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**MUSEMENT S.p.A**  
**PARTNER PROGRAM SERVICE TERMS AND CONDITIONS**

between

**MUSEMENT S.p.A.**, whose registered office is at Via Polesine 13, 20139 Milan, Tax and VAT code IT07978000961, Milan Companies Registry MI-1995020 (hereinafter also referred to as Musement)

and

the Partner identified in [affiliate.musement.com/](http://affiliate.musement.com/) web application each one referred to herein individually as a Party and collectively as the Parties.

**Recitals**

- A. WHEREAS Musement contracts, compiles and maintains a database of destination travel product;
- B. WHEREAS Partner desires to display, promote and sell Musement's database of destination travel product via the Partners travel site(s)
- C. WHEREAS Musement will manage the pricing, images and content, display and selection of the destination travel product provided to Partner's travel web site(s);

The parties hereby agree as follows:

**1. Definitions**

- 1.1 "Confidential Information" means a party's confidential and proprietary information that it discloses to the other party in connection with this Agreement including but not limited to, information relating to the disclosing party's services, financial matters, pricing, products, operations, research and engineering processes and this Agreement. For the avoidance of doubt, Customer Information shall be deemed the Confidential Information of the Partner.
- 1.2 "Customer" means a user that completes a Transaction via the Partner Site(s) and/or Musement's website.
- 1.3 "Customer Information" means the name and email address of the Customer.
- 1.4 "Disclosing Party" means a party disclosing Confidential Information to the other party.
- 1.5 "HTML links" means links made available to Partner by Musement which Partner shall display on Partner's Site(s) and which shall link Partner's website to Musement's website. By utilizing these HTML links, Partner's customers shall be able to purchase the Products from Musement's website.
- 1.6 "Partner Site(s)" means any websites and/or apps owned, operated or maintained by Partner enabling a Customer to select and purchase the Musement Product.
- 1.7 "Product Information" means all information regarding the Musement Product that Musement makes available via the Musement Site, Musement API or Musement XML in connection with the offer and sale of the Musement Product, including availability, currencies, descriptions, editorial, images, maps, text, Product codes, supplier information and terms and conditions of reservation, amendment, cancellation, refund and redemption.

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- 1.8 "Receiving Party" means a party receiving Confidential Information of the other party.
- 1.9 "Referral Margin" means the margin share paid to the Partner for Transactions purchased and traveled by the Partner's Customers.
- 1.10 "Reservation" means the sale of a Musement Product.
- 1.11 "Retail Rate" means the rate that a Musement Product is sold to a Customer. Retail Rate will be determined solely by Musement.
- 1.12 "Supplier" means the provider of a Musement Product
- 1.13 "Term" means the period of twelve (12) months from the Commencement Date.
- 1.14 "Transaction" means one or more Reservations by a Customer, on behalf of one or more travelers in a single travel itinerary, through the Partner Site(s).
- 1.15 "Undesirable Material" means any material that is offensive or illegal including, but not limited to, defamatory or potentially defamatory, offensive, abusive or indecent material, blatant expressions of bigotry, racism, sexism, ageism, hatred or profanity, information about illegal activities, material promoting harm or injury to any group or individual, any material likely to breach confidence, copyright, privacy and other rights and any material that is defined as prohibited content or potentially prohibited content or is illegal content under applicable laws in any jurisdiction.
- 1.16 "Musement Product" means tours, events, attractions, cruises, transfers, and other destination travel product offered by Musement that can be displayed and sold by the Partner through the Partner Site(s).
- 1.17 "Musement Websites" means sites and/or apps hosted by Musement which shall carry the branding of Musement.
- 1.18 "Voucher" means an electronic document created by Musement and containing all necessary information about a Reservation that a Customer will present to a Supplier to redeem a Reservation and that includes the trademarks of Musement and the Partner. It also includes tickets which allow a direct and immediate entry to the venue managed by the supplier.

