


Marketing Partnership Agreement

- 🔊 This sample agreement enables a partner to market your products.
- 🔊 It can easily be reversed to enable you to market a partner's products/services.
- 🔊 The first part of the Memorandum should be completed and distributed to the Vendor along with a copy of the Marketing Partnership Agreement.

Date: **[Date]**

To: **[Name of Vendor]**

From:  **[Owner/Founder]**
[Company]

Subject: **Marketing Partnership Agreement**

Attached to this memorandum is a "Marketing Partnership" Agreement in order to establish the arrangement as to how we will advertise your product through our promotional efforts.

I believe that it embodies everything we discussed.

Please read the agreement carefully.

We recommend that you also have it reviewed by your own qualified legal counsel.

Time is of the essence.

Please sign and return it to me asap.

Thank you very much!


From JIAN

NOTICE:

We wish we could provide an agreement that was tailored *exactly* to your business. While this is not always possible, we feel that we've come very close and that this document provides you with the head-start that you need to get your deal moving. Nevertheless, we must make this disclaimer:

- 🔊 **Do Not Use This Agreement 'As-Is.'**
- 🔊 **This Agreement Is Not Legal Advice.**
- 🔊 **Read it Thoroughly and Make All Appropriate Changes to Fit Your Requirements.**
- 🔊 **You Should Have this Agreement Reviewed and Approved by a Qualified Attorney at Law Before Using It.**
- 🔊 **JIAN Accepts No Liability for the Effectiveness of This Document For Your Purposes.**

Free Access to Attorneys, Accountants & Consultants in Your Area

We're building a network of  business experts who are eager to help you when you need it. They can review your work, make suggestions, handle unique situations and introduce you to influential people. On our website you can search by expertise and location, then e-mail or jump straight to their website. Although they are professionals and charge for their services, most offer an initial consultation free of charge. They're in your area and you can contact them directly.


- Please visit our website under [Expert Referral Network](#).

Ongoing Update Service Keeps You Current


Things change, laws change, the world changes... new ideas come along all the time. When you register, you can access our website to get updates and changes... like new and improved spreadsheets and documents. They can be downloaded directly to your computer.

- Please visit our website under [Updates](#).
- Remember to bookmark our website: www.JIAN.com

Editing Your Sample Contract

Since this entire agreement is formatted in Word, you can edit it like any other Word document. You can jump from variable to variable by clicking the above  green arrows (JIAN Menu) which will take you forward / backward and highlight the entire sample text identified within the “[]” brackets – simply edit / type-over with your information.

To make sure you have filled in all the variables, use Word's 'FIND' function to locate any “[]” which may contain an unedited variable.

- Click the  icon in the JIAN menu above to turn the expert comments on/off.
- Upon completion, delete any unnecessary blank lines that remain.
- You may format this document any way you like.
- Delete this page.

Marketing Partnership Agreement

Effective Date: [Date]

This Agreement is by and between

[Partner Legal Name] (Partner)

a [State] Corporation

located at [Address]

AND [Company Legal Name] (“[Company]”)

a [State] Corporation

located at  [Address]

[City], [State] [Zip Code]

Summary

Partner wishes to obtain from [Company], and [Company] is willing to grant to Partner, the exclusive right to offer [Company]’s Products/Services and Product Components for sale as an add-on sale to other offers made through telemarketing call centers.

[Company] grants to Partner, and Partner accepts from [Company], a revocable, non-transferable, EXCLUSIVE right to promote its Products/Services and Product Components through call center entities provided that the price offered to our end-user customers is greater than \$[xxx.00] each USD.

In consideration for the exclusivity and preferential pricing granted, partner agrees to pay an advance payment of [Fifteen Thousand (\$15,000)] to be used solely for developing enhancements to [product/service], attached as Exhibit C.

In consideration for the mutual promises, covenants, and agreements made below, Partner and [Company], intending to be legally bound, agree as follows:

Definitions

For purposes of this Agreement, the following terms will have the indicated definitions:

- **“Agreement”** This Agreement is by and between Partner and [Company].
- **“End-User”** Any person or entity that purchases or licenses the Products/Services(s) from the call center.
- **“Personal Information”** includes personal identity, demographic, psychographic, and billing information and navigation of site visitors,
- **“Intellectual Property Rights”** The intangible legal rights or interests evidenced by or embodied in
- (1) any idea, design, concept, technique, invention, discovery, or improvement regardless of patentability, but including patents, patent applications, trade secrets and know-how;

