

Hostelworld Affiliate Marketing Programme Agreement

Participation in the Hostelworld Affiliate Marketing Programme is subject to the following terms and conditions. By applying to join the Hostelworld Affiliate Marketing Programme, which is operated by Performance Horizon Group Limited, the Affiliate agrees to the following terms and conditions. If the Affiliate does not agree to these terms and conditions it will not be permitted to participate in the Hostelworld Affiliate Marketing Programme.

1. Definitions

1.1 In this Agreement, unless the context requires otherwise:

“Accommodation Product” means any accommodation including but not limited to B&Bs/guesthouses, hostels, apartments, hotels and other budget accommodation such as riads, pensions, motels, pousadas, inns and campsites advertised by Hostelworld for booking to Visitors to the Affiliate Site via the Integration Solutions;

“Accommodation Product Content” means any and all data and/or content provided by Hostelworld in relation to the Accommodation Product including but not limited to descriptions, facilities, photos, video, customer ratings, maps, directions, property contact details, prices and special offers;

“Affiliate” means a natural or legal person that has entered into an agreement with PHG, Hostelworld’s online affiliate marketing partner;

“Affiliate Site” means the Affiliate’s website and all affiliate websites, APIs, web, mobile and desktop applications, and emails lists, owned or operated by Affiliate (collectively **“Affiliate Sites”**);

“Controller” has the meaning given to it, or **“Data Controller”**, under applicable Data Protection Law;

“Data Protection Law” means all applicable data protection law, including from 25 May 2018 the General Data Protection Regulation (Regulation (EU) 2016/679) and any legislation which amends, extends, consolidates, re-enacts or replaces same, including any statutory instruments and regulations that may be made pursuant thereto from time to time;

“Hostelworld” means Hostelworld.com Limited, having its registered office at Floor 2, One Central Park, Dublin 18, Ireland;

“Hostelworld Affiliate Marketing Programme” means the affiliate marketing programme operated by PHG to promote Hostelworld’s online reservations business;

“Hostelworld IP” means the Intellectual Property Rights in all materials made available to the Affiliate to implement the Hostelworld Affiliate Marketing Programme which are owned by or licensed to Hostelworld, including the Accommodation Product Content and the Integration Solutions;

“Integration Solutions” means the technical integration solutions made available to the Affiliate through which the Affiliate can enable Visitors to follow adverts and links to the Hostelworld websites, or to search for and book Accommodation Product on the Affiliate Websites, which include, but are not limited to, those set out in clause 6;

“Intellectual Property Rights” means all intellectual property rights including copyrights, patents, design rights, trade secrets, rights in confidential information, trade marks, trade

names, domain names, service marks, rights in databases and know-how in all cases whether or not registered or registerable and including registrations and applications for registration of any of these rights or the right to apply for the same, and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;

“Personal Data” shall have the meaning set out in Data Protection Law;

“PHG” means Performance Horizon Group Limited, having its registered office at 8th Floor, West One, Forth Banks, Newcastle Upon Tyne, United Kingdom, NE1 3PA;

“PHG Agreement” means the agreement between PHG and the Affiliate that governs the Affiliate’s participation in PHG’s affiliate network;

“PHG Platform” means the solution implemented by PHG to operate PHG’s affiliate network, and which provides tracking and reporting in relation to Approved Transactions;

“PPC & SEO Policy” means the pay per click and search engine optimisation policy set out in Schedule 1 and as updated from time to time by Hostelworld;

“Service” means the service provided to Affiliate by Hostelworld pursuant to the terms of this Agreement, being the provision of technology solutions for the facilitation of data processing of reservation services in relation to Accommodation Product and other travel services;

“Service Provider” means an the operator of a business offering Accommodation Product, or other travel services provider, that has entered into a Service Provider Agreement with Hostelworld;

“Service Provider Agreement” means an agreement between Hostelworld and a Service Provider for the purposes of making Accommodation Product, or other travel services, available for booking online on Hostelworld’s websites and on the Affiliate Site;

“Similar Domain Name” has the meaning given to it in clause 3.1(c);

“Supplemental Content” has the meaning given to it in clause 2.4;

“T&Cs and Privacy Statement” means the terms and conditions and privacy statement that appear on the Hostelworld.com website;

“Transaction” means a booking for Accommodation Product which is made by a Visitor in respect of which the Visitor has paid the appropriate charge and for which (i) the Visitor’s free cancellation right, if any, has expired without being exercised, and (ii) the arrival date for the booking has passed;

“Visitor” means any identified person accessing the Affiliate Site who generates requests, views pages and/or who may conduct a Transaction via the Integration Solutions.