## **2. License; Intellectual Property**

- 2.1 License. Subject to the terms and conditions of this Agreement, Musement will provide the Partner with a royalty-free, world-wide, limited, non-exclusive license to use, reproduce, incorporate, integrate and display the Product Information and/or HTML links solely through the Partner Site(s) for the purpose of promoting and selling the Musement Product to Users.
- 2.2 Intellectual Property. The Partner agrees and acknowledges that the Product Information and information related thereto, are the sole property of Musement, and the Partner may not display, use or reproduce such materials, technology and information for any purpose, other than as expressly set forth by this Agreement
- 2.3 Partner's domain name(s) and marketing efforts, including keyword marketing shall not contain the word Musement (or any similar misspelling of) nor contain words relating to Musement suppliers or vendors

## **3. Musement Product**

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3.1 Product Information. Musement shall use its reasonable commercial efforts to ensure the accuracy of the Product Information and the Retail Rates, however, the Partner acknowledges that Musement may not be able to verify that all Product Information provided by Suppliers is accurate or timely.

3.2 Links. Partner will market the Musement Products to its customers by establishing links from Partner Site(s) to Musement's website and is authorized by Musement to promote the Musement Products, subject to the terms and conditions of this Agreement.

3.3 Display. The Partner may display, offer and sell all or some of the Musement Product through the Partner Site(s), but must display full content for any offered Musement Product.

#### **4. Transactions; Payment; Cancellations**

4.1 Transactions. Upon completion of a Transaction, Musement will provide the Partner's Customer with an electronic acknowledgment and Voucher for each Transaction.

4.2 Payment for Reservation. Musement will be the merchant of record in all Transactions and will be responsible for charging and collecting all amounts payable for Transactions from Partner's Customers. Musement shall be responsible for all credit card merchant fees and credit card chargebacks associated with a Transaction, unless attributable to Partner's fault. Musement shall be responsible for forwarding payment for a Reservation to the Supplier.

4.3 Amendments, Cancellations and Refunds. All booking requests from Partner's customers are subject to acceptance by Musement in accordance with the Product terms and conditions. The Musement product shall be subject to individual cancellation penalties which vary and are detailed online via the "Terms and Conditions" link for each Product.

#### **5. Support**

5.1 Technical Support. Musement will provide the Partner with an email-based support for the purpose of attending to and resolving any technical issues.

5.2 Customer Service. Musement will provide the Partner's Customers with an email-based service for the purpose of attending to and resolving issues associated with a Musement Product.

#### **6. Fees; Payment**

6.1 Referral Margin. In consideration of the Transactions to be provided to Musement pursuant to this Agreement, and subject to any credit or refund of a Transaction, Musement will pay Partner a Referral Margin (detailed in Appendix "A") for each Transaction.

6.2 Musement makes no guarantee, warranty or representation as to the amount of Fees that may be generated by Partner pursuant to this Agreement

6.3 Musement will make best efforts to undertake to provide to the other Party, during the Term, a full reporting of sales generated via integration of Musement API on the Partner Website at the end of each calendar month, via the Musement's Affiliate platform.

6.3 The Partner hereby expressly authorizes Musement to self-invoice. Credit notes will be forwarded by Musement to the Partner on a monthly basis in Musement's affiliate platform or via your dedicated partner support team, for the purpose of certifying commission due to the Partner as per Italian Tax requirements. Where VAT is payable, Musement shall submit a VAT invoice on behalf of the Partner. Musement must submit credit notes to the Partner no later than three (3) months after the date the Services have been

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provided. Once Musement has self-invoiced and submitted the credit note to the Partner, the Partner shall have maximum 3 months period to dispute the amount of the credit note.

6.5 Credit Notes shall be sent to the email address used at the time of registration.

6.6 All payments made by Musement will be completed according to the credit note sent by Musement whether they are anticipated payments or not.

