



## **D'LUCA MUSIC** **DEALER APPLICATION FORM**

**DISCLAIMER & PRIVACY NOTICE** This document is an application form. Its purpose is to ensure that the D'Luca brand is represented by suitable businesses. D'Luca Music requires all applicants to complete a Dealer Application Form. The information provided will be treated confidentially and used solely for the purposes of selecting the right partners for our brands. The submission and processing of the Dealer Application Form obligates neither the applicant nor D'Luca Music to become a party to a Dealer Contract. This document requires that you submit certain personal information to D'Luca Music. Before doing so, please consult our privacy notice at the end of the Dealer Application Form.

# APPLICANT INFORMATION

**STRICTLY CONFIDENTIAL**

Date

Contact Name:

Company Name:

Billing Address:      
Street and Number City State Zip Code

Telephones:  /  Fax

E-mail:

## BUSINESS INFORMATION

Business Structure (Check One):  Individual  Partnership  Incorporated  State of Incorporation  Year Established

Federal Tax ID:

Resale Tax Number:  Duns Number:

## TRADE INFORMATION

Number of Locations:  Online Sales:  YES  NO

Trade Names (DBA):

### Internet Sales

Dealer URL:   
 Dealer URL:   
 Dealer URL:   
 Dealer URL:

### Online Marketplaces

(Check all that apply):

Amazon	<input type="checkbox"/>	User Id:	<input type="text"/>
Ebay	<input type="checkbox"/>	User Id:	<input type="text"/>
Sears	<input type="checkbox"/>	User Id:	<input type="text"/>
Rakuten	<input type="checkbox"/>	User Id:	<input type="text"/>
Walmart	<input type="checkbox"/>	User Id:	<input type="text"/>
Etsy	<input type="checkbox"/>	User Id:	<input type="text"/>
NewEgg	<input type="checkbox"/>	User Id:	<input type="text"/>
Reverb	<input type="checkbox"/>	User Id:	<input type="text"/>
Other	<input type="checkbox"/>	User Id:	<input type="text"/>
	<input type="checkbox"/>	User Id:	<input type="text"/>
	<input type="checkbox"/>	User Id:	<input type="text"/>

\* Map Policy Applies

## OWNERSHIP

List of Owners, Partners or Officers

Contact 1:  Title:

Street and Number City State Zip Code

Telephones:  /  E-mail:

Contact 2:  Title:

Street and Number City State Zip Code

Telephones:  /  E-mail:

Contact 3:  Title:

Street and Number City State Zip Code

Telephones:  /  E-mail:

## TRADE REFERENCES

1     
Contact Name Company Phone

2     
Contact Name Company Phone

3     
Contact Name Company Phone

## CREDIT CARD INFORMATION

Name on the Card:  Type:

Card Number:    /   
CCV Expiration Date

Billing Address:      
Street and Number City State Zip Code

Recurring Credit Card Authorization: I authorize D'Luca Music to charge the credit card indicated in this authorization form at the time of shipment on amounts invoiced. This payment authorization is valid for all purchases made with D'Luca Music. I authorize the D'Luca Music to charge my credit card for future purchases, at the time of shipment, without my verbal or writer approval. I certify that I am an authorized user of this credit card.

## 4 Authorized Independent Dealer Agreement

THIS AGREEMENT (the "Agreement"), effective as of the date set above (the "Effective Date"), is made by and between Sky Blue Telemarketing, Inc. DBA D'Luca Music ("D'Luca Music"), a California corporation, having its principal place of business at 720 S. Milliken Ave. Suite G, Ontario, CA 91761 and as set on the Business Name set above ("Dealer"), having its principal place of business at as set on the Business Address set above.

WHEREAS, D'LUCA MUSIC is engaged in the distribution of musical instruments, including, but not limited to, guitars, bass guitars, accordions, percussions, keyboards, band instruments, string instruments and related accessories;

WHEREAS, Dealer desires to become an authorized dealer of D'LUCA MUSIC for the purpose of promoting and selling musical instruments such as those distributed by D'LUCA MUSIC; and

NOW THEREFORE, subject to this Agreement's terms and conditions, and in consideration of the parties' mutual covenants and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties, intending to be legally bound, agree as follows:

1. Appointment. D'LUCA MUSIC hereby appoints Dealer as a non-exclusive authorized Dealer for the products of D'LUCA MUSIC and/or third-parties (Star, Hawk, Virtuoso, Harmonia, Fever) which are distributed by D'LUCA MUSIC, as authorized (collectively, the "Products"), for retail sales to end users at the authorized locations indicated by the Dealer.
2. Term. The term of this Agreement ("Term") shall be for an initial period of one (1) year, commencing on the Effective Date, and shall be renewed on an annual basis at D'LUCA MUSIC's discretion for consecutive one (1) year periods ("Extension(s)"), unless terminated in writing by either party thirty (30) day prior written notice to Dealer.
3. Advertising Policy. Dealer agrees to follow D'LUCA MUSIC's Advertising Policy guidelines, including D'LUCA MUSIC's Minimum Advertised Price Policy ("MAP"), attached hereto as Exhibit "MAP". D'LUCA MUSIC does not require advertising published or distributed exclusively within a Dealers' authorized market area to be submitted for prior approval. Dealer is, however, required to provide copies of local advertising upon request. Dealer may only advertise in a periodical, catalog or via Dealer's website if the specific products advertised are among the Dealer's inventory during the advertising period. Dealer agrees not to advertise any Product in a mail order publication, and/or on the World Wide Web, and/or in any other medium extending outside of the authorized market area without prior written approval from D'LUCA MUSIC, and, if applicable, pursuant to Paragraph 6 below. D'LUCA MUSIC management shall have authority to grant such approval only after Dealer submits the specific data to be printed. This approval is at D'LUCA MUSIC's sole discretion.
4. Prices. Prices to Dealer shall be set forth in D'LUCA MUSIC's price list(s) for each line of products as they are issued from time to time. D'LUCA MUSIC shall have the right to modify prices to Dealer at its sole discretion upon thirty (30) days prior written notice. New prices issued by D'LUCA MUSIC shall automatically supersede all previous prices beginning on the effective date. All shipments will be invoiced at prevailing current D'LUCA MUSIC prices.
5. Authorized Locations. Dealer is authorized to sell Products only at the specific locations provided in the dealer application and authorized by D'LUCA MUSIC. Dealer shall accept this Agreement with the understanding that only direct consumer sales are allowed in accordance with Paragraph 3. Dealer shall refrain from transshipping Products to another dealer, retail location, wholesale jobber, or mail order firm within or outside of the U.S., without prior written consent from D'LUCA MUSIC. Shipment of Products to other locations or to other retail music dealers without prior written authorization from D'LUCA MUSIC will be grounds for termination with cause.
6. Internet Sales. Dealers who wish to sell on e-commerce sites must sign the D'LUCA MUSIC AUTHORIZED DEALER INTERNET AGREEMENT. E-commerce sales are otherwise strictly prohibited, and will be grounds for termination by D'LUCA MUSIC with cause.
7. Delivery. D'LUCA MUSIC will use its best efforts to fill orders accepted by D'LUCA MUSIC from Dealer as promptly as conditions permit. However, D'LUCA MUSIC shall not be liable to Dealer for any damages, whether direct or indirect, for failure to ship products, delayed shipment of products or an error in shipment to Dealer.
8. Reservation of Rights.
  - A) D'LUCA MUSIC may at its sole discretion, from time to time and without prior notice to Dealer, add to or delete the Products covered by this Agreement in Exhibit A.
  - B) D'LUCA MUSIC, at its sole discretion, shall have the right to modify specifications from those shown in catalogs and price lists.
  - C) D'LUCA MUSIC shall deem no order binding upon D'LUCA MUSIC until accepted in writing. D'LUCA MUSIC reserves the right, prior to acceptance, to reject any order or cancel any order at D'LUCA MUSIC's discretion.
  - D) D'LUCA MUSIC shall have the right to make partial shipments with respect to Dealer's orders. These shipments shall be separately invoiced and paid when due, without regard to subsequent shipments.
  - E) D'LUCA MUSIC reserves the right to place Dealerships in locations consistent with the area population for proper distribution of its products. These Dealerships are not exclusive.
9. Product Responsibilities. Dealer assumes all responsibility for the existence, condition, value, and delivery of Products sold under this Agreement from the time the Products leave the premises of D'LUCA MUSIC. Dealer is not relieved of liability to D'LUCA MUSIC because the goods are lost, stolen, destroyed or damaged.

## 10. Inspection and Returns.

A) Dealer shall inspect all boxes prior to acceptance from transportation agent. If a box shows visible external damage, Dealer will be responsible for notifying delivery driver before signing for delivery. Failure by Dealer to make such note will make Dealer fully responsible for freight damage.