- (2) any work of authorship, regardless of copyright-ability, but including copyrights and any moral rights recognized by law; and
 - (3) any other similar rights, in each case on a worldwide basis.
 - **“Products / Services”** The products and services owned by [Company] and Partner respectively and referred to by reference to their respective tradenames listed in Exhibit A attached to the bottom of this Agreement, along with all options to the Products / Services; all future versions of the Products / Services; and all enhancements, revisions, or modifications made to the Products / Services by Partner.
 - **“Product Component”** These may be a partial of the above product, or a single document, spreadsheet, database or other module that may be created separately and/or included with or within any of the above Products/Services.
- 🔊 For example, we may offer just one agreement from the AgreementBuilder product, or just the financial spreadsheets from BizPlanBuilder as a product component.
- **“Term”** The duration of this Agreement.
 - **“Territory”** For this agreement, the parties intend to focus strictly on selling products and services through companies whose principal business is that of a ‘telemarketing call center’.
 - **“Trademarks”** The trademarks specified in Exhibit B (attached to the end of this Agreement).

2. Relationship

2.1 EXCLUSIVE. [Company] grants to Partner, and Partner accepts from [Company], a revocable, non-transferable, EXCLUSIVE right to promote the product(s) listed in Exhibit A attached.

2.2 Independent Contractors. Partner and [Company] agree that their relationship is that of the seller and the representative (or the licensor and the licensee) and not that of joint venturers, principals or agents, or franchiser and franchisee. Both are independent contractors acting for their own accounts, and neither is authorized to make any commitment or representation, express or implied, on the other's behalf unless authorized to do so by the other in writing.

2.3 Use of Trademarks & Trade Names. No right, title or interest in or to any trademarks, trade names, slogans, labels and designs used by either Partner or [Company], nor the goodwill connected is conveyed by this Agreement. Both parties may, in connection with the promotion and sale of the other's Products / Services pursuant to the terms of this Agreement, refer to the other's applicable trade names or trademarks provided that all such references are in conformance with the other's requirements regarding such use, as such requirements are communicated to the other party in writing from time to time. Neither party may register the other's trademarks, or otherwise use the trademarks for any purpose except as explicitly provided in this Agreement.

3. Term

3.1 Term. This Agreement will commence on the date stated as the “Effective Date” above and will terminate in [one (1)] year, unless it terminates sooner according to the provisions of this Agreement. This Agreement will renew automatically for another [One (1)] year term unless either party communicates to the other, in writing, at least by 30 days of the termination date that it wishes to discontinue this Agreement.

3.2 Continuation or Survival of Certain Sections. Certain sections, as indicated below, will survive and remain effective even after the termination of this Agreement. All other rights and obligations of each party to the other will terminate upon the termination of this Agreement.

4. Power to Promote

Partner will use its best efforts to promote and distribute the Products / Services. Any promotions or

discounts applied toward [Company] products/services as well as the terms and conditions of any sale must be pre-approved in writing by [Company].

User Data. Partner agrees to share all End-User Personal Information as available with [Company] for [Company]'s marketing purposes.

However, Partner will not collect, use or disclose any personal information of site visitors, except:

- as functionally necessary to process visitor instructions and transactions;
- for efficient internal operation, subject to adequate data security;
- for appropriate sharing between the two parties for their own marketing purposes;
- for disclosure to and use by third parties with respect to visitors who consent after being notified of intended uses;
- to enforce this Agreement or comply with legal process;
- in emergencies when physical safety is believed at risk;
- as according to the terms and conditions of the Partner Membership Agreement.

5. Product / Service Content

5.1 [Company] reserves the right at any time without liability or prior notice to

- (1) determine the contents of its Products / Services and Product Components, including its specifications, features, and functions, as well as any documentation or related materials;
- (2) discontinue distribution of any or all of its Products / Services and Product Components in some or all markets or through some or all channels of distribution;
- (3) change or terminate any of its specifications, features, or functions of the Products / Services or Product Components; or
- (4) change or terminate the level or type of support or service that it makes available for its Products / Services. Any change or discontinuance of a Products / Services or Product Components will be indicated by an addition or deletion from [Company]'s web page, [Company] may cancel any orders for discontinued Products / Services or Product Components without liability.

5.2 Modifications. Partner agrees that it will not copy, reverse engineer, disassemble, decompile, translate, or modify any of the [Company] Products/Services or Product Components, nor combine such with other Products / Services or material to form derivative works—nor grant any other person or entity any right to do so.