6.7 All taxes incurred in the provision of Services pursuant to this agreement shall be satisfied by the Parties according to local legislation.

6.8 Within thirty (30) days of the issue of correctly submitted and properly incurred credit notes, MUSEMENT shall pay the credit notes.

6.9 In case of dispute, the Partner shall duly document the difference in the credit note and share it with Musement and upon agreement between the Parties, Musement shall credit the disputed amount. Any dispute between the Partner and Musement in connection with the price shall be governed by the terms set out in clause 11.4 below and upon resolution of the dispute either Party will either pay or credit any amounts determined or agreed to be payable to the other Party, thirty (30) days from the date of issue of the credit note.

6.10 The Credit Notes pursuant to clause 6.4 above shall:

- (i) conform and be in Euros, or any other unit of currency as applicable; or according to the currency in which prices are given.
- (ii) contain the Partner's correct banking details.

6.11 In the case that the Contract Term is longer than 2 (two) month and the payment accrued in favour of the Partner is inferior to Euro 100.00 (one-hundred/00) in a certain month, the amount will be summed to the amount accrued in favour of the Partner in the subsequent month (or in the subsequent months in case there are more than one months in which the payment is inferior to Euro 100.00), for the purpose of the credit note and of reaching the Euro 100.00 (Euro) threshold.

## **7. Confidentiality**

7.1 Each party will remain bound by any obligation of confidence undertaken to the other party prior to the Commencement Date of this Agreement.

7.2 A Receiving Party will treat the Confidential Information of a Disclosing Party as secret and confidential. A Receiving Party may not use, copy or disclose to any third party any of a Disclosing Party's Confidential Information except for the purpose of exercising its rights and/or performing its obligations pursuant to this Agreement.

## **8. Representations; Warranties**

8.1 General. The representations and warranties in this Section 8 are continuous in nature and are deemed to have been given by each party upon execution of this Agreement. These representations and warranties will survive termination or expiration of this Agreement.

8.2 Corporate Power. Each party represents and warrants that it is duly organized and validly existing in accordance with the laws of the state or country of its incorporation and has full corporate power and authority to execute and deliver this Agreement and has all licenses, authorizations, consents, approvals and permits required by all applicable laws and regulations in order to perform its obligations hereunder.

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8.3 Binding Agreement. Each party represents and warrants that this Agreement constitutes a legal, valid and binding obligation upon it enforceable in accordance with its terms by appropriate legal remedy. The execution, delivery and performance of this Agreement by the party does not conflict with any agreement, instrument or understanding to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or other agency having jurisdiction over it.

8.4 Taxes. Musement represents and warrants (i) the Retail Rate will be inclusive of all taxes applicable to the Musement Product, including, without limitation, federal, state and local taxes imposed now or hereafter by applicable government entities, so that the Partner will not be responsible for any tax liability relating to the Musement Product with the exception of the Partner's corporate income taxes; and (ii) Musement or the Supplier, will be responsible for remitting such taxes and all related documentation to the government entities.

8.5 Disclaimer. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, MUSEMENT DOES NOT MAKE, AND EXPRESSLY DISCLAIMS, ANY REPRESENTATIONS OR WARRANTIES IN CONNECTION WITH THE MUSEMENT PRODUCTS, OR OTHER SUBJECT MATTER UNDER THIS AGREEMENT, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, ANY WARRANTIES ARISING OUT OF A COURSE OF PERFORMANCE, DEALING OR TRADE USAGE.

8.6 Undesirable Material. Each party shall use all reasonable efforts to ensure that its website is not used to send, receive, upload, download, use or reuse any Undesirable Material.

## **9. Term; Termination**

9.1 Term. This Agreement will commence on the Commencement Date and continue for the Term. At the expiration of the Term this Agreement will automatically continue on a month to month basis.

9.2 Termination. Either party may immediately terminate this Agreement for any reason with a 30 day written notice to the other party.