2. **Licence and Intellectual Property Rights**

- 2.1 Subject to full compliance by Affiliate with the terms of this Agreement and the PHG Agreement, Hostelworld grants Affiliate a worldwide, non-exclusive, revocable, license to use Hostelworld IP for the sole purpose of implementing the Hostelworld Affiliate Marketing Programme on the Affiliate Sites.

- 2.2 All Intellectual Property Rights in the Hostelworld IP are owned by or licensed to Hostelworld by another member of its corporate group and shall remain the exclusive property of the owner and licensor of such Intellectual Property Rights (subject to the terms of any license granted by such owner to Hostelworld).
- 2.3 Affiliate shall not use the Accommodation Product Content, whether provided under this Agreement or extracted from a Hostelworld owned website or other third party affiliate, for any purpose not expressly set out in this Agreement or the PHG Agreement including, without limitation, directly or indirectly contacting any Service Provider, without Hostelworld's prior written consent.
- 2.4 Affiliate may not make changes to Accommodation Product Content, nor may Affiliate request Hostelworld to make changes to content as supplied by Service Providers. However, Affiliate may supplement Accommodation Product Content with further information ("**Supplemental Content**").
- 2.5 Each party shall immediately notify the other of any circumstances coming to their attention which may constitute an infringement of the other party's Intellectual Property Rights.

3. **Affiliate Obligations**

3.1 Affiliate shall:

- (a) be responsible at their own cost for all design, coding and testing necessary to implement the Hostelworld Affiliate Marketing Programme on the Affiliate Site(s);
- (b) ensure that it does not remove or obscure Hostelworld branding in connection with its implementation of an Integration Solution, unless prior written consent is given;
- (c) not register or attempt to register any Hostelworld brand name or Hostelworld trade marks (or any derivative spellings or misspellings thereof) as internet domain names (such domain names each being a "**Similar Domain Name**");
- (d) comply with the PPC & SEO Policy as updated from time to time by Hostelworld;
- (e) ensure that the Affiliate Sites do not include any of the following content:
 - (i) tobacco;
 - (ii) pornography;
 - (iii) unlawful or illegal activities; and
 - (iv) racism, homophobia or similar hate related content.

4. **Approved Transaction and Commission Payments**

- 4.1 A Transaction shall be attributed to the Affiliate through the PHG Platform where the relevant Visitor has been referred to Hostelworld via the Affiliate within the previous 30 days, and the Affiliate has complied with its obligations under this Agreement in connection with such referral (each attributed Transaction being an "**Approved Transaction**"). Where the Visitor has been referred to Hostelworld via multiple participants in the Hostelworld Affiliate Marketing Programme, the Approved Transaction shall be attributed to the last participant who made the referral.

4.2 Referrals shall be tracked using the PHG Platform and Hostelworld's systems, reports for which will be made available to the Affiliate through the PHG Platform. The parties agree that the records of Hostelworld in connection with Approved Transactions and the attribution of such Approved Transactions shall be considered conclusive evidence. In the event that a Visitor is using a device or browser that does not allow PHG or Hostelworld to determine whether the Visitor has been approved by the Affiliate, any transaction made by such Visitor shall not be deemed an Approved Transaction.

4.3 Affiliate agrees that it is the responsibility of PHG to make any commission payments in connection with the operation of the Hostelworld Marketing Affiliate Programme. Hostelworld's sole obligation is to make such payments directly to PHG as are required by PHG in connection with its operation of the Hostelworld Marketing Affiliate Programme, and Hostelworld has no obligation to make any such payments directly to the Affiliate under any circumstances.

