

These **General Terms for Partner Purchases of Spryker Services** (“**Spryker General Service Terms - Partners**”) form part of any Order Form on Spryker Services concluded between Spryker and Partner.

1. Definitions

Terms in capital letters used herein shall have the meaning defined herein or in the Partner SSD (available [here](#)).

2. Provision of Spryker Services

- 2.1 Spryker provides Partner with Spryker Services subscribed to by Partner in accordance with the provisions on scope, limits and/or constraints stated in the Partner SSD and Order Form(s). If Partner exceeds the scope, limits and/or constraints, Spryker may work with Partner to seek to reduce Partner's usage so that it conforms to the scope, limits and constraints. If, notwithstanding Spryker's efforts, Partner is unable or unwilling to abide by the scope, limits and/or constraints, Partner must pay additional Fees for excess usage.
- 2.2 Spryker reserves the right to amend these General Service Terms and/or the Partner SSD at any time to reflect any changes of functionality and/or conditions of use for Spryker Services. The then-current version of the General Service Terms and the Partner SSD will always be available online and Spryker informs Partner accordingly in the event of material changes.
- 2.3 If Spryker ceases to provide any Spryker Services subscribed to by Partner, as a whole or in part, for business or other reasons and should Spryker make commercially available a Replacement Service, then Partner at its sole discretion is entitled to receive an equal quantity of the Replacement Service as Partner had rights to the initial Spryker Service at no additional charge. To the extent that a Replacement Service includes new and substantially different functionality not found in Spryker Service, where such functionality is not specified in the Technical Documentation, and Spryker elects and is able to prevent the access to and use of only the new and substantially different functionality without in any way degrading the functionality found in Spryker Service, Partner acknowledges that its right to access to and use of these Replacement Service is limited solely to access to and use of the functionality of the initially subscribed Spryker Service.
- 2.4 Spryker may engage third parties to provide all or individual Spryker Services and may change or replace said third parties at any time, provided this does not negatively impact the provision of Spryker Services.

3. Spryker Services

- 3.1 Details on the Spryker Services currently offered can be found in the Partner SSD.
- 3.2 To the extent a Spryker Service is sold as a recurring service, the Parties will agree accordingly in the respective Order Form(s).

4. Partner's Access and Usage Rights to Spryker Software

- 4.1 Partner shall have access to object and source code of Spryker Software, Spryker's Technical Documentation as well as (to the extent subscribed) the Services described in the Partner SSD, including pre-recorded Demos, in accordance with the provisions set forth herein. Spryker may revoke access rights if Partner is no longer a Partner, does no longer pay the partnership fee, infringes applicable use restrictions or provisions set forth herein or the Partner SSD.
- 4.2 Spryker grants Partner and, to the extent necessary for the agreed purpose, Partner's sub-contractors, the rights to use Spryker Software for the purpose of creating, using, marketing and/or selling Accelerators as well as Demos. Deviating from the rights granted in the SP Global Program Agreement, these rights are not limited to work on projects for one particular Spryker Customer.
- 4.3 Partner is allowed to make Modifications and/or Extensions to the extent required for the purpose of an Accelerator or (to the extent permitted with regard to customized own Demos) a Demo. In such case, Partner is the exclusive and unrestricted holder of IP Rights and/or economic exploitation rights pertaining to this part of such Derivative Work which has been or will be solely developed by Partner, whereas Spryker retains all exclusive and unrestricted IP Rights and/or economic exploitation rights pertaining to this part of such Derivative Work which has already been or will be solely developed by Spryker. Spryker grants Partner the rights required to market and sell Accelerators and/or Demos to prospects and/or customers.

- 4.4 If a Derivative Work is created by Partner in accordance with the provisions set out herein, Partner grants Spryker and its Affiliated Companies a right to use it in full, free of charge and without restriction as to time and place, regardless of whether it already exists or is being created, and agrees to draw up any documents that may be required to grant corresponding rights to it.
- 4.5 Beyond the above agreed purpose, Partner is not allowed to hire out, lease, distribute, sell, resell, assign or otherwise transfer any rights or otherwise access and use a Derivative Work to the benefit of third parties, of which a part has already been or will be solely developed by Spryker, and/or does not remove proprietary notices insofar as Partner's rights hereunder are exceeded.
- 4.6 Spryker retains all rights in and to Spryker Software. Any rights not explicitly granted to Partner remain with and are reserved by Spryker.
- 4.7 Spryker retains all rights in and to pre-recorded Demos. Partners cannot modify the Demos and are expected to use them as provided. The Demos should be used to understand and promote Spryker Services in a sales and marketing context.
- 4.8 Partner is not permitted to include personal data or other sensitive information in Demos or a Demo Environment or allow a Spryker Customer to do so.

