

SPS ECOSYSTEM MARKETING AND REFERRAL PROGRAM AGREEMENT

This SPS Ecosystem Marketing and Referral Program Agreement ("Agreement") is entered into as of the date ("Effective Date") that YOU (herein referred to as "Partner") click "I Agree" – between Partner and SPS Commerce, Inc., a Delaware corporation ("SPS"), with its headquarters located at Accenture Tower, 33 South Seventh Street, Suite 1000, Minneapolis, Minnesota 55402.

WHEREAS, SPS provides comprehensive internet-based Electronic Data Interchange ("EDI") solutions within the supply chain enablement industry; and

WHEREAS, Partner, having extensive experience, business relationships, and network contacts within the supply chain enablement industry; stands in a unique position to act as a strategic partner with SPS; and

WHEREAS, SPS seeks additional customers, and Partner seeks an additional source of revenue, Partner and SPS have agreed to form a strategic alliance according to the terms herein, which will mutually benefit both parties.

THE PARTIES NOW THEREFORE AGREE AS FOLLOWS:

1. **DEFINED TERMS.**

1. "*Actively Participate*" shall mean Partner's active engagement in the introduction of a Lead to SPS through an in-person introduction; or a telephone introduction; or through a joint sales call (email introductions shall not qualify), and will include Partner's continued support of SPS through the sales process.
2. "*Commissionable Lead*" shall mean a Lead for which Partner is eligible under Section 3.1.2. herein to be paid a commission because said Lead has become a customer of SPS by executing a SPS License Agreement for use of a SPS Service.

1.3 “*Confidential Information*” shall mean all data and information of a confidential nature, as well as information that one party knows or should know that the other party regards as confidential including, but not limited to, business practices, software, technical information, future product and service plans, programming/design techniques or plans, know-how, trade secrets, prospects, customers, end users, suppliers, development plans or projects, and services. Confidential Information may be communicated orally, in writing or in any other recorded or tangible form.

1. “*Marks*” shall mean the service marks, trade marks, trade names, logos, and trade dress of a party.
2. “*SPS Lead Form*” or “*Lead Form*” shall mean a standard form generated by SPS (and available online in the SPS Partner Center) to be used by Partner to identify a referred Lead for purposes of qualifying the Lead as a Commissionable Lead (a sample of which is attached hereto as ‘EXHIBIT A’).
3. “*Notification Date*” shall mean the date that SPS notifies Partner that it has accepted Partner’s Lead as a Commissionable Lead.
4. “*Party*” or “*Parties*” shall mean SPS and/or Partner.
5. “*Lead*” shall mean a potential or prospective customer identified by Partner.
6. “*Service*” shall mean any of SPS’s products or services which it offers to Customers.
7. “*Territory*” shall mean the industry and/or geography from which Partner refers SPS Leads, and which shall be determined in SPS’s sole discretion, whose description is attached as “EXHIBIT B” hereto.

1. **TERMS OF AGREEMENT.** The initial term of this Agreement will be one (1) year from the date of its execution by the parties (the “Effective Date”). This Agreement shall automatically renew for additional one (1) year terms, unless either party provides the other with written notice of its intent to terminate the Agreement.

1. **TERMS AND CONDITIONS OF LEAD REFERRAL AND ACCEPTANCE.**

1. Partner’s Identification and Referral of Leads.

1. Partner agrees to use commercial reasonable efforts to refer Leads to SPS from Partner’s territory whom, in Partner’s sole opinion, Partner identifies as potential customers for SPS.

