

Effective Date: August 2019

MOI AFFILIATE AGREEMENT

This Agreement contains the complete terms and conditions upon which we offer you participation in the Magic of I Affiliates Programme (the “Programme”). Acceptance of this Agreement by participation in the Programme creates a binding legal agreement that you will use our websites, links and other property of Magic of I Pty Ltd only in a manner that is consistent with this Agreement. As used in this Agreement, “we” means Magic of I, “you” means the applicant, and “our Website” means www.magicofi.com, and any Magic of I website operated by Magic of I Pty Ltd.

1. ENROLMENT IN THE PROGRAMME

By enrolling in the Programme you agree to provide accurate and complete Registration Data and that you shall inform us of any changes in your Registration Data.

We will review your website following your acceptance of this Agreement and your application. You will be informed by email the outcome of your application and instructions on how to market our goods on your website/ social media.

We may, in our sole discretion, choose to reject any application for any reason. Reasons for which an Application may be rejected include, but are not limited to content on your website or social media that:

is in any way unlawful, harmful, threatening, obscene, harassing, discriminatory, defamatory or otherwise objectionable;
facilitates or promotes violence, terrorism, or any other criminal activity;
is sexually explicit; or
infringes or assists or encourages the infringement of any intellectual property rights belonging to any party.

2. COMPANY / AFFILIATE RELATIONSHIP

You and we are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. You will have no authority to make or accept any offers or representations on our behalf. You will not make any statement, whether on your website or otherwise, that reasonably would contradict anything in this Agreement.

3. WEBSITE LINKS

In the Affiliate’s Dashboard you will be supplied with a Referral Link to the Company Website.

We will provide you with guidelines and graphical artwork to use for linking to our Website. To permit accurate tracking, reporting, and accrual of commission credits, we will provide you with special “tagged” link formats (“Referral Link”). You must ensure that each link between your website and our Website is a special link. You will only earn commission on sales that originate through Referral Links. We are not responsible for any failure by you to use Special Links.

You may also use Referral Links on social media sites (e.g. Facebook, Twitter, Pinterest) (“Social Media Site”), provided that such use is consistent with the Purpose and terms of this Agreement.

4. USE OF IMAGES

The product images provided to members of the Programme are the property of Magic of I Pty Ltd, are protected by international copyright laws. You may not use any product image in any way that exceeds the limited license granted to you by this Agreement. This limited license allows you to use product images solely for the purpose of promoting our products for sale by creating Links connecting to our

Website. This means, among other things, that you may not: (a) alter, modify or manipulate any product image; (b) use a product image in any form other than the form provided by us; (c) remove any code or identifying information from any product image; (d) inactivate the link associated with any product image or cause the image to ultimately link to a destination other than our Website.

5. SITE MAINTENANCE AND CONTENT

You will be solely responsible for the development, operation, and maintenance of your website and for all materials or content that appear on your website.

6. DISPLAY OF COMPANY INFORMATION

The Affiliate is free to display pricing information relating to the products marketed by the Company. It is the responsibility of the Affiliate to keep such information up-to-date through their own efforts; the Company will not provide pricing information updates to the Affiliate.

The Company reserves the right to alter pricing at any time in accordance with their own policies.

7. ORDERS

The Company undertakes to use their best and reasonable endeavours to process and fulfil all orders placed by referred customers generated by the Affiliate.

The Company reserves the right to reject any orders that do not comply with the customer referral requirements detailed in this Agreement.

It shall be the Company's full responsibility to ensure that all orders are completed. The Company shall be responsible for order entry, payment processing, handling, shipping, cancellations, returns and all subsequent customer service. The Affiliate shall have no further involvement with the customer or the completion of the transaction and all customers will be made aware of the same.

8. AFFILIATE SALES REPORTING

The Company will track the following elements of all sales:
origin;
quantity; and
revenue generated.

Full reports of all sales generated through the links on the Affiliate Website will be available in the Affiliate's Dashboard. The Company reserves the right to alter the form and content of such reports without notice.

9. COMMISSION AND REFERRAL FEES

The Affiliate will be paid commission at the rates set out below on the net profits of sales generated through the Affiliate Website.

Commission shall be calculated on the following basis:

Program 1 - all sales that result from Direct Referrals will attract a commission of 5% and provide an audience discount that is passed onto the purchasing customer of 10%.

Or

Program 2 - all sales that result from Direct Referrals will attract a commission of 15%

Cookies [and IP logs] will identify customers that have previously been referred through the Affiliate Website. In the event that such customers are identified, sales will (unless referred directly from another affiliate's website) attract a commission of 10%.

In the event that a customer cannot be tracked, no commission will be paid. Commission shall be calculated only once we have received payment in full from the customer. Only once payment has been received in full will sales be logged in the Affiliate's Dashboard.