5. **Spryker Software Guidelines**

When working with Spryker Software, Partner must follow the guidelines and standards provided by Spryker, including, but not limited to the following ones:

[Intro to Spryker](#)

[General Development Guides](#)

[Architecture Guidelines](#)

[Development Guidelines](#)

[Development Best Practices](#)

[Keeping Spryker Up-to-date](#)

[Security Guidelines](#)

[General Performance Guidelines](#)

6. **Spryker's Rights**

Partner grants Spryker and its Affiliated Companies a right to use Accelerators and/or Demos created by Partner for Spryker's own purposes. That right shall be a right to use Accelerators and/or Demos (including Partner's recording thereof) free of charge and without restriction as to time and place, regardless of whether such right already exists or is being created. It includes Spryker's right to create a copy or a similar version of an Accelerator and/or Demo. Partner agrees to draw up any documents that may be required to grant corresponding rights to it.

7. **Liability**

- 7.1 Partner shall be solely responsible and liable for Accelerators created by Partner when selling them to Spryker Customers.
- 7.2 Partner shall be liable to Spryker for damages arising due to the Partner having mislead Spryker Customers by way of demoing non-existing Spryker features or similar. Spryker will not assume liability for Accelerators or Demos created towards Spryker Customers.
- 7.3 With regard to the Spryker Services provided to Partner, Spryker is liable without limitation for damages arising from its own, legal representatives' or vicarious agents' actions (i) due to willful intent or gross negligence, or for injury to life, body or health; (ii) caused by intent to deceive or by the lack of a quality it has guaranteed; and (iii) covered by any other liability that cannot be legally excluded or limited, including under the German Product Liability Law.
- 7.4 Except for cases listed in Clause 7.2, if Spryker, its legal representatives or vicarious agents violate a Cardinal Obligation due to slight negligence, Spryker is cumulatively liable up to a limit of the total Fees, excluding any Exceedance Fees, paid by Partner giving rise to the liability in the twelve (12) calendar months preceding the first incident out of which the liability arose.
- 7.5 Liability for damages above and beyond the cases listed in the second and third Sub-Clause of this Clause, in particular any strict liability, is excluded. The time period of limitation for warranty claims and claims for damages against Spryker is one (1)

calendar year, except in the cases listed in the second and third Sub-Clause of this Clause or unless explicitly agreed otherwise.

8. Fees and Terms of Payment, Taxes

- 8.1 Spryker invoices Partner for Spryker Services in advance and Partner pays such Fees in accordance with Order Form(s). If Partner purchases Spryker Services via AWS Marketplace, AWS invoices Partner and the payment terms agreed between AWS and Partner prevail. No cash discount is granted by Spryker and any payment of Fees is made without any deduction or offsetting. Fees are based on Spryker Services subscribed to by Partner and not on Partner's actual usage, if not agreed otherwise.
- 8.2 If Partner's payment is delayed, interest on arrears at the statutory rate is incurred. Spryker may send reminder letters to Partner if payment is delayed. This does not exclude the right to claim compensation for further damages caused by default. Payments are deemed to have been made once Spryker can dispose of the Fees without restriction. If Partner is not located in Germany, all foreign remittances must be handled as an OUR transfer, i.e. all bank charges, for the sender and recipient, must be paid by Partner as sender. If Partner purchases Spryker Services via AWS Marketplace, conflicting payment terms agreed between AWS and Partner may prevail. If any Fees owed by Partner are thirty (30) calendar days or more overdue or, in case of Partner's purchase of Spryker Services via the AWS Marketplace overdue in terms of what has been agreed between Partner and AWS, Spryker is entitled, without limiting its other rights and remedies, to suspend Spryker Services by exercising a right of retention until Fees are paid in full, provided that Spryker gives Partner at least seven (7) calendar days' prior notice that its account is overdue before such suspension.
- 8.3 Any payment obligation is stated exclusive of any Taxes. Taxes are not deducted or withheld from payments to Spryker, except where prescribed by law. In such case, Partner increases the amount payable as necessary to ensure that Spryker receives and retains, free from any liability related to Taxes, the Fees Spryker would have received without such deduction or withholding. Partner is responsible for and bears any Taxes associated with the purchase of, payment for, access to or use of Spryker Services, and ensures that not Spryker but Partner is deemed to be the operator for tax purposes of the online commerce platform based on Spryker Cloud Services. If Spryker is required to invoice or collect Taxes associated with Partner's purchase of, payment for, access to or use of the Spryker Services, Spryker issues an invoice to Partner including the amount of such Taxes. If Partner purchases Spryker Services via AWS Marketplace, AWS handles Taxes on behalf of Spryker. The tax provisions set out herein also apply to the extent Partner is invoiced by AWS.