2. Partner acknowledges and agrees that in order for a Lead to qualify as a Commissionable Lead, the following must have occurred:
 2. Partner must have actively participated in the introduction of the Lead to a SPS sales contact; and
 3. Partner must have timely documented the introduction of the Lead on a Lead Form and must have submitted the completed Lead Form to SPS for review; and
 4. SPS must have reviewed the Lead Form and accepted the Lead as commissionable (*i.e.*, not rejected the Lead for any of the reasons stated in Section 3.1.3 below, or otherwise); and
 5. Partner must have continued to actively participate in supporting SPS in the sales process with said Lead.
 1. Partner acknowledges and agrees that no commission will be paid to Partner by SPS to Partner for the referral of a Lead:
 6. that was an existing customer of SPS's at the time of the referral; or
 7. with whom SPS was already involved in preliminary or advanced discussions relating toward the sale of service to Lead (as of the date of the Lead Form); or
 8. for whom a Lead Form (or similar document) has previously been submitted to SPS by Partner or any other third party; or
 9. which occurred more than ninety (90) days prior to the notification date; unless extended in writing by SPS; or
 10. for whom Partner did not actively participate in the development and/or solicitation of the Lead.

1. Partner acknowledges and agrees that it shall be solely responsible for and shall bear all costs associated with Partner's development of any Leads for referral to SPS.

1. SPS's Obligations Upon Lead Referral.

1. SPS hereby authorizes Partner to refer Leads to SPS in exchange for the remuneration listed in "EXHIBIT C."
2. SPS shall, upon submission of a Lead Form from Partner, promptly review the Lead Form to determine whether to accept the Lead as commissionable or reject the Lead under Section 3.1.3. above, or other commercially reasonable reason as determined by SPS.
3. SPS will notify Partner within thirty (30) business days ("Notification Date") of receipt of the Lead Form as to whether the Lead submitted by Partner to SPS is commissionable.

4. Upon acceptance of a Lead as commissionable, SPS shall be solely responsible for all costs associated with the sale of SPS services to said Lead.

1. Mutual Obligations Regarding Lead Development/Sale.

1. Each party will cooperate with the other to develop and execute a strategy to best serve the needs of the Commissionable Lead, including how the parties will work separately or together, if at all, regarding the Lead.
2. Each party will, upon request of the other party, provide the other with all non-confidential information it has regarding a Lead in order to assist the other party in (i) verifying the eligibility of the Lead as commissionable; and/or (ii) successfully soliciting the Lead to purchase SPS Services.
3. Each party will, upon request of the other party, in its reasonable discretion, provide the other party with information regarding its services and/or products. Such information shall include sales and marketing materials and informal training. Any training provided under this Section shall be conducted at mutually agreed times and places and shall be conducted in accordance with the training party's discretion.

1. COMMISSIONS.

1. Payment. Subject to the requirements of Section 3 above, SPS will pay Partner a one-time commission as determined by the schedule set forth in "EXHIBIT C" for each Commissionable Lead referred by Partner to SPS in compliance with the requirements of Section 3 above that enters into an Agreement with SPS for the purchase or license of any Services.
2. Payment Timing. Commissions under this Section 4 shall be due no later than thirty (30) days from the end of each calendar quarter for all amounts earned by Partner during the previous calendar quarter for which SPS receives payment of any fees from a Commissionable Lead.

1. MARKETING.

1. SPS hereby authorizes Partner to include in its marketing or product distributions, marketing materials about SPS's services, which SPS has prepared and provided to Partner for this purpose. Partner shall not alter, modify, or otherwise change any material provided to it by SPS.
 2. Partner agrees to participate in joint marketing campaigns to promote use of SPS's services. Such campaigns will include, but shall not be limited to: (1) prominent promotion on Partner's website; (2) hyperlinking websites; and/or (3) joint news releases.
- 5.3 Partner agrees to assist SPS in identifying and obtaining customer success stories for use by SPS in its marketing and public relations materials.

1. **PUBLICITY.**

1. SPS will determine in its sole discretion whether a press release announcing the establishment of the parties' relationship is warranted. Partner agrees to reasonably cooperate with SPS as necessary to effectuate any such press release.
- 6.2 SPS shall have sole authority to approve any and all press releases, announcements, marketing materials mentioning SPS. Partner shall have sole authority to approve the use of its name in any marketing or other materials submitted to any public source. Neither party shall unreasonably withhold its approval.

