

Partner Referral Agreement

The purpose of this agreement:

This agreement makes it possible for a Partner to refer customers to babelforce and to receive commissions for Referred Customers. It is intended for partners who wish to promote, market and advertise the babelforce Services. It is also the basis for partnerships where the Partner wishes to integrate with, or add value to, the babelforce Services. This agreement governs the contractual terms and conditions entered into between the Partner and babelforce.

The contractual parties and how the agreement comes into force:

This **“Agreement“** is entered into by and between babelforce and the **“Partner“**. The Agreement shall be considered as binding once **“You“** complete and submit the **“Partner Program Form“** to indicate **“Your“** acceptance of this Agreement, and receive an email confirmation from babelforce indicating that the Partner Program Form and Agreement have been received and processed by babelforce and that babelforce accepts Your application to the Partner Program.

Definitions of specific words and phrases

Each word or phrase that has a specific meaning defined in this Agreement and any addenda or referenced documents is introduced at the point where it is defined in quotes and bold type and is used elsewhere in text with the first letters capitalized. Such words and phrases only have the meaning as specified in this Agreement. **“babelforce“** refers to babelforce GmbH, registered at Amtsgericht Charlottenburg, Berlin with Register number.: HRB 150717 B. babelforce and the Partner are sometimes referred to as a **“Party“** and together as the **“Parties“** to this Agreement.

“Agreement“ refers to this document and documents referenced within it and is used to mean the entire contract entered into by both parties.

“Partner“ or **“You“** or **“Your“** refers to the legal entity, natural or legal person, entering into this Agreement with babelforce.

“We“ or **“Us“** or **“Our“** refer to babelforce.

“Partner Program Form“ is the form completed by the Partner with the details of the legal entity (including the authorised legal representative and the company name) and submitted to indicate acceptance of this Agreement.

“Services“ are the babelforce products and any related services that it markets and sells to its customers. In particular, customers of babelforce enter into the babelforce Master

Service Agreement in order to procure access to particular products by submitting “**Purchase Orders**” to babelforce. All such products are considered part of the babelforce “**Services**”.

“**Referred Customer**” is a customer that the Partner markets the babelforce Services to.

“**Start Date**” is the date on which this Agreement becomes binding. It is the day on which babelforce sends the Partner a confirmation email that the Partner’s application to Partner Program has been accepted.

“**Marketing Materials**” are the trademarks, logos and URLs, content, videos and all associated materials that may be amended by babelforce from time to time and that can only be used subject to the terms of this agreement.

Agreement

The Parties agree as follows:

1. The License granted to the Partner:

1. babelforce grants to the Partner, subject to the terms and conditions of this agreement, a free, non-exclusive, non-transferable and revocable license (“**License**”) to market the babelforce Services to Referred Customers. This license allows the Partner to use the babelforce “**Marketing Materials**” for the sole purpose of promoting the babelforce Services.
2. The license granted to use the Marketing Materials is subject to babelforce’s Marketing Materials Usage Guidelines (“**Marketing Guidelines**”) (which can be found at <http://www.babelforce.com/company/legal/marketing-materials-guidelines/>). The Marketing Guidelines are part of this agreement by reference and may be updated from time to time by babelforce at its sole discretion. babelforce may revoke this license at any time by giving the Partner a written notice (including via email).

2. The Partner Program commitments:

1. To participate in the Partner Program, the Partner must complete the online application for participation, the “**Partner Program Form**”, found on babelforce’s website (“**Website**”), or as otherwise made available digitally by babelforce, and enter into this Agreement. babelforce may accept or reject any application at its sole discretion.
2. As part of its participation in the Partner Program and in acting as babelforce’s Partner, the Partner agrees and consents to the terms of this Agreement and the Partner Program, the Marketing Guidelines, and any other requests and rules set by babelforce from time to time, in its reasonable discretion, in connection with the Partner’s ongoing participation in the Partner Program and promotion of the babelforce Services to Referred Customers. In all its activities under this Agreement, and specifically such activities relating to the Partner’s promotion of babelforce Services, the Partner will cooperate with babelforce and act in good faith.