Commissions shall be paid to the Affiliate at the end of every month.

By accepting the terms of this Agreement the Affiliate hereby acknowledges that they are solely responsible for the payment of tax on any income they may generate through their involvement in the Programme.

The Company reserves the right to modify Commission Rates at any time. The Affiliate will be given 7 Business Days' prior written notice (the "Notice Period") of any such change. The Affiliate will be given the option to opt out of the Programme within the Notice Period and will, on the exercise of that option, be paid any Commission due.

10. 30-DAY COOKIE

The Programme uses a 7-day cookie. This means that if a visitor to your website clicks through a Referral Link to our Website, you will be eligible for commission credits on Qualifying Revenues related to purchases made by such visitor within 7 days of such visitor's click on the Referral Link on your website.

11. TRADE MARKS

The Company hereby grants to the Affiliate a non-exclusive, non-transferrable, royalty free licence to use the Company's trade marks. The Affiliate may use the Trade Marks only to the extent required to establish links and perform their obligations as an affiliate under the terms of this Agreement.

In the event that the Affiliate wishes to use the Trade Marks for any purposes outside of this Agreement they must not do so without prior written consent, such consent not to be unreasonably withheld.

By accepting the terms of this Agreement the Affiliate hereby agrees that:

The Trade Marks shall remain the property of Magic of I Pty Ltd unless and until the Company assigns those marks to a third party;

nothing in this Agreement shall be deemed to confer any ownership rights in the Trade Marks on the Affiliate; and

the Affiliate shall not contest the validity of our trade marks.

12. INTELLECTUAL PROPERTY

Unless otherwise expressly indicated and subject to the clause below, the Company is the sole and exclusive owner of all Intellectual Property Rights ("IPRs") in the Company Website including, but not limited to: all code, text, sound, video, graphics, photographs and other images that form a part of the same. The Company shall also be the sole and exclusive owner of all IPRs which may subsist in any supporting documentation which shall include, but not be limited to, site plans, maps, design sketches and other preparatory material.

The Company shall be the sole and exclusive owner of all IPRs which may subsist in all future updates, additions and alterations to the Company Website, such material including any supporting documentation. Unless otherwise expressly indicated, all IPRs in product images and descriptions belong to the manufacturers or distributors of such products as may be applicable.

13. AFFILIATE WARRANTIES AND INDEMNITY

In accepting the terms of this Agreement the Affiliate hereby warrants and acknowledges that:

The Affiliate Website does not and will not contain any content that:

is in any way unlawful, harmful, threatening, obscene, harassing, discriminatory, defamatory or otherwise objectionable;

facilitates or promotes violence, terrorism, or any other criminal activity;

is sexually explicit; or

infringes or assists or encourages the infringement of any intellectual property rights belonging to any party.

By accepting the terms of this Agreement the Affiliate agrees that it shall indemnify the Company in full against all liability, loss, damages, costs and expenses (including legal expenses) awarded against or incurred or paid by the Company as a result of, or in connection with:

breach of any warranty given by the Affiliate in relation to the Affiliate Website;
any claim that the Affiliate Website infringes the patent, copyright, trade mark or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any terms stipulated by the Company; and
any act or omission by the Affiliate or its employees, agents or subcontractors in performing the Affiliate's obligations under this Agreement.

14. ADDITIONAL RESTRICTIONS AND PROHIBITED ACTIVITY

You may not, directly or indirectly: (a) Purchase or register domains or search engine keywords, AdWords, search terms or other identifying terms that include the word "Magic of I" or "Astrological Planner," or any variations thereof. Variations include foreign country or other top-level domain extensions.

In addition to the foregoing, you must register or establish the following negative keywords with each search engine from which you purchase or register keywords: "Magic of I," "Astrological Planner" and "magicofi.com" Specifically, this policy prohibits you from purchasing or registering domains or search terms such as, but not limited to, the following:

Our trademarks, "Magic of I" and any keyword string that includes these terms, for example, "magicofi.com", "Magic of I coupons", "Magic of I and coupons", "Magic of I prints", etc.;

Variations or misspellings of our trademarks

Any form of our trademarks, or any variation or misspelling thereof, in connection with foreign country or other domain extensions.

(b) Use or display "Magic of I" or "magicofi.com," or any misspellings or variations thereof, in either the copy/advertisement or the display URL for paid search listings. Variations include foreign country or other top-level domain extensions;

(c) Use or display any logos or trademarks owned by Magic Of I PTY LTD, or any misspellings or variations thereof, in your profile on any Social Media Site. Prohibited uses include, but are not limited to, profile and/or screen names, email addresses, profile or cover photos/images, etc.