B) Dealer shall make thorough inspection of each shipment of Products upon receipt by Dealer. Dealer shall notify D'LUCA MUSIC in writing of all particulars of any alleged non-conformance within Five (5) business days after receipt by Dealer. Dealer will make said shipment available at the premises of Dealer for inspection by D'LUCA MUSIC or its representatives. Failure of Dealer to give such written notice within such five (5) day period shall be conclusive proof that said shipment is fully conforming.

C) Dealer shall not return any Product to D'LUCA MUSIC for any reason without prior approval by D'LUCA MUSIC. Approval by D'LUCA MUSIC is given solely by the issuing of a valid Return Authorization number ("Authorized Returns"). D'LUCA MUSIC shall have no obligation to accept unauthorized returns of Products. Returns must be shipped to D'LUCA MUSIC freight prepaid by Dealer. Returns for any reason other than authorized warranty return will be charged a Ten Percent (10%) restocking fee.

D) Dealer will be responsible for all freight costs incurred due to refused shipments. Dealer will be billed and payment will be due upon receipt. Two refused shipments will be grounds for termination with cause.

11. Trademarks. By this Agreement, D'LUCA MUSIC grants a limited license to Dealer to use the names and trademarks of the Products which Dealer is authorized to sell, solely for the purposes of advertising such Products. This Agreement does not give Dealer any property and/or ownership rights to such names and trademarks and Dealer's limited license use of such marks ends immediately when this Agreement is terminated.

12. Performance Standards. Dealer agrees to aggressively promote the sale and stimulate increased interest in the Products which they are authorized to sell. Dealer agrees to maintain sufficient inventory in stock to meet all anticipated customer demand.

13. Involvement. Dealer agrees to purchase Products manufactured or distributed by D'LUCA MUSIC on a regular basis and to remain in verbal contact with D'LUCA MUSIC or with D'LUCA MUSIC's representatives on a regular basis.

14. Product Information. D'LUCA MUSIC shall aid the Dealer with periodic issuance of Product information. In addition, D'LUCA MUSIC will protect the Dealer by restricting the sale of its Products to non-Dealer retail stores.

15. Financial Condition. Dealer represents and warrants that Dealer is in good and substantial financial condition and is able to pay all of its financial obligations when due. Dealer agrees to provide updated financial information to D'LUCA MUSIC from time to time upon request by D'LUCA MUSIC.

16. Delinquent Payments. If at any time Dealer has not paid any D'LUCA MUSIC invoice by the due date or if, in D'LUCA MUSIC's discretion, the creditworthiness of the Dealer becomes impaired, or in the event of any breach of this Agreement by Dealer, D'LUCA MUSIC may unilaterally and without further prejudice to any other rights and remedies of D'LUCA MUSIC under this Agreement or applicable law:

- A) Refuse to extend credit to Dealer for any period; and/or
- B) Refuse any orders from Dealer or cancel or delay any shipments; and/or
- C) Declare all outstanding amounts owed by Dealer immediately due and payable notwithstanding any other credit terms; and/or
- D) Terminate this Agreement for cause.

17. Shipment. D'LUCA MUSIC shall ship "COD Company Check Accepted" unless Dealer's financial history warrants otherwise. If Dealer's company check is returned for any reason, the returned check must be "made good" or replaced with a Cashier's Check or Money Order for the full amount plus bank charges or fees incurred before any more product can be shipped. Dealer will then be placed until further notice on a "COD Cash or Certified Check Only" basis. There will be a \$50.00 fee for any checks returned for any reason.

18. Indemnification. Dealer will indemnify, defend, and hold Company, its affiliates, agents and employees, harmless from and against any and all claims, actions, liabilities, losses, costs and expenses (including attorney's fees) arising from or in connection with Dealer's actions or inactions or criminal activity, or that of Dealer's employees, agents and independent contractors. D'LUCA MUSIC reserves the right to decide when representation by counsel is necessary under this provision and reserves the right to employ counsel of its own choosing. Dealer agrees to give D'LUCA MUSIC prompt written notice of any claims, to tender the defense to D'LUCA MUSIC if D'LUCA MUSIC so desires, and to grant D'LUCA MUSIC the right to control settlement and resolution. Dealer agrees to pay all costs of liability, settlement and defense, including reasonable attorney fees and costs.

19. Title to Product Proceeds. Until D'LUCA MUSIC receives full payment for all Products delivered to Dealer, D'LUCA MUSIC shall, at all times, retain title to all such goods, and shall be deemed to have a continuing security interest in all goods sold. Dealer, via execution of this Agreement, personally guarantees payment for purchases of Products over a Ten Thousand U.S. Dollar (\$10,000.00 USD) credit limit.