9. Term and Termination

- 9.1 These General Service Terms apply to all Order Forms referencing them and throughout the entire term of such Order Form. Usually, Spryker Services agreed in Order Forms shall have a fixed term and cannot be terminated early.
- 9.2 Either Party is entitled to terminate any Order Form for good cause, which particularly exists (i) for Spryker if Partner is in delay in paying Fees or a significant part thereof for more than two (2) consecutive calendar months; or (ii) if the other Party breaches a Cardinal Obligation, which cannot be remedied, or which can be remedied, but the breaching Party does not comply with a request to do so within thirty (30) calendar days upon receipt of such request.
- 9.3 If any Order Form is terminated by Partner for good cause, Spryker refunds Partner any prepaid Fees pro rata for the time after the effective date of termination. If any Spryker Service subscribed to is terminated by Spryker for good cause, Partner pays any unpaid Fees covering the remainder of the Spryker Services to the extent permitted by applicable law. In no event such termination for good cause relieves Partner of its obligation to pay Fees for the time period prior to the effective date of termination.
- 9.4 Partner's right to access and use Spryker Services ceases upon the End Date of the applicable Spryker Service Term, whereupon Partner must cease to use applicable Spryker Services immediately.
- 9.5 A notice of termination by either Party is only effective if received in writing as letter via postal mail by Spryker at the address specified in the Clause on Contracting Entity of the respective Order Form. A notice of termination by either Party is not deemed to be given, delivered or received until it is actually received by the other Party.

10. Miscellaneous

- 10.1 The provision on non-disclosure of Confidential Information agreed in the SP Global Program Agreement shall apply to Confidential Information exchanged in connection with the Spryker Services as well.

10.2 Spryker Contracting Entity that Partner is concluding the Agreement with, the law that applies in any lawsuit arising out of or in connection with it and which courts can adjudicate any such lawsuit, depends on where Spryker’s contracting entity is registered. Each Party agrees to the applicable governing law below without regard to choice or conflicts of law rules and to the exclusive jurisdiction of the applicable courts below:

Partner registered in:	Spryker’s contracting entity and address for notices:	Governing Law:	Court with exclusive Jurisdiction:
Germany	Spryker Systems GmbH Address: Heidestraße 9-10, 10557 Berlin, GERMANY	Germany	Hamburg, GERMANY
Americas	Spryker Systems America Inc. Address: 80 Pine Street, Floor 24, New York, NY 10005, USA	New York law and controlling United States federal law	New York City, New York, USA
Australia, New Zealand	Spryker Systems Australia Pty Ltd. Address: Level 6, 8 Spring Street, Sydney NSW 2000, AUSTRALIA	New South Wales, Australia	Sydney, New South Wales, AUSTRALIA
United Kingdom	Spryker Systems GmbH Address: Heidestraße 9-10, 10557 Berlin, GERMANY	England	London, ENGLAND
Any other country	Spryker Systems GmbH Address: Heidestraße 9-10, 10557 Berlin, GERMANY	Germany	Hamburg, GERMANY

11. Glossary of Definitions

“Accelerator”	means an extension of the Spryker Services by way of features and/or integrations covering particular requirements, which is developed and sold by Partner. In contrast to Demos, an Accelerator is supposed to be built as a boilerplate for Customer projects, i.e. it has to conform to the guidelines laid out in Clause 5.
“Affiliated Company”	means any legal entity that directly or indirectly controls, is controlled by, or is under common control with either Party’ s legal entity, where control means direct or indirect ownership of 50% or more of the voting power or equity in a legal entity or de facto control by a legal entity of another legal entity’s decision making.
“Cardinal Obligation”	means any obligation whose fulfillment is a prerequisite for the proper execution of the Agreement and upon the adherence to which either Party relies.
“Demo”	means a visual demonstration of the Spryker Services, their functionalities and relevance for Prospects.
“Demo Environment”	means a type of environment that is neither equal to Production (PROD) Environments, Production-Like (PROD-LIKE) Environments, nor Non-Production (NON-PROD) Environments but serves the purpose to be used for development, testing and demonstration of the Spryker applications only.
“Derivative Work”	means any new work or result based on a Modification and/or Extension.