9.3 Upon termination of this Agreement for any reason Partner agrees to immediately remove all HTML links from Partner's website to Musement's website and/or to eliminate all signs of Musement's API or XML integrations.

## **10. General**

10.1 Disclaimer of Liability. Each party agrees that the other party will not be liable for any indirect, incidental or consequential loss or punitive damages under any circumstances, including, but not limited to, loss of revenues or loss of profits, even if advised of the risk of the loss or damages in advance. The aggregate liability of Musement will not exceed the total Referral Fees paid or payable pursuant to this Agreement in the preceding three (3) calendar months.

10.2 Entire Agreement; Modifications; Amendments; Waivers; Implied Relationships. This Agreement and the documents referred to herein constitute the entire agreement between the parties pertaining to the subject matter hereof, and any and all other written or oral agreements existing among the parties pertaining to the subject matter hereof are expressly canceled, except that this Agreement will not have any effect on any confidentiality agreement existing as of the date hereof. This Agreement or any term hereof may be modified, amended, or waived only with the written consent of the parties. In no event will a waiver of any right hereunder constitute the waiver of the right in a future instance unless the waiver so specifies in writing. Any modification, amendment, or waiver effected in accordance with this Section 10.2 shall be binding upon each of the parties, and each of their respective successors and assigns. The parties agree that unless expressly stated to the contrary, the rights, duties and obligations of the parties to this Agreement are several and not joint.

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10.3 Successors and Assigns. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties, provided that a party first obtains the written consent of the other party to the succession or assignment. Notwithstanding the foregoing, Musement shall have the right to assign this Agreement without the Distributor's consent in connection with a merger, consolidation, reorganization, acquisition or sale of Musement's assets related to the subject matter of this Agreement. Nothing in this Agreement, express or implied, is intended to confer upon a party other than the parties hereto or their respective successors and assigns any rights, remedies, obligations, or liabilities under or by reason of this Agreement, except as expressly provided in this Agreement.

10.4 Governing Law. This Agreement and the rights and obligations of the parties will be construed in accordance with and governed by the laws of the Italian Republic without giving effect to any choice of law rule that would cause the application of the laws of any jurisdiction other than the Italian Republic to the rights and duties of the parties. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of courts located within the Italian Republic.

## **Appendix "A"**

### **Referral Fees**

Musement shall not charge Partner any service, maintenance, support, or implementation fees.

Musement shall pay the Partner a referral margin, prior to the end of the month immediately following the travel date of the Musement product purchase, based on a percentage of the Musement actual received retail price of each product purchase availed (net of all cancellations, partial or full refunds and VAT), recorded in Partner's sites, under the current agreement.

**Referral Fee** – Referral Margins shall be based on the Partner's aggregate sales volume of Musement's products, according to the following schedule:

**Base Fee:**       **8%**

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## **Appendix "B"** **Logo and Trademark Usage**

### Musement Suppliers

Partner represents and warrants to Musement that, it shall not use or display (directly or indirectly), the trademark, logo, or branding (including, without limitation, any misspelling or substantially similar version thereof) of Musement or Musement's Product suppliers, in any manner whatsoever (including without limitation, in any search engine marketing or optimization, in any domain name, any other online/offline marketing or advertising, press releases, etc.) without first obtaining prior written approval from Musement, which may be denied in Musement's and their suppliers' sole discretion.

An example of trademarked terms that Musement will not permit affiliates to bid on are (this includes misspellings or substantially similar versions – including "nearby letters" thereof of the words and phrases below):

MUSEMENT  
MUSEMENT.COM  
MUSEMENT COM  
SHOP MUSEMENT  
SHOP.MUSEMENT.COM  
MUSEMENT TOUR  
MUSEMENT TOURS  
WWW SHOP MUSEMENT COM  
WWW MUSEMENT COM  
MIUSEMENT.CO.UK  
MOSEMENT.COM  
MUSEMENT.CO.AU