20. Termination. This Agreement shall continue in full force and effect until terminated by either party by thirty (30) day prior written notice to the other. Upon termination of this agreement for any reason, Dealer shall immediately discontinue use of all advertising material used in connection with

21. Termination: Default. In the event any of the following should occur, D'LUCA MUSIC shall have the right, in its sole election, to immediately terminate this Agreement:

- A) default by D'LUCA MUSIC in the payment of any sum due D'LUCA MUSIC;
- B) assignment by Dealer for the benefit of creditors;
- C) the filing by or against Dealer of a petition under the state or federal bankruptcy or insolvency laws;
- D) dissolution or full or partial liquidation of Dealer;
- E) Recommendation for termination by D'LUCA MUSIC's sales representative.

The termination of this Agreement will not affect the rights, liabilities, and obligations of the parties with respect to transactions entered into before the effective date of termination.

22. Waivers. All remedies of D'LUCA MUSIC are cumulative rights and are not alternative, and may be enforced successively or concurrently.

23. Severability. Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective only to the extent of such unenforceability without invalidating the remaining provisions.

24. Notice. All notices required pursuant to this Agreement shall be sent via certified mail, Return Receipt Requested to the parties at the address first listed above. Copies of all notices to D'LUCA MUSIC shall also be sent to Sky Blue Telemarketing Inc. 720 S. Milliken Ave. Suite G. Ontario, CA 91761. Notices shall be deemed given when mailed, except for notices of change of address, which shall be deemed given when received.

25. Prior Agreement. This Agreement supersedes all previous agreements, written or oral, between the parties with respect to the subject matter hereof. This Agreement may not be amended, except through writing signed by all parties below.

26. California Law. This Agreement shall be governed by the laws of the State of California, U.S.A.

27. Venue and Jurisdiction. The venue and jurisdiction of any litigation between the parties shall lie in the state and federal courts situated in the State of California, Riverside County, U.S.A. Dealer hereby agrees to accept service of process via regular mail at Dealer's address first set forth herein above.

28. Benefit of Agreement. The rights of D'LUCA MUSIC under this Agreement are freely assignable without Dealer consent.

29. Attorney's Fees. If D'LUCA MUSIC is required to seek legal counsel or to commence any action in any court of law or administrative tribunal for the enforcement of any of the provisions of this Agreement, D'LUCA MUSIC will be entitled to the recovery of reasonable attorney's fees and court costs from Dealer.

30. Independent Contractor. Dealer shall not function as an agent or partner of D'LUCA MUSIC, but Dealer will act as an independent contractor of D'LUCA MUSIC. D'LUCA MUSIC shall not be held liable for any claims and/or guarantees, either expressed or implied by the Dealer, that are not specifications or policies of D'LUCA MUSIC.

31. Entire Agreement. This Agreement represents the entire Agreement between D'LUCA MUSIC and Dealer and all prior assertions, understandings, warranties and representations are merged herein and superseded by this Agreement. It is a final integrated Agreement, which includes all terms, conditions and representations between D'LUCA MUSIC and Dealer, and D'LUCA MUSIC and Dealer make no warranties, covenants or agreements, express or implied, except those expressly set forth herein. This Agreement may be modified or amended only by a writing signed by both D'LUCA MUSIC and Dealer.

32. Counterparts. This Agreement may be executed in counterparts and exchanged by facsimile or email, and all original or counterparts, when taken together, shall be valid as one instrument as though signed in original on a single sheet.

IN WITNESS WHEREOF, Company and Dealer hereto have executed this agreement on the day and year first above written.

Approved:

D'Luca Music.

By: \_\_\_\_\_

Octavio Villalobos

President

Accepted:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## 7 Minimum Advertised Price (“MAP”) Policy

The D’Luca Music has a Minimum Advertised Price (“MAP”) policy which establishes standards for the advertisement of all D’LUCA®, STAR® VIRTUOSSO®, HAWK®, and SHULLER® products, as well as any other products owned and/or distributed by the D’LUCA MUSIC while this policy is in effect, including, without limitation “D’LUCA PRODUCTS” (collectively, the “Products”). The D’LUCA MUSIC is introducing this policy in order to reinforce the image and value of the Products in the marketplace. All authorized dealers must comply with this MAP policy. Dealers are responsible for the actions of their employees and agents.

This policy is designed to:

- Maintain a higher perceived value for the consumer;
- Improve profit margins and sell-through for retailer;
- Improve representation of the Products in the retail environment, regardless of local competitive conditions;
- Accelerate product sales; and
- Provide equal pricing and profit margins for all retailers regardless of size and buying power.