1. **CONFIDENTIALITY.**

1. Disclosure and Protection. Each party anticipates that it will disclose certain confidential information to the other party in connection with performance under this Agreement. Each party agrees to preserve the confidentiality of such confidential information and not to *disclose* such confidential information during the term of this Agreement and thereafter. Such confidential information may be used only for the purposes of rendering performance under this Agreement. Each party shall treat the other party's confidential information with at least the same degree of care that it accords its own confidential information of a similar nature; provided, however, that in no event shall such care be less than that which is reasonably required to protect the confidential information.
2. Exceptions. Information shall not be deemed to be confidential information, and supplier shall have no obligation with respect to any such information, which:

2. is or falls into the public domain through no wrongful act or negligence of either party;
3. is rightfully received from a third party without restriction and without breach of the Agreement;
4. is approved for release by written authorization of an officer of either party; or
5. is already in the other party's possession as evidenced by its records and is not the subject of a separate non-disclosure agreement.

7.3 Government Request or Subpoena. Nothing contained in the above exceptions shall permit Partner to disclose Confidential Information pursuant to the requirements of a governmental agency or operation of law unless and until notice of such disclosure has been given to SPS prior to disclosure and Partner has used reasonable efforts to receive confidential or protected status for the Confidential Information.

7.4 Termination. Upon termination of this Agreement by either party for any reason, each party shall, within twenty (20) days of a written request, return any and all tangible materials containing Confidential Information of the other party. Following termination of this Agreement, the parties shall remain obligated not to use, reproduce, disclose or provide such items or information to third parties with the prior written permission of the other party.

1. This Agreement. Both parties agree that the terms and conditions of this Agreement shall be treated as Confidential Information.

8. **MUTUAL NON-SOLICITATION.** Each party agrees that it will not solicit the engagement and/or employment of the services of any of the employees and/or contractors of the other party (either directly or through agents), without written permission of the other Party, during the term of this Agreement and any extension thereof and continuing for a period of one (1) year following its expiration or termination.

9. **RESERVATION OF RIGHTS.** Partner acknowledges that SPS holds and retains all worldwide right, title and interest in and to its marks and SPS's promotional materials, and that all use of the SPS marks and SPS promotional materials by Partner will inure to the benefit of SPS. Further, Partner will (i) not assert any ownership interests in or contest the validity of the SPS marks; (ii) comply with written guidelines that SPS may provide to Partner from time to time; (iii) not, at any time during the term of this Agreement, register or cause to be registered the SPS marks or any trademarks, marks or trade names confusingly similar to the SPS marks; and (iv) not use the SPS marks in any manner that is likely to cause confusion, mistake, or deception. Partner will reproduce all copyright, trademark and other notices on any copies of the SPS promotional materials created or distributed by Partner.

10. **TRADEMARK LICENSE.** Subject to the terms and conditions of this Agreement, each party ("Mark Owner") hereby grants the other party ("Mark Licensee"), a non-exclusive, nontransferable, royalty-free, worldwide license to use its marks, solely during the term of this Agreement as necessary to perform the marketing and promotional obligations described herein. Any use of the other party's marks shall be subject to the Mark Owner's right to review and approve or reject in advance each proposed use of the mark, and shall conform with any trademark usage guidelines, polices, or requirements provided by the owner of the mark. Any rights not expressly licensed herein are reserved by the Mark Owner, and all use by the Mark Licensee shall accrue to the benefit of the Mark Owner. The Mark Licensee will not take any action that would conflict with or be contrary to the Mark Owner's rights and interest in its Marks. Nothing contained herein shall be deemed to grant either party any right, title or interest in or to the other's marks other than the license granted herein. As between the parties, SPS acknowledges that Partner is the sole and exclusive owner of the Partner marks, and Partner acknowledges that SPS is the sole and exclusive owner of its marks.