5. Transaction Participation

5.1 Hostelworld operates as an agent and is never party to bookings of Accommodation Product or other travel services, and does not provide any form of accommodation or other travel services. Affiliate acknowledges that Hostelworld shall never be, and Affiliate shall not hold Hostelworld out as being, a party to any bookings at any time, and that Hostelworld's sole role is that of the provision of the Service.

5.2 Affiliate and Hostelworld acknowledge that for all bookings, an agreement comes into existence between the Visitor and the Service Provider and that neither Affiliate nor Hostelworld shall be held responsible for any services provided under that agreement.

5.3 Where a Visitor makes a booking, Hostelworld shall have the right to access all data furnished by such Visitor and shall be entitled to use such data in accordance with the T&Cs and Privacy Statement.

6. Integration Solutions

6.1 Hostelworld, at its sole discretion, will make one or more of the following integration solutions available to the Affiliate:

(a) *XSAPI* - Hostelworld's eXternal Services Programming Interface (the "**XSAPI**") enables the Affiliate to display Accommodation Product Content on the Affiliate Sites and facilitates Visitors to make bookings for Accommodation Product. Hostelworld shall:

(i) provide the XSAPI in accordance with the specifications in the latest version of the XSAPI-Developers Guide (the "**Developer's Guide**");

(ii) give the Affiliate reasonable written notice of any material change to the specifications that may affect integration with the Affiliate Site, including any deprecation of the XSAPI; and

(iii) discontinue support for any deprecated API and after three months of being deprecated will no longer provide access to a deprecated API.

The Affiliate shall implement the XSAPI in accordance with the latest version of the Developer's Guide.

- (b) *Booking Engine, White-label or iframe* - The booking engine is a website platform provided by Hostelworld to the Affiliate that enables Visitors to search for and book Accommodation Product (the "**Booking Engine**"). The Affiliate shall integrate the Booking Engine in accordance with the instructions of Hostelworld.
- (c) *Direct Tracked Link* - A direct link, containing a unique affiliate identifier code (ID) provided to the Affiliate by PHG that directs the Visitor to Hostelworld's website (the "**Direct Tracked Link**"). The Affiliate shall not make the Direct Tracked Link (directly or indirectly) available through, or use for this purpose, meta search sites, travel search sites or price comparison sites, unless agreed otherwise in writing by Hostelworld.
- (d) *Service Provider Data Feed* - A monthly file may, at the discretion of Hostelworld, be made available to the Affiliate containing updated Accommodation Product Content. (the "**Service Provider Data Feed**"). The Service Provider Data Feed is provided to supplement one of the above integration solutions and Affiliate agrees to update Affiliate Site with the most current Service Provider Data Feed content within 15 days of receiving each monthly data export.

6.2 The Affiliate shall implement the Integration Solutions in a manner that does not impose an undue capacity burden on Hostelworld's servers. In the event of undue capacity burden on Hostelworld's servers, Hostelworld may block or limit service requests from the Affiliate and notify the Affiliate of a server load issue. If 30 days after such notice, the Affiliate continues to impose an undue capacity burden on Hostelworld's servers, Hostelworld may terminate this Agreement on giving the Affiliate 10 days' notice.

7. **Data Protection**

The Parties agree that if and to the extent that performing its obligations under this Agreement requires the Affiliate to transfer Personal Data to Hostelworld, this transfer shall be on the basis of a Controller to Controller transfer. Each party further agrees that it shall comply with its obligations under applicable Data Protection Law when performing its obligations under this Agreement.

8. **Consequences of Breach**

8.1 In the event of a breach or suspected breach by the Affiliate of the covenants, undertakings, restrictions, obligations and/or warranties set out in clause 3, Hostelworld shall be entitled, without prejudice to any other remedies available under law or contract, to:

- (a) suspend the Affiliate's participation in the Hostelworld Affiliate Marketing Programme; and
- (b) direct PHG to cease the payment of commission in relation to any Approved Transactions such that the Affiliate forfeits its right to receive commission in respect of those Approved Transactions.

8.2 In the event of the use or registration of a Similar Domain Name, the Affiliate shall transfer ownership of the Similar Domain Name to Hostelworld, through a domain name registrar of Hostelworld's choice, within 30 days. In the event the Affiliate does not transfer ownership of the Similar Domain Name within the required time frame, the Affiliate hereby irrevocably and unconditionally authorizes, empowers and gives a power of attorney to and in favour of Hostelworld to sign and/or execute all documents that are necessary or useful in relation to or required for the transfer of the Similar Domain Name to Hostelworld.