Dealers who comply with this MAP policy will enjoy the benefit of our dealer discount structure for the Products. Furthermore, complying dealers will be allowed the limited right to use D’LUCA’s trademarks and copyrighted materials (the “Intellectual Property”) solely in connection with the advertisement and marketing of the Products.

This policy does not extend to the Dealer’s actual resale price, which the Dealer sets in its sole discretion.

Scope of MAP Policy: Any advertisement that pictures, references or otherwise describes an D’LUCA Product is subject to this MAP policy. The MAP policy applies equally to all forms of dealer advertising, including, but not limited to:

- Print advertising, including newspapers and magazines;
- Broadcast advertising on FCC-licensed radio and television;
- Direct mail advertising, including catalogs, flyers, newsletters and broadcast facsimiles; and
- Online or electronic media including promotional email blasts, websites, website advertisements, (i.e., banner ads, pop-up ads, etc.), destination pages, third-party websites and pricing search engines.

The MAP policy does not apply to:

- In-store merchandising; and
- Website shopping carts, where the customer makes their final purchase.

MAP Pricing Guidelines: Advertisements featuring Products shall not offer a price that is less than the MAP, nor imply that a product is being sold below the MAP (i.e., “price before discount”). MAP is the only advertised discount allowed. Advertisements featuring “B Stock” items of the Products may not offer a price reduced by more than Twenty Percent (20%) of the regular MAP for such Products.

The current minimum advertised price list applicable to the advertisement of the Products is set forth in D’LUCA MUSIC’s price list(s) for each line of Products as they are issued by D’LUCA MUSIC from time to time. D’LUCA MUSIC shall have the right to modify prices to Dealer at its sole discretion upon thirty (30) days prior written notice.

Dealers may only sell the Products in the United States. The D’Luca Music does not authorize its U.S. dealers to advertise, solicit, or consummate sales of products outside the United States. Dealers may not trans-ship the Products to other dealers or distributors for resale.

D’Luca Music’s MAP policy described above (including, MAP pricing, geographic limits and trans-shipping) shall apply equally to advertising on the internet.

Bundles: The Products shall not be “bundled” with any other product, discount offer, or similar variation, without the express written consent of D’Luca Music.

Free Offers Associated with D’LUCA® Product: Free shipping and/or handling, 0% sales tax, or free financing promotions are acceptable.

Price Matching Policies: Price matching policies are acceptable; however, they cannot be used as a valid reason for violations of this MAP Policy. Advertised prices must always be at MAP or higher.

Pricing Inquiries: The statements “Email for Price,” “Click for Price” or “Add to Cart for Price” are not acceptable. The statement “Call for Price” is acceptable, provided that such call be limited to a live, one-on-one telephonic communication initiated by a customer. A product that has been placed in a website shopping cart can be shown in the shopping cart at any price.

## Benefits of Compliance with MAP

Compliance with the MAP policy allows the authorized dealer the limited right to use the Intellectual Property solely in connection with the advertisement and marketing of the Products. The use of the Intellectual Property shall be permitted only upon the express written consent of D'Luca Music.

Additionally, D'Luca Music offers a dealer discount structure for all Products for Dealers in compliance with the MAP policy. Details of the dealer discount structure are available upon request.

## Non-Compliance with the MAP Policy

D'Luca Music will unilaterally enforce this policy. Violation of this MAP policy may result in the following penalties:

1st Violation: Dealer will be restricted from advertising any D'Luca Product for a period of 60 days;

2nd Violation: Dealer's advertising privileges will be terminated and/or D'Luca Music may, in its sole discretion terminate this agreement.

## Reservation of Rights

The D'Luca Music reserves the sole and absolute right to modify and/or amend the terms and conditions of this MAP Policy at any time, subject to fifteen (15) days written notice to the dealer.

The Products and the distinctive headstocks commonly associated with all D'Luca Products are, respectively, trademarks of D'Luca, D'Luca Music, Sky Blue Telemarketing Inc.

## Acknowledgement of The D'LUCA MUSIC's Minimum Advertised Price ("MAP") Policy

By signing this acknowledgement (the "Acknowledgment"), I acknowledge D'Luca Music's MAP Policy (the "MAP Policy") and agree to comply therewith. I have read and understand the MAP policy in its entirety.

Only the entity identified on this Acknowledgement is authorized to sell the Products (as defined in the MAP Policy), and only under the identification listed on this MAP acknowledgement. DBA entities must all be listed and individually authorized. The undersigned entity may only sell to end users.

Dealers are expressly prohibited from offering the Products for sale to other resellers or auction sites, or to trans-ship such products.