3. The Partner agrees to engage in continued, active promotion of the babelforce Services in various marketing channels using the Marketing Materials, and do so in compliance with the terms of this Agreement.
4. The Partner agrees not to associate Marketing Materials with content that is unlawful in any manner, or which is otherwise harmful, threatening, defamatory, obscene, offensive, harassing, sexually explicit, violent, discriminatory, or otherwise objectionable, as judged at babelforce's sole discretion. The Partner agrees not to send unsolicited electronic messages to multiple unrelated recipients in promoting the babelforce Services, or otherwise to engage in any other form of mass electronic communications prohibited by law in connection with activities contemplated under this Agreement.
5. The Partner expressly agrees to comply with all the terms of this Agreement pertaining to the use of Marketing Materials.
6. Through the Marketing Guidelines and otherwise, babelforce shall provide specifications and other instructions from time to time as to the Partner's permissible use of Marketing Materials. The Partner further agrees to comply with all such specifications and instructions.
7. The Partner shall ensure that all Marketing Materials are in the form approved by babelforce in the Marketing Guidelines or otherwise, shall not modify any babelforce marks or otherwise substantially modify other Marketing Materials contrary to reasonable instructions provided by babelforce, and shall further comply with reasonable instructions from babelforce as to the form, content and display of Marketing Materials. Upon termination of this Agreement for any reason whatsoever, or upon written request by babelforce, the license granted herein shall expire and You shall immediately cease all its activities under this Agreement.
8. The Partner shall be solely responsible for its operations in acting under this Agreement, including, without limitation, the legality of the Partner's operations and materials, created and used in connection with this Agreement. Except for a claim alleging that a babelforce Mark violates a third party's trademark rights, babelforce is not responsible for the development, operation or content of Your marketing materials and the Partner agrees to defend, indemnify and hold babelforce harmless against any and all claims, actions, causes of action, damages, or expenses (including lawyers' fees) relating to the development, operation, content and maintenance of the Partner's Marketing Materials.
9. During and after the Term, babelforce shall be the exclusive owner of all relations created via the Partner among babelforce and Referred Customers with respect to the babelforce Services, including any and all information identifying Referred Customers who contract with babelforce for the use of the babelforce Services. The babelforce's terms, policies and rules and procedures for the babelforce Services will apply to these Referred Customers and may be changed by babelforce without prior notice to the Partner, and the Partner agrees to convey to Referred Customers the nature of their relations with babelforce under this Agreement.
10. babelforce shall be responsible for the sales process to all Referred Customers, subject to the Parties' continued good-faith cooperation in promoting the sales process to Referred Customers.

3. Accepted Referred Customers

1. A Referred Customer will be considered an “**Accepted Referred Customer**” only when all conditions defined in this Section 3 have been satisfied:
 - a. The Referred Customer will be referred to babelforce by the Partner using a form made available online/digitally by babelforce to the Partner, which the Partner will fully complete and submit to babelforce (“**Referral Form**”).
 - b. babelforce has no record in connection with the babelforce Services of the Referred Customer, or who are not, at the time referred to babelforce by Partner, in any contractual relations or ongoing negotiations with babelforce in connection with the babelforce Services;
 - c. The Referred Customer enters, at their own discretion and without receiving any monetary or other incentive from the Partner, into a contract with babelforce to purchase Services.
 - d. The Referred Customer is not rejected by babelforce.
 - e. The Referred Customer makes at least one payment for the babelforce Services.

4. Referral Fees

1. babelforce shall collect all charges from Referred Customers for the babelforce Services directly from Referred Customers.
2. Once a Referred Customer becomes an Accepted Referred Customer, babelforce shall pay the Partner “**Referral Fees**” quarterly in arrears at (“**Commission Rate**”) % of the charges (excluding any discounts) paid by the Accepted Referred Customer for the first (“**Commission Term**”) years of the contract between babelforce and the Accepted Referred Customer for the applicable time period. Such Referral Fees shall become payable and be paid to the Partner within thirty (30) days of the end of the calendar quarter in which charges attributed to such Accepted Referred Customers have been paid to babelforce.
3. The Partner shall be responsible for payment of all taxes, duties, governmental charges and other like charges levied on the Referral Fees, and the Partner shall indemnify, defend and hold babelforce harmless from and against any claims arising out of or relating to all charges emanating from babelforce’s payment of Referral Fees.
4. babelforce shall provide the Partner digitally, a quarterly report summarizing the sales activities of the Partner and Referral Fees for Accepted Referred Customers derived from Referral Forms submitted by the Partner. In such reports, babelforce shall not reveal the names or other personal information about Referred Customers and Accepted Referred Customers.