1. **NONEXCLUSIVE AGREEMENT.** Each party acknowledges that this Agreement does not create an exclusive agreement between the parties. Each party shall have the right to recommend similar products and services of third parties and to work with other parties in connection with the design, sale, installation, implementation and use of similar services and products of third parties. Notwithstanding the foregoing, Partner agrees that once it establishes a Commissionable lead with SPS, it will not refer a direct competitor of SPS to such Commissionable lead.

1. **TERMINATION.**

1. **In The Event of Breach.** Either party may terminate this Agreement upon thirty (30) days written notice to the other party in the event of a breach of any provision of this Agreement by the other party, provided that, during the thirty (30) day period, the breaching party fails to cure such breach.

- 12.2 **Bankruptcy.** Either party may terminate this Agreement if the other party becomes insolvent, makes any assignment for the benefit of creditors, goes to liquidation or has a receiver or trustee appointed for the benefit of creditors, whether voluntary or otherwise, or seeks the protection of, or has a proceeding instituted against it, under the bankruptcy code, or any similar statute.

12.3 Convenience. Either party may terminate this Agreement upon giving thirty (30) days written notice to the other party.

1. Effect on Commissions.

12.4.1 *For Convenience*: Any commissions earned and/or due to Partner from SPS shall be paid to Partner in accordance with Section 4 of this Agreement.

12.4.2 *For Convenience*: In the event that Partner has referred to SPS a Commissionable Lead prior to the termination of this Agreement, SPS shall pay Partner in accordance with Section 4 of this the termination of this Agreement.

12.4.3 *For Breach or Bankruptcy*. Upon termination of this Agreement by SPS in accordance with Sections 12.1. and/or 12.2. of this Agreement, SPS shall have no obligation to pay Partner any commission as of the date of the termination.

13. **WARRANTIES**. The parties mutually warrant that each is a corporation duly organized, validly existing and in good standing under the laws of the State of its incorporation and has the full and unrestricted power and authority to execute and deliver the Agreement and to carry out the transactions contemplated hereby. Partner warrants that the execution of this Agreement and the performance of any work and delivery of any services will not conflict with or violate any commitment, agreement or understanding Partner has or will have with any other person or entity and there is nothing that will prevent Partner from performing its obligations under the terms and conditions imposed on it by the Agreement. The parties represent and warrant that the Agreement has been duly authorized by all necessary corporate action and constitutes a valid obligation, binding and enforceable in accordance with the terms hereof.

14. **DISCLAIMER OF WARRANTIES**. EXCEPT FOR THE WARRANTIES EXPRESSLY PROVIDED IN THIS AGREEMENT, THE PARTIES SPECIFICALLY DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE.

15. **LIMITATIONS OF LIABILITY** EXCEPT FOR BREACHES OF SECTIONS 7 (CONFIDENTIALITY) AND 10 (TRADEMARK LICENSE), NEITHER PARTY WILL BE LIABLE FOR ANY LOSS OF USE, LOSS OF DATA, INTERRUPTION OF BUSINESS, DOWNTIME, LOST PROFITS, OR ANY INDIRECT, SPECIAL,

INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) STRICT PRODUCT LIABILITY OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. EXCEPT FOR BREACHES OF SECTIONS 7 (CONFIDENTIALITY) OR 10 (TRADEMARK LICENSE), IN NO EVENT WILL EITHER PARTY'S LIABILITY TO THE OTHER UNDER THIS AGREEMENT EXCEED THE PAYMENTS PAID BY SPS TO PARTNER DURING THE PRECEDING TWELVE MONTHS. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS SECTION IS AN ESSENTIAL ELEMENT OF THE AGREEMENT AND THAT IN ITS ABSENCE, THE ECONOMIC TERMS OF THIS AGREEMENT WOULD BE SUBSTANTIALLY DIFFERENT. THIS SECTION IS SEVERABLE AND SHALL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

1. MISCELLANEOUS.

1. Independent Contractor. This Agreement does not create any joint venture, partnership, agency, or employment relationship between the parties. Partner and SPS are independent contractors with respect to one another under the terms of this Agreement. Neither party shall have the authority to legally bind the other party to any contract, proposal, or commitment or to incur any debt or create any liability on behalf of the other.