5.3 Compliance with Laws. [Company] and Partner will comply with all material applicable present and future federal, state, county, local, and, where necessary, foreign laws, ordinances, and regulations relating to the sale of the Products / Services and Product Components.

5.4 Service Support. Neither party is responsible to the other for any customer service support for purchases and fulfillment including but not limited to, providing qualified personnel to receive End-User inquiries.

6. Compensation

Partner will pay [Company] according to the schedule in Exhibit A attached.

Complete products (as listed under the “Products / Services Offered” in the attached Exhibit A) for Electronic Software Distribution (ESD) – electronically downloaded from the Internet – will be managed by a third party fulfillment company [like CyberSource or another] of [Company]'s choosing. Such third party fulfillment company shall act as a “clearing house” and provide regular reports to both [Company]

and Partner as to the actual results of sales activities. In the event of a dispute, these reports shall be deemed accurate and the sole basis for determining any monies due either party.

6.1 Suggested List Prices. A copy of [Company]'s current price schedule for the Products / Services is described on the website www.jian.com. [Company] may change the suggested list prices of any Products / Services at any time. In the event Partner wants to offer a special promotion on any of [Company]'s Products/Services or Product Components, it may do so through prior agreement, and amended to Exhibit A.

6.2 Taxes. Both [Company] and Partner are responsible for payment of any/all respective taxes.

6.3 Payment. Partner will pay [Company] its balances due for all Products / Services purchased, within Thirty (30) days after the close of the fiscal month in which purchases were made.

6.4 Interest. Interest will accrue on any delinquent amounts owed at the rate of **1.5%** percent per month (18% APR), or the maximum rate permitted by applicable law, whichever is less.

☞ It makes sense to include something about auditing because you want to keep them honest – this deal is fair because it establishes the conditions for paying for the audit.

6.5 Auditing. [Company] has right to audit Partner's records and may do so by sending or designating a CPA of [Company]'s choice. If the audit proves that there is an inaccuracy of less than Five Percent (5%), [Company] will pay for the audit, if there is an inaccuracy of more than Five Percent (5%), Partner will pay for the audit.

7. Ownership Warranty & Indemnification

7.1 Disclaimer, No Other Warranty

Neither [Company] nor Partner grant any warranties, express or implied, by statute or otherwise, regarding their respective Products / Services, its fitness for any purpose, its quality, its merchantability, or otherwise.

7.2 Limitation of Liability

[Company]'s liabilities under any warranties will be limited to replacement, repair or credit for the customer's purchase price. In no event will [Company] be liable for the cost of procurement of substitute goods by the customer or for any special, consequential or incidental damages for breach of warranty.

7.3 Ownership Warranty

[Company] represents and warrants to Partner that:

- 1) its Products / Services are original or under license with [Company];
- 2) its Products / Services do not infringe upon any patent, copyright, trade secret or other proprietary rights of others;
- 3) [Company] has full power and authority to grant the rights granted within this Agreement to [Company]; and
- 4) [Company] has not previously or otherwise granted any other rights in the Products / Services to any third party that conflict with the rights in this Agreement granted to [Company].

7.4 Indemnification

Partner and [Company] will indemnify and hold each other harmless for damages or expenses resulting from any claim, suit or proceeding brought against the other party on any issue including, but not limited to product liability.

Both parties agree that the other has the right to defend, or at its option to settle any claim, suit or proceeding brought against it or its Customer at its own expense, subject to the limitations described in

this Agreement. The party whose product(s) or action(s) are the subject of any legal action will have sole control of any such action or settlement negotiations, and agrees to pay, any final judgment entered against it and/or the other party or its Customer on such issue in any such suit or proceeding.

The party whose product is the primary subject of any legal action will bear all associated legal costs of both parties. For example, if Partner is named in a lawsuit due to its participation in a marketing program with [Company], but [Company]'s product, [product/service], is the subject of the legal action, then [Company] shall bear all associated legal costs of both parties.

The foregoing provisions state the entire liability and obligations of [Company] and Partner and the exclusive remedies with respect to any legal action and/or alleged product liability suit related to the product(s) promoted in this Co-Marketing Agreement.

7.5 Survival of Warranties. The warranties and indemnities stated in this section will survive the expiration or termination of this Agreement.

8. Termination

8.1 Termination Events. This Agreement may be terminated by either party upon the occurrence of any of the following circumstances:

8.1.1 Any assignment for the benefit of the creditors, or any bankruptcy, reorganization, or other proceeding under any bankruptcy or insolvency law is initiated by the other party, or is initiated against it and not dismissed or stayed within Sixty (60) days;

A material breach by the other party of any of the terms of this Agreement, which breach is not remedied by the other party within Thirty (30) days of the other party's receipt of notice of such breach; or

In the event [Company] or a substantial portion of [Company]'s assets are acquired, at any time, the acquiring party may terminate this Agreement unconditionally, at its option.