5. License granted by You

1. You grant babelforce a non-exclusive, worldwide, royalty-free, transferable and sublicensable license, limited to the term of this Agreement, to reproduce, adapt,

modify, translate, publish, publicly perform, publicly display and distribute any content, including any application, you upload, create or configure using the babelforce Services, for the purpose of enabling babelforce to provide you with the Services and to support and promote Your participation in the Partner Program and otherwise perform its obligations under this Agreement.

2. You agree that babelforce, at its sole discretion, may use your trade names, trademarks, service marks, logos, domain names and other distinctive brand features in presentations, marketing materials, customer lists, financial reports, website listings and links to your website(s) for the purpose of publicizing your use of the Services. babelforce undertakes to make all commercially reasonable efforts to ensure that such materials and content are used to promote You and Your company and products in the best possible light. babelforce is not under any obligation to so advertise, market, promote, or publicize your participation in the Partner Program.

6. Term and Termination

1. This Agreement shall become effective as of the Start Date and shall continue for twelve (12) months thereafter (“**Initial Term**”), unless babelforce rejects the Partner’s application to participate in the Program.
2. Following expiration of the Initial Term, this Agreement will be automatically renewed for additional consecutive terms of twelve (12) months (each, “**Renewal Term**”), unless a Party gives written notice of termination to the other Party at least thirty (30) days’ prior to the end of the Initial Term or any Renewal Term.
3. Either Party may terminate this Agreement at any time, effective immediately upon written notice to the other Party who has materially breached this Agreement, provided that prior to terminating this Agreement the terminating Party shall provide written notice of such material breach and thirty (30) days opportunity for the breaching Party to cure such breach.
4. From and following the date of termination of this Agreement, the Partner’s rights under this Agreement shall terminate, and the Partner shall not be entitled to receive any Referral Fees or any other payments under this Agreement other than commissions or payments earned or accrued prior to termination of this Agreement.

7. Assignment and sub-contracting

1. babelforce may assign this Agreement at any time.
2. The Partner may not assign or otherwise transfer this Agreement or any part of it to a third party without the prior written consent of babelforce, such consent not to be unreasonably withheld.
3. This Agreement is enforceable by the original Parties to it and by their successors in title and permitted assignees.

8. Intellectual Property Rights

1. All intellectual property rights in babelforce Marketing Materials, the babelforce Services and related content and technology around the world (“**babelforce Intellectual Property Rights**”) are and will remain the exclusive property of babelforce and its subsidiary companies. These babelforce Intellectual Property Rights include but are not limited to trademarks, trade names, logos, patents, copyrights, domain names and derivative rights.
2. The License granted by babelforce to Partner under Section 1 of this Agreement is granted solely under the terms of this Agreement. The Partner’s right to use the Marketing Materials is at the discretion of babelforce and is subject to Partner’s compliance with the terms of this Agreement, Marketing Guidelines, and with all applicable laws and regulations.
3. The Partner agrees to always use the Marketing Materials and any other babelforce marks or content in compliance with the Marketing Guidelines.
4. The Partner agrees not to create or obtain any intellectual property rights (including but not limited to trademarks, trade names, logos, patents, copyrights, domain names and derivative rights) that are substantially similar to any babelforce Intellectual Property Rights.
5. The Partner agrees to promptly notify babelforce of any unauthorized use of any babelforce Intellectual Property Rights of which the Partner has actual knowledge.
6. babelforce may perform periodic reviews of any Marketing Materials presented by the Partner, and shall have the exclusive authority and discretion to order the removal and/or amendment of any Marketing Materials presented by Partner.
7. Where babelforce provides software or related artefacts and resources (including but not limited to source code, HTML and other markup languages, javascript and other scripting, audio and graphics) to Partner, babelforce owns all intellectual property and derivative rights and does not grant any license to the software other than to allow the Partner to make use of and promote the babelforce Services in accordance with this Agreement.