9. Term and Termination

9.1 This Agreement shall come into effect on when Hostelworld confirms the Affiliate's participation in the Hostelworld Affiliate Marketing Programme through the PHG Platform, and shall continue in full force and effect until terminated in accordance with this clause 9.

9.2 Either party may, without prejudice to any of the other rights which it may have, terminate this Agreement forthwith upon written notice to the other if:

- (a) any material breach of this Agreement made by a party is not remedied (if remediable) within 30 days after the service of written notice requiring remedy of the breach; or
- (b) the other party commits any act of insolvency, enters into liquidation, whether voluntary or compulsory; passes a resolution for its winding up; has a receiver appointed over the whole or any part of its assets; makes any composition or arrangement with its creditors; or is unable to pay its debts as they fall due; or takes or suffers any similar action in consequence of its debt, or generally suffers any analogous procedure.

9.3 Hostelworld may terminate this Agreement forthwith on written notice to the Affiliate if:

- (a) all or a majority of the then-issued share capital of the Affiliate, or all or a majority of the business and/or assets of the Affiliate, is or are sold to a direct competitor of Hostelworld (as determined by Hostelworld);
- (b) the Affiliate fails to comply with the PPC & SEO Policy set out in Schedule 1;
- (c) there have been no Approved Transactions in the preceding 6 month period;
- (d) Hostelworld has reasonable concerns that the Affiliate is diluting, tarnishing or acting in a manner which is detrimental to the value of Hostelworld trade marks or the Hostelworld brand;
- (e) the Affiliate is in breach of its obligations set out in clause 2.3; or
- (f) the Affiliate engages in illegal activity of any type.

10. Consequences of Termination

10.1 Upon expiration of the Agreement or the earlier termination of this Agreement for any reason:

- (a) the rights and licenses granted to each party pursuant to this Agreement shall automatically terminate;
- (b) each party shall deliver to the other, within 30 days, all property, materials and other items (and all copies of them) in its possession belonging to the other party;
- (c) both parties shall remove and cease to use all Intellectual Property of the other party;
- (d) both parties shall eliminate any reference to this Agreement from their own websites and marketing materials;

- (e) the Affiliate shall immediately remove any and all Accommodation Product, Accommodation Product Content and Integration Solutions from the Affiliate Site and provide Hostelworld with written confirmation that such content has been so removed and destroyed;
- (f) the accrued rights of the parties as at termination, or the continuation after termination of any provision which, by its meaning or effect, is intended to continue to be effective after the expiration or termination, shall not be affected or prejudiced.

11. **Warranties**

11.1 Each party warrants that:

- (a) it has the right and authority to enter into and perform all obligations under this Agreement;
- (b) its entry into this Agreement does not breach any other agreement to which it is a party;
- (c) its respective websites and/or platforms shall not infringe the Intellectual Property Rights of any third parties;
- (d) it complies with, and shall obtain and duly comply with all approvals, consents, licenses, permits, certificates, registrations or other authorisations necessary for it to enter into this Agreement and perform its obligations under this Agreement.

11.2 The Affiliate acknowledges that the Service Providers are responsible for the delivery, entry, maintenance, timeliness, accuracy and updating of all Accommodation Product Content. Hostelworld will not be responsible or liable in any manner for the Accommodation Product Content, which it provides to the Affiliate without any warranty.

12. **Indemnity**

12.1 The Affiliate shall indemnify Hostelworld against all liabilities, costs, expenses, damages and losses suffered or incurred by Hostelworld arising out of or in connection with (i) any claim made against Hostelworld arising out of or in connection with the use of the Supplemental Content and any other material provided by the Affiliate under this Agreement, including but not limited to claims for defamation, breach of privacy or data protection, actual or alleged infringement of a third party's Intellectual Property Rights, or claims by Visitors, Service Providers or any third party arising out of a booking made as a result of any inaccuracies in the Supplemental Content, (ii) any claim made against Hostelworld by a third party arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Affiliate, its employees, agents or subcontractors or (iii) any assessment of value added, sales or similar tax raised by any relevant taxation authority in respect of the Affiliate.