8.2 Fulfillment of Obligations. The termination of this Agreement will not otherwise release either party from its obligation to pay any sum that may be then or thereafter owing to the other party nor operate to discharge any liability that had been incurred by either party prior to any such termination. Except as qualified by the preceding sentence, neither party will, by reason of the termination of this Agreement, be liable to the other for any damages (whether direct, consequential or incidental to, and including loss of profit or prospective profits of any kind) sustained or arising out of any such termination.

8.3 Effect of Termination & Survival. Upon termination of this Agreement, Partner will discontinue all further promotion of [Company]'s Products/Services. Without limiting the generality of the foregoing, both [Company] and Partner will cease all display, advertising, and use of all of the other party's respective names, trademarks, logos, and designations and will not thereafter use, advertise, or display any such names, trademarks, logos, or designations. Upon termination of this Agreement, the due date of all outstanding invoices for the Products/Services will automatically be accelerated and all such Commissions will become due and payable. Despite any termination of this Agreement, the provisions in Sections 7, 9, and 10 will remain in full force and effect.

9. General Provisions

☞ The General Provisions that follow are fairly standard. These provisions enhance the balance of the Agreement by explaining issues such as notice, assignment, legal remedies, waiver, and attorney fees.

☞ You must decide which state governs this Agreement and where any legal action would be taken. Generally, it is your (company's) state of residence.

9.1 Governing Law & Jurisdiction. This agreement and the parties' actions under this Agreement shall be governed by and construed under the laws of the state of [State], without reference to conflict of

law principles. The parties hereby expressly consent to the jurisdiction and venue of the federal and state courts within the state of [State]. Each party hereby irrevocably consents to the service of process in any such action or proceeding by the mailing of copies thereof by registered or certified mail, postage prepaid, to such party at its address set forth in the preamble of this Agreement, such service to become effective thirty (30) days after such mailing.

☞ This Agreement is intended to be the only Agreement, and that no other documents or communications are binding. Therefore, it is very important to make sure that everything [Company] and [Client] have agreed to is included in this Agreement. Otherwise, it is as if it was not agreed to.

9.2 Entire Agreement. This Agreement, including the attached exhibits, constitutes the entire Agreement between both parties concerning this transaction, and replaces all previous communications, representations, understandings, and Agreements, whether verbal or written between the parties to this Agreement or their representatives. No representations or statements of any kind made by either party, which are not expressly stated in this Agreement, shall be binding on such parties.

☞ Any changes to this Agreement must be in writing and signed by the party against whom that writing is to be used.

9.3 All Amendments in Writing. No waiver, amendment or modification of any provisions of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom such waiver, amendment or modification is sought to be enforced. Furthermore, no provisions in either party's purchase orders, or in any other business forms employed by either party will supersede the terms and conditions of this Agreement.

☞ All notices between the parties must be in writing and either delivered in person or by certified or registered mail, return receipt requested.

9.4 Notices. Any notice required or permitted by this Agreement shall be deemed given if sent by registered mail, postage prepaid with return receipt requested, addressed to the other party at the address set forth in the preamble of this Agreement or at such other address for which such party gives notice hereunder. Delivery shall be deemed effective three (3) days after deposit with postal authorities.

☞ In the event of a lawsuit or any legal proceeding involving this Agreement, the losing party will have to pay the winning party his or her costs and expenses, including reasonable attorney fees.

9.5 Costs of Legal Action. In the event any action is brought to enforce this Agreement, the prevailing party shall be entitled to recover its costs of enforcement including, without limitation, attorneys' fees and court costs.

☞ Legal remedies, i.e., money damages, may not be sufficient; therefore, both parties agree to equitable remedies such as an injunction where the breaching party would be required to do or not to do something.

9.6 Inadequate Legal Remedy. Both parties understand and acknowledge that violation of their respective covenants and Agreements may cause the other irreparable harm and damage, that may not be recovered at law, and each agrees that the other's remedies for breach may be in equity by way of injunctive relief, as well as for damages and any other relief available to the non-breaching party, whether in law or in equity.

☞ Assuming the parties wish to use Arbitration in the event of a dispute, the following section should be included. You take your chances with an arbitrator, but it keeps legal costs down and keeps you out of a drawn out legal process.