9. Warranty, Disclaimer of Warranty

1. Both Parties warrant that they will comply with all applicable laws, regulations, codes of practice, as well as this Agreement.
2. While this Agreement is in effect and after its termination for any reason whatsoever, the Partner expressly undertakes not to do anything that might reasonably be expected to damage the business, interests or reputation of babelforce and will not make, publish or allow to be made or published any disparaging remarks concerning babelforce, its representatives, or the babelforce Services.
3. Other than babelforce’s express warranty under 8.1, babelforce makes no other warranty, express or implied, of any kind and babelforce expressly disclaims any and all warranties and conditions, including but not limited to any implied warranty of merchantability, fitness for a particular purpose, availability, security, title, and/or

non-infringement of the subject matter of this Agreement.

10. Limitation of Liability.

1. By entering this Agreement Partner recognizes the limitations herein on babelforce's liability.
2. Neither party shall be liable for any indirect, incidental, special, punitive or consequential damages, or any economic loss (including loss of revenues, profits, contracts, business or anticipated savings), any loss of goodwill or reputation, or loss or damage of data, or any loss or damage arising out of data use, even if such party has been informed of the possibility of such damages. babelforce's maximum liability for any damages arising out of or related to this agreement shall not exceed 100 EUR.
3. Notwithstanding the foregoing, the above limitations on liability shall not apply to either party's indemnification obligations under Section 11 of this Agreement.

11. Independent Contractors.

1. The Parties act on their own behalf as independent contractors. Nothing in this Agreement shall create any joint venture, agency, franchise, sales representative, employment or any other relationship between the Parties beyond the relations set out in this Agreement, and the Partner is expressly precluded from acting on babelforce's behalf.
2. The Partner's display of Marketing Materials, the use of any other content presented by the Partner, or communication between the Partner and third parties shall not misrepresent the relations between the Parties as independent contractors to this Agreement.

12. Indemnification

1. babelforce shall defend, indemnify and hold the Partner harmless against any loss, damage or costs (including reasonable attorneys' fees) incurred in connection with claims, demands, suits, or proceedings ("**Claims**") made or brought against you by a third party alleging that the use of the Services infringes, misappropriates or violates any intellectual property rights of a third party; provided, that the Partner (a) promptly give written notice of the Claim to babelforce; (b) give sole control of the defense and settlement of the Claim (provided that babelforce may not settle or defend any Claim unless it unconditionally releases you of all liability); and (c) provide to Us, at Our cost, all reasonable assistance.
2. The Partner will indemnify, defend and hold babelforce and its subsidiaries, affiliates, officers and employees (the "**babelforce Indemnified Parties**") harmless from and against any and all costs, liabilities, losses and expenses (including but not limited to reasonable attorneys' fees) resulting from any claim, suit, action, demand or proceeding brought by any third party against the babelforce Indemnified Parties arising from any of the following: (i) a breach of the Agreement by Partner; (ii) the negligence, gross negligence or willful misconduct of Partner or its employees, agents or contractors; or (iii) a failure by Partner or its employees,

- agents, contractors or invitees to comply with applicable laws and regulations.
3. These indemnification obligations shall continue after the expiration or termination of this Agreement.

13. Confidential information and publicity

1. Neither Party shall use or disclose any Confidential Information of the other Party, including any information or data relating to the Parties technical solutions or business plans. Information shall in any event be considered confidential if related to pricing, discounts, Referred Customers' information or if designated as confidential by either of the Parties.
2. The foregoing provisions shall not prevent the disclosure or use by either Party of any part of such disclosed information or data which:
 - a. is in or comes into the public domain in any way without breach of this contract by the receiving Party; or
 - b. the receiving Party can show was i) in its possession or known to it by being in its use or being recorded in its files or computers or other recording media prior to receipt from the disclosing party and was not previously acquired by the receiving Party from the disclosing Party under an obligation of confidence, or ii) to have been developed by or for the receiving party at any time independently of any information disclosed to it by the disclosing Party; or iii) the receiving Party obtains or has available from a source other than the disclosing Party without breach by the receiving party or such source of any obligation of confidentiality or non-use towards the disclosing Party; or iv) is hereafter furnished by the disclosing Party to a third party without restriction on disclosure or use; or v) is disclosed by the receiving Party with the prior written approval of the disclosing Party.
3. The receiving Party shall maintain the disclosing Party's Confidential Information in confidence and shall exercise in relation thereto no lesser security measures and degree of care than those which the receiving party applies to its own confidential information. The receiving Party shall ensure that disclosure of such Confidential Information is restricted to those employees or directors of the receiving party whose work requires them to know the same. Copies or reproductions ("Copies") shall not be made except to the extent reasonably necessary for the purposes of this Clause 13.3 and all Copies made shall be the property of the disclosing Party.
4. The receiving party shall
 - a. not divulge the disclosing Party's Confidential Information, in whole or in part, to any third party or to any other associated party or business division, and
 - b. make no commercial use of the same or any part thereof without the prior written consent of the disclosing Party. Notwithstanding the foregoing, the receiving Party shall be entitled to make any disclosure required by law of the disclosing Party's Confidential Information provided that it gives the disclosing Party not less than two working days' notice of such disclosure.
5. Each Party warrants its right to disclose its Confidential Information to the other Party.

