero Brand Elements and Discounts in connection with this Agreement. The provisions of Section 17 (Limitation of Liability), Section 18 (Indemnity), and Section 19 (Confidentiality) will survive any termination or expiration of this Agreement.
16. **Representations and Warranties.**
- a. You represent and warrant that: (i) you have the full power and authority to enter into and perform under this Agreement; and (ii) you will perform your obligations and exercise your rights in compliance with all applicable laws, regulations, and rules.
 - b. Services or deliverables provided by Xero under this Agreement, if any, are provided “as is”. To the full extent permissible by applicable law, Xero disclaims all warranties, express, implied, statutory or otherwise, including but not limited to, implied warranties of merchantability, non-infringement, and fitness for a particular purpose in connection with this Agreement, including the Xero Services, the Referral Program and your potential to earn an income from the Referral Program. Xero makes no warranty or representation that the Referral Links, Xero Sign-Up Page or Discounts will be uninterrupted, secure or error free or that any such outages, interruptions or defects in the Referral Links, Xero Sign-Up Page or Discounts will be corrected.
 - c. Xero will make reasonable efforts to track Referred Subscribers and Commissions, however Xero is not responsible for any technical problems, acts by third parties (including PartnerStack) or other inaccuracies or events outside Xero’s reasonable control.
17. **Limitation of Liability.** To the extent not prohibited by applicable law: (a) under no circumstances will either party be liable under this Agreement for indirect, punitive, incidental, consequential, special or exemplary damages (or any loss of revenue or profits), even if the party has been advised of the possibility of such damages; and (b) in no event will Xero’s aggregate cumulative liability for any claims arising out of or related to this Agreement exceed US \$500.00.
18. **Indemnity.** You will indemnify, hold harmless, and to the extent requested by Xero defend, Xero, its affiliates, and its and their officers, directors, employees, shareholders, sublicensees, agents, representatives, successors and assigns from and against any and all claims (including third-party claims),

losses, liabilities, damages, expenses and costs (including reasonable attorneys' fees and court costs) ("**Claims**") arising out of or from your (a) violation of this Agreement; (b) infringement of any intellectual property or other proprietary right; or (c) violation of any applicable law in connection with your performance under this Agreement. In no event will you settle any Claim without Xero's prior written consent (not be unreasonably withheld).

19. Confidential Information.

- a. During the Term of this Agreement you may receive non-public business, technical or financial information from Xero, that is identified (in writing or orally) as confidential, or should be reasonably known by you to be confidential due to the nature of the information and circumstances surrounding disclosure ("**Confidential Information**").
- b. You will: (i) hold in confidence and not disclose any Confidential Information to third parties and (ii) use the Confidential Information solely for the purpose of fulfilling your obligations under this Agreement. In the event of any unauthorized disclosure of the Confidential Information, you will promptly notify Xero in writing, and promptly and reasonably cooperate with Xero to mitigate the effects of the unauthorized disclosure. To the extent required by law, you may disclose the Confidential Information, provided that to the extent permitted by law, you notify Xero in advance and cooperate in any effort to obtain confidential treatment. You acknowledge that disclosure of Confidential Information may cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by you, Xero will be entitled to seek appropriate equitable relief in addition to any remedies it might have at law.
- c. All information or data contained in or transferred via the Referral Link and the Xero Sign-Up Page will be deemed Xero's Confidential Information. All visitors that sign up for Xero's services via the Xero-Sign Up Page will be subject to additional terms and conditions available on Xero's website, including Xero's privacy policy.

20. Miscellaneous.

- a. **Privacy Policy.** To learn how Xero processes personal information, please see Xero's Privacy Notice, currently available at <https://www.xero.com/privacy/> and as may be updated by Xero from time to time in its sole discretion.
- b. **Relationship of Parties.** The Parties are independent contractors. No agency, partnership, joint venture or employment is created between the parties as a result of this Agreement. You are not authorized to create any obligation, express or implied, on behalf of Xero.
- c. **Assignment.** You will not transfer, assign or delegate your obligations under this Agreement without the prior written consent of Xero. All rights, benefits and protections granted to Xero under this Agreement extend to its affiliates. Xero may enter into similar or any other arrangements with any other parties.
- d. **Entire Agreement.** This Agreement is the Parties' entire agreement and supercedes any prior or contemporaneous agreements related to the subject matter.
- e. **Severability.** If any provision of the Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision (and related provisions) will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect.
- f. **Notices.** Notices must be sent to Xero by email: to Xero at legalnotices@xero.com and to you at the email provided in your application and will be deemed delivered at the time of transmission unless a delivery error is received by the sender.

- 21. Xero contracting entity; law and venue.** The following table sets out, for the country you reside in, the details of the applicable Xero entity and the laws that govern this Agreement:

Country	Xero Entity and Address	Registration Number	Law and Venue
Australia	Xero Australia Pty Limited 1/6 Elizabeth Street Hawthorn Melbourne VIC 3122	160661183	Victoria, Australia
Canada	Xero Software (Canada) Ltd. Suite 2600, Three Bentall Centre PO Box 49314, 595 Burrard Street Vancouver, British Columbia, V7X 1L3	1408742-9	Ontario, Canada
Singapore	Xero (Singapore) Pte. Ltd. 1 Raffles Place #36-01, One Raffles Place, Singapore (048616)	201607 789C	Singapore
South Africa	Xero South Africa (Pty) Limited FAO Xero South Africa (Pty) Ltd, Central Office Park Unit 4, 257 Jean Avenue, Centurion, Gauteng, 0046, South Africa, PO Box 7750, Centurion, Gauteng, 0046, South Africa	2017/11738 1/07	Law: South Africa Venue: North Gauteng, Pretoria
United Kingdom	Xero (UK) Limited 5th Floor 100 Avebury Boulevard, Milton Keynes, MK9 1FH	06071722	England
United States	Xero, Inc. 1615 Platte Street, Floor 4, Denver, CO 80202	N/A	California, USA
New Zealand and the rest of the world	Xero (NZ) Limited 19–23 Taranaki Street, Te Aro, Wellington 6011	4123758	New Zealand