9.7 Arbitration. Any dispute relating to the interpretation or performance of this Agreement shall be resolved at the request of either party through binding arbitration. Arbitration shall be conducted in [County], [State] in accordance with the then-existing rules of the American Arbitration Association. Judgment upon any award by the arbitrators may be entered by any state or federal court having jurisdiction. Both parties intend that this Agreement to arbitrate be irrevocable.

☞ Merely delaying to bring an action that one party has a right to bring does not cause that party to lose or waive his right to pursue that action.

9.8 **Delay is Not a Waiver.** No failure or delay by either party in exercising any right, power or remedy under this Agreement, except as specifically provided in this Agreement, shall operate as a waiver of any such right, power or remedy.

☞ Neither party will be blamed if there is a problem resulting from something beyond its control, such as an earthquake, flood, war.

9.9 **Force Majeure.** In the event that either party is unable to perform any of its obligations under this Agreement or to enjoy any of its benefits because of any Act of God, strike, fire, flood, governmental acts, orders or restrictions, Internet system unavailability, system malfunctions or any other reason where failure to perform is beyond the reasonable control and not caused by the negligence of the non-performing party (a “Force Majeure Event”), the party who has been so affected shall give notice immediately to the other party and shall use its reasonable best efforts to resume performance. Failure to meet due dates resulting from a Force Majeure Event shall extend such due dates for a reasonable period. However, if the period of nonperformance exceeds sixty (60) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been affected may, by giving written notice, terminate this Agreement effective immediately upon such notice or at such later date as is therein specified.

☞ This section limits the ability of either party to transfer any of its rights or delegate any of its duties to third parties.

☞ You want to make sure that you can sell your business along with all of the relationships you have developed along the way. (Often these relationships can add tremendous value to your business and you want to make sure that all of your agreements can be transferred to the new owners.) I wouldn't want to seek (let alone pay for) permission to sell my company.

☞ Generally, neither party may assign their respective rights to a third party; however, with the possible exception of assignment to a successor corporation or partnership, either party may transfer its rights or obligations under this Agreement without the approval of the other party. This Agreement would be binding on the 3rd party.

☞ However, you may want to limit each other's ability to pass along this deal to another possibly unknown and possibly unfriendly entity. The second paragraph prevents unauthorized transfer of responsibilities...

☞ CHOOSE one or the other of these two following paragraphs.

9.10 **Assignability & Binding Effect.** Except as expressly set forth within this Agreement, neither party may transfer or assign, directly or indirectly, this Agreement or its rights and obligations hereunder without the express written permission of the other party, not to be unreasonably withheld; provided, however, that both parties shall have the right to assign or otherwise transfer this Agreement to any parent, subsidiary, affiliated entity or pursuant to any merger, consolidation or reorganization, provided that all such assignees and transferees agree in writing to be bound by the terms of this Agreement prior to such assignment or transfer. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors and assigns.

☞ This paragraph DOES NOT ALLOW either party to transfer its rights to a successor company without prior approval.

9.10 **Non-Assignability & Binding Effect.** Except as otherwise provided for within this Agreement, neither party may assign any of its rights or delegate any of its obligations under this Agreement to any third party without the express written permission of the other. Any such assignment is deemed null and void.

☞ If any part of this Agreement is unenforceable or invalid, the balance of the Agreement should still be enforced. Basically, ignore any sections that are invalid.

9.11 **Certain Sections Invalid.** If any provisions of this Agreement are held by a court of competent jurisdiction to be invalid under any applicable statute or rule of law, they are to that extent to be deemed omitted and the remaining provisions of this Agreement shall remain in full force and effect.


☞ The headings of the various sections are meant to explain or otherwise give meaning to those sections; they are for convenience only.

9.12 **Headings.** The titles and headings of the various sections and sections in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of this Agreement.

☞ Even after the termination of the Agreement, the parties may still have certain responsibilities such as keeping information confidential.

9.13 **Survival of Certain Provisions.** The warranties and the indemnification and confidentiality obligations set forth in this Agreement shall survive the termination of the Agreement by either party for any reason.

Understood, Agreed & Approved

We have carefully reviewed this contract and agree to and accept all of its terms and conditions. We are executing this Agreement as of  Effective Date above.

[Company]

Partner

[Owner/Founder]
President / CEO

[Name]
President / CEO

Exhibit A

Products / Services Offered

- Xxx
- Xxx
- xxx

Exhibit B



Trademarks Owned by [Company]

- xxx®
- xxx®
- xxx®