13. **Limitation on Liability**

13.1 Save in respect of death or personal injury caused by negligence, fraud or wilful default, the total aggregate liability of Hostelworld to the Affiliate, whether in contract, tort (including negligence), for breach of statutory duty, or otherwise, arising under or in connection with this Agreement shall be limited to the equivalent of the total commission paid to the Affiliate by PHG in the 12 months immediately preceding the date of the event that gives rise to the claim made by the Affiliate.

13.2 Whether or not advised of the possibility of such damages, neither party shall be liable to the other for (a) any loss of profits, loss of revenue, or loss of business (b) consequential, incidental, punitive, exemplary, special or indirect damages of any kind however arising, or (b) for any damages of any kind arising out of, under or relating to the failure of internet transmission or links.

14. **Confidential and Proprietary Information**

14.1 Each party shall keep any confidential information relating to the business, affairs, plans, personal matters or products of the other party, which are designated as "confidential" or which ought reasonably to be regarded as confidential, which is obtained under or in connection with this Agreement and shall not use such confidential information for any purpose other than as strictly required for the performance of its obligations under the Agreement.

14.2 The provisions of this clause shall not apply to any information:

- (a) in the public domain otherwise than by breach of this Agreement;
- (b) in the possession of the other party before disclosure as aforesaid;
- (c) obtained from a third party who is free to divulge the same; or
- (d) which is properly disclosed pursuant to a statutory obligation, the order of a court of competent jurisdiction or that of a competent regulatory authority.

14.3 The obligations under this clause shall continue in force notwithstanding the termination or expiration of this Agreement.

15. **Force Majeure**

15.1 Neither party shall be liable to the other in respect of anything which, apart from this provision, may constitute breach of this Agreement arising by reason of force majeure, namely circumstances beyond the control of either party which shall include (but not be limited to) acts of God, perils of the sea or air, fire, flood, drought, explosion, embargo, riots, labour strikes, civil commotion or civil authority including acts of local government and parliamentary authority, provided that, if any force majeure event shall continue for more than six months, either party may terminate this Agreement immediately on written notice to the other party.

16. **Miscellaneous**

16.1 This Agreement may be amended by Hostelworld at any time on 21 day's notice to the Affiliate, which may be given to the Affiliate through the PHG Platform or using email. Where the Affiliate does not agree to such amendment, the Affiliate shall be entitled to terminate this Agreement within such 21 day period on written notice to Hostelworld.

16.2 The waiver of any particular breach or default or any delay in exercising any rights shall not constitute a waiver of any subsequent breach or default.

16.3 The Affiliate shall not be entitled to assign any of its rights and/or obligations under this Agreement without the prior written consent of Hostelworld. Hostelworld shall be entitled to assign and/or sub-contract any of its rights and/or obligations under this Agreement.

- 16.4 Nothing in this Agreement shall create, or be deemed to create, a partnership or the relationship of principal and agent or employer and employee between the parties.
- 16.5 This Agreement contains the entire agreement between the parties with respect to its subject matter, supersedes all previous agreements and understandings between the parties with respect to its subject matter, and may not be modified except by an instrument in writing signed by the duly authorised representatives of the parties.
- 16.6 In the event that any provision of this Agreement shall be determined to be partially void or unenforceable by any court or body of competent jurisdiction or by virtue of any legislation to which it is subject or by virtue of any other reason whatsoever, it shall be void or unenforceable to that extent only and no further and the validity and enforceability of any of the other provisions of this Agreement shall not be affected.
17. **Governing Law**
- 17.1 This Agreement shall be governed by and construed in accordance with the laws of Ireland. Each of the parties hereby agrees that the courts of Ireland shall have jurisdiction to hear and determine any suit, action or proceedings that may arise out of or in connection with this Agreement and for such purposes irrevocably submits to the jurisdiction of such courts.

Schedule 1

Affiliate PPC and SEO Policy

Definitions

In this Affiliate PPC and SEO Policy capitalised terms shall have the same meaning as given in the Agreement, save where the context requires otherwise. In addition the following definitions shall apply:

Brand Names and Trade Marks means the brand names and trade marks owned by or licenced to Hostelworld.com Limited or Hostelbookers.com Limited.