14. Prohibition on Raiding or Solicitation

1. Neither Party shall for the duration of this Agreement and for one year after termination hire, employ or solicit any employee of the other Party, or have such employee work for such Party either directly or indirectly.

15. Force Majeure.

1. If either Party shall be prevented (directly or indirectly) from performing any of its obligations under the Agreement, other than to pay invoices due, by reason of any Act of God, terrorism, fire, flood, unusually severe weather, explosions, riot, labour dispute, accident, war or the acts, orders, restrictions of any government including the withdrawal or withholding of any export or import licence or regulatory approval, telecommunications network failure, improper performance by babelforce's suppliers or defects in objects, materials or software of third parties, freight embargoes or other reason beyond its reasonable control excepting the negligence of the Party affected, it shall be entitled (providing it has promptly notified the other of the preventing circumstances arising and its likely duration and effect) to delay without penalty the performance of such obligations until the preventing circumstances cease.
2. If the period of the force majeure event exceeds two calendar months either Party may terminate this contract by written notice to the other party.

16. Entire Agreement; Severability; Notices, Modification by Notice

1. This Agreement and documents referenced within it represent the entire agreement among the Parties.
2. babelforce may modify this Agreement from time-to-time at its reasonable discretion by posting a change on the Website or by notifying Partner via email. If You object to any such change, You may terminate this Agreement for cause. Partner's continued participation in the Program following receipt of notice about changes to this Agreement shall constitute binding acceptance of this Agreement as amended.
3. If individual provisions of the contractual agreements – including the conditions of business – should prove to be ineffective, this does not affect the effectiveness of the remaining provisions. The parties shall without delay replace the ineffective provisions by others which as closely as possible approximate to the intentions of the ineffective provisions.
4. Either Party's failure to enforce the other Party's strict performance of any provision of this Agreement will not constitute a waiver of the first Party's right to subsequently enforce such provision or any other provision of this Agreement.
5. This Agreement may be signed in counterparts and such counterparts shall be valid and binding on the parties hereto with the same effect as if original signatures had been exchanged. All notices relating to this Agreement shall be delivered via email (with return receipt) or mail to the registered addresses of the legal entities, i.e. the Parties, entering into this Agreement.

17. Disputes and dispute resolution.

1. Prior to initiating any legal action arising under or relating to this Agreement, a Party shall provide the other Party written notice of a dispute and the Parties shall actively and in good faith negotiate with a view to speedy resolution of such dispute within thirty (30) business days of the receipt of such notice.
2. All controversies or disputes, which by statute are not exclusively subject to court determination, shall in the first instance be addressed through direct negotiation and dispute resolution in good faith and at a senior management level.
3. If the matter is not resolved through negotiation at senior management level, the parties will attempt to resolve the dispute in good faith through an Alternative Dispute Resolution (ADR) (e.g. Schlichtungsstelle für IT Streitigkeiten) that is provided by the Berlin Industry and Chamber of Commerce (Industrie- und Handelskammer Berlin).
4. If the matter has not been resolved by an ADR procedure within sixty (60) days of the initiation of that procedure, or if either party will not participate in an ADR procedure, the dispute shall be decided by the court having jurisdiction according to 17.
5. Nothing in this Section 16 shall be taken as preventing at any time while the dispute resolution procedures are in progress or before or after they are invoked either party instituting against the other proceedings before the courts to protect that party's intellectual property rights, trade secrets or confidential information.

18. Governing Law, Jurisdiction

1. This Agreement shall be governed by the laws of the Federal Republic of Germany. The sole and exclusive jurisdiction and venue for any litigation arising out of this Agreement shall be an appropriate court in Berlin, Germany and the Parties agree not to raise, and hereby waive, any objections or defenses based upon venue or forum.