(d) You must follow common search engine guidelines, such as: (a) your display URL must match the ultimate actual destination URL; (b) you may not frame our website as a landing page; or (c) you may not create "redirects" or "jump pages" that immediately direct to our website;

(e) Dilute, blur or tarnish the value of our trademarks, and/or products and services. (For example, you are not allowed to say that you offer better and/ or more promotions, products and services than Magic of I)

(f) Misrepresent Magic of I's brands including our URL, logos, trademarks and tradenames, or misrepresent that either you or your website are Magic of I or operated by Magic of I Pty Ltd.;

(g) Engage in any conduct that violates the CANSPAM Act of 2003, as amended, or any similar privacy or data protection law of any jurisdiction;

(h) Enable any sales to be made that are not in good faith, including, but not limited to, by means of any device, program, robot, Iframe, hidden frame or redirect;

Use any device or technology that will replace, intercept, interfere, hinder, disrupt or otherwise alter in any manner a Web user's access, view or usage of, the website of any affiliate of ours in a manner that causes or otherwise results in a different experience from what was otherwise intended by our affiliate; or

(j) Use any device or technology that will block, alter, direct, redirect, substitute, insert, append itself to, or otherwise intercept or interfere in any manner with any click through or other traffic-based transaction that originated from the website of any affiliate of ours with the result of reducing any compensation or other payment earned by or owing to such affiliate.

(k) Issue or post any press release or other broad-based communication regarding your participation in the Programme without our consent.

Notwithstanding the foregoing, you may promote your website via mailings to recipients who are already customers or subscribers to your website's services, provided that the recipients have the option to remove themselves from future mailings and that you otherwise comply with all applicable laws of your jurisdiction.

Further, you may promote your website via newsgroup postings to newsgroups that specifically welcome commercial messages (when in doubt, consult the newsgroup FAQ or moderators to be sure that such a message is acceptable in that newsgroup). We reserve the right to modify these rules at any time. If we determine, in our sole discretion, that you have violated any of the foregoing restrictions, we may (without limiting any other rights or remedies available to us) withhold any commission otherwise payable to you under this Agreement and/or terminate this Agreement. If we are required to enforce any of the foregoing restrictions, you will be obligated to reimburse us for any attorneys' fees incurred in connection therewith.

15. DISCLAIMERS

The Company makes no warranty or representation that the Company Website, the Programme, or any goods sold through the Programme will meet the Affiliate's requirements or those of the Affiliate's visitors, that they will be of satisfactory quality, that they will be fit for a particular purpose, that they will not infringe the rights of third parties, that they will be compatible with all systems, that they will be secure and that all information provided will be accurate.

The Company makes no guarantee of any specific results from the use of the Company Website or from enrolment in the Programme.

The Company makes no guarantee that the Company Website shall remain functional and accessible to all users of the internet.

16. LIABILITY

The Company shall not be liable to the Affiliate for any indirect or consequential loss that the Affiliate may suffer even if such loss is reasonably foreseeable or if the Company has been advised of the possibility of such loss being incurred.

17. TERM AND TERMINATION

The term of this Agreement will begin upon our acceptance of your Programme Application and will end when terminated by either party. Either you or we may terminate this Agreement at any time, with or without cause, by giving the other party written notice of termination.

Upon the termination of this Agreement for any reason, you will immediately cease use of, and remove from your website, all links to our Website, product images from our database, and any of our trademarks, trade dress or logos, and all other materials provided by or on behalf of us to you pursuant hereto or in connection with the Programme. You are only eligible to earn commission on Qualifying Revenues occurring during the term of this Agreement, and commission earned through the date of termination will remain payable subject to Section 9 above, only if the related orders are not cancelled or returned. We may withhold your final payment for a reasonable time to ensure that the correct amount is paid.

18. MODIFICATION

We may modify any of the terms and conditions contained in this Agreement at any time in our sole discretion by posting a change notice or a new agreement on our Website. Modifications may include, for example, changes in the scope of available commission credits, commission credit rates, payment procedures, and Programme rules. We typically announce substantive changes to the terms of this agreement by email. If any modification is unacceptable to you, your only recourse is to terminate this Agreement. Your continued participation in the programme following our posting of a change notice or new agreement on our Website will constitute your binding acceptance of the change.

19. LEGAL

This Agreement shall be governed by the laws of Australia. Any dispute between the Parties relating to this Agreement shall be fall within the jurisdiction of the courts of Australia.

20. ACKNOWLEDGEMENT

You acknowledge that you have read this agreement and agree to all its terms and conditions. You understand that we may at any time (directly or indirectly) solicit customer referrals on terms that may differ from those contained in this agreement or operate websites that are similar to or compete with your website. You have independently evaluated the desirability of participating in the programme and are not relying on any representation, guarantee, or statement other than as set forth in this agreement.

GOT A QUESTION?

If you have any questions relating to this Agreement or the Magic Of I Affiliate Programme please contact us.

JAMES LOOKER
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