- 16.2 Force Majeure. Neither party shall be liable for any loss or delay resulting from any force majeure event, including, but not limited to, acts of God, fire, natural disaster, terrorism, labor stoppage, war, or military hostilities, criminal acts of third parties, and any payment date or delivery of service date shall be extended to the extent of any delay resulting from any force majeure event.

- 16.3 Notice. The parties agree that all notices that may or must be given under the provisions of this Agreement shall be delivered by email or facsimile or by hand-delivery. Notices to SPS shall be directed to info@spscommerce.com. Notices to Partner shall be directed to the contact information provided by Partner to SPS. All notices shall be effective the next business day after sending.

- 16.4 Assignment. This Agreement shall inure to benefit and bind the parties hereto, their successors and assigns, but neither party may assign this Agreement without written consent of the other, except such consent is not required to the successor of all or substantially all of the assignor's business or assets.

- 16.5 Headings. The headings of the Sections of this Agreement are intended for convenience only, and will not affect the intent, scope, or meaning of any provision of this Agreement.
- 16.6 Governing Law. This Agreement shall be governed in accordance with the laws of the State of Minnesota and any controlling U.S. federal law. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the state and federal courts located in Minneapolis, MN.
- 16.7 Integration. This Agreement (and any Exhibits hereto) represent the entire agreement of the parties and supercedes all prior discussions and/or agreements between the parties and is intended to be the final expression of their Agreement. It shall not be modified or amended except in writing signed by both parties. In the event of an express conflict between the terms of this Agreement and the terms of any Exhibit, the verbiage of this Agreement controls. If any provision is held by a court of competent jurisdiction to be contrary to law, such provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect.

ATTENTION! THE PRECEDING TERMS AND CONDITIONS WILL BE LEGALLY BINDING UPON YOU BY CLICKING THE "I AGREE" BUTTON DISPLAYED HEREWITH. YOU SHOULD CAREFULLY READ THE PRECEDING AGREEMENT GOVERNING THE SPS REFERRAL PROGRAM BEFORE CLICKING "I AGREE." BY CLICKING "I AGREE" YOU ARE REPRESENTING THAT YOU HAVE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF YOUR COMPANY (OR OTHER LEGAL ENTITY). IF YOU DO NOT HAVE SUCH AUTHORITY OR YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS CONTAINED HEREIN YOU MUST CLICK "I DECLINE" AND YOU WILL NOT BE ELIGIBLE FOR PARTICIPATION IN THE SPS REFERRAL PROGRAM.

EXHIBIT A

Sample Web Referral Registration Form to be provided at a later date.

EXHIBIT B

Territory: North America (Canada, Mexico, USA)

EXHIBIT C

Partner Commission Formula

SPS will compensate Partner with a one-time commission equal to ten (10%) percent of the total amount of the first year's fees as set forth in any Agreement between SPS and the Commissionable Lead as of the effective date of any such Agreement.

In the case in which a Commissionable Lead pays SPS on an installment basis, SPS will compensate the Partner by matching the payment schedule of the Commissionable Lead.

No commissions will be paid to Partner for upsells, renewals, professional services, support services, training services or third party software products purchased by the Commissionable Lead under any Agreement between such Commissionable Lead and SPS.

No commissions will be paid to Partners who are themselves or who are the family member of an SPS Commerce employee, intern or contractor. Any exceptions must be approved in writing by a member of SPS Commerce executive management.