Domain Names means the domain names used by Hostelworld.com Limited or Hostelbookers.com Limited; and

Third Party Platform means a search engine, price comparison website, travel search site, meta search website or provider of similar services.

General Obligation in Respect of Third Party Platforms

The Affiliate agrees and warrants that it shall not conduct, undertake, use, perform or exercise (or have or authorise third parties to conduct, undertake, use, perform or exercise) (a) any activity to unfairly influence the results of Third Party Platforms, or (b) unfairly influence any other form of online targeted advertising (whether directly, indirectly, or via or through Third Party Platforms) in respect of:

- (a) the Hostelworld website;
- (b) the Accommodation Product Content;
- (c) the Affiliate Website(s).

In this section “unfairly influence” includes, but is not limited to, using practices that are deceptive, misleading, unethical, or contrary to Third Party Platform terms of use.

Specific Obligations

Display URL

1. The Affiliate cannot include the Brand Names and Trade Marks in the display URL’s subfolder. For example,

www.affiliatesite.hostelbookers.com, aff.hostelbookers.com, www.affiliatesite.hostelbookers.co.uk, affiliatesite.hostelbookers.co.uk, www.affiliatesite.hostelworld.com, aff.hostelworld.com, www.affiliatesite.hostelworld.co.uk, and affiliatesite.hostelworld.co.uk are not permitted.

2. The Affiliate can include the Brand Names and Trade Marks in the display URL’s sub domain. For example, hostelbookers.affiliatesite.com, hostelbookers.affiliatesite.co.uk, hostelworld.affiliatesite.com and hostelworld.affiliatesite.co.uk are accepted.

3. The Affiliate cannot use the Domain Names. For example, it is not permitted to use www.hostelbookers.com www.hostelbookers.co.uk, www.hostelworld.com or www.hostelworld.co.uk.

4. Direct linking from a PPC advertisement to the Domain Names is not allowed. For the avoidance of doubt, the Affiliate cannot use the Domain Names as the destination URL.

Ad Title

5. The Affiliate is not authorised to use the Brand Names and Trade Marks in its Ad titles.

Ad Text

6. The Affiliate is not authorised to use the Brand Names and Trade Marks in its Ad Text descriptive.

7. The use of the term "official site" in ad copy is not permitted.

Competitors

8. This policy does not prohibit the Affiliate from advertising on competitors' brand and/or competitors' derivatives.

Keywords

9. The Affiliate not authorised to advertise on misspellings or variations of the Brand Names and Trade Marks in any search engine. To ensure the Affiliate does not appear on these terms, the Affiliate is required to assign negative matches to brand terms in all search engines (please contact Hostelworld for a full list of negative keywords).

10. The Affiliate is not authorised to advertise on the Brand Names and Trade Marks .

11. The Affiliate is not authorised to advertise on the Brand Names and Trade Marks even when using generic keywords.

12. The Affiliate is not authorised to appear before either Hostelworld.com Limited or Hostelbookers.com Limited in search engine listings even on generic words.

13. The Affiliate is not authorised to appear before Hostelworld.com Limited or Hostelbookers.com Limited on the Brand Names and Trade Marks. Overbidding the official Hostelworld.com Limited or Hostelbookers.com Limited advert is prohibited.

14. The Affiliate is authorised to advertise on generic words if the Affiliate uses a landing page.

Negative keywords list/ Trademarks

15. The Affiliate is not authorised to advertise on Brand Names and Trade Marks and misspellings of these terms, including but not limited to the names hostelworld, hostelbookers, bedandbreakfastworld, bandbworld, any derivations from such words or any similar terms

****NOTE**** Any PPC bidding with the use of Hostelworld, Hostelbookers, or "Hostel world" in the keyword bid, including hyphens will not be considered an Approved Transaction and will result in termination of this Agreement e.g. "hostel world book cheap hostels in London", "Hostelworld low cost accommodation in New York", "hostel world book cheap hostels in London" or "Hostelworld low cost accommodation in New York" ******* The Affiliates is required to apply an appropriate negative match to protected keywords to prevent any broad matching incident.