“Extension”	means any enhancement of any Spryker Software Product’s module beyond the documented APIs of Spryker Software Product’s source code, such as by overwriting internal classes or manipulating the database schema used by the source code, by or on behalf of Partner.
“Fee(s)”	means any amount of remuneration owed by Partner to Spryker for Spryker Services subscribed to.
“IP Rights”	means any patents, patentable rights, copyrights and rights in the nature of copyrights, design rights, utility models, brand names, irrespective of whether one of the above has been registered or not, trademarks, trade secrets, trade names, rights to domain names, rights to inventions, rights to data, database rights, rights to know-how and any other intellectual property rights, which subsist in computer software, programs and Confidential Information, and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of a country, as well as all pending applications and the right to file applications for or register such, now, in the future and for any eventuality, and including any renewals, extensions, revivals and all accrued rights to take legal action.
“Modification”	means any translation, adaptation, arrangement and other modification of a Spryker Software Product’s source code, as well as the reproduction of the results thereof, by or on behalf of Partner.
“Order Form(s)”	means the ordering document(s), through which Customers as well as Partners subscribe(s) to certain Spryker Services.
“Partner”	means the Contracting Entity and/or Contracting Entities, individually or jointly.
“Partner Agreement”	means, for Solution Partners, the SP Global Program Agreement and for Technology Partners a Reseller or Referral Agreement, or, for either of both, any other partnership agreement concluded with Spryker in the past.
“Partner SSD”	means the Partner Spryker Services Description available here .
“Prospect(s)”	means any potential Spryker Customer.
“SES”	means Spryker Success Enabling Services.
“Services Addendum”	means the Addendum concluded between Partner and Spryker to set the legal framework for purchasing Spryker Services.
“Service Day”	means the following nine (9) hours on business days from Monday to Friday, 9 am to 6 pm, Central European Time (GMT +1), for the provision of Spryker Services.
“Shared Services”	means the Spryker Services listed as Shared Services in the Partner SSD.
“Solution Partner”	means a partner of Spryker that participates in Spryker’s SP Global Partnership Program.
“SP Global Program Agreement”	means the agreement concluded between Spryker and Solution Partner covering participation in Spryker’s SP Global Partnership Program.
“Spryker Certification”	means the certification granted to a Partner after one of that Partner’s Accelerators having passed the quality assessment described in the Partner SSD.
“Spryker Cloud Services”	means the Spryker Software Products hosted as part of Spryker’s cloud services offering and provisioned as PaaS solution.
“Spryker Composable Value Services”	means the Spryker Success Enabling Services, Spryker Training and Enablement Services, Spryker Premier Success jointly.

“Spryker Customer(s)”	means Spryker’s customers.
“Spryker General Service Terms - Partners”	means these Spryker General Terms for Partner Purchases of Spryker Services
“Spryker Premium Demo Environment”	means a dedicated environment offered to Partners as further described in the Partner SSD.
“Spryker Public Demo Environment”	means the demo environment Spryker makes publicly available.
“Spryker SES Packages”	means Spryker Value Engineering Services and/or Spryker Expert Consulting Services, individually or jointly.
“Spryker Services”	means any Spryker Software Product(s), Spryker Cloud Services and/or Spryker Composable Value Services, individually or jointly.
“Spryker Software Product(s)”	means SCCOS and/or SCCOS Add-Ons, individually or jointly.
“Spryker Accelerator Package”	means any service package described in the Partner SSD, which is offered by Spryker to Partner to enable and/or help Partner to build an Accelerator.
“Spryker Premium Accelerator Package”	means Spryker’s paid offering with regard to Accelerators as described in the Partner SSD.
“Spryker Premium Demo Package”	means Spryker’s paid offering with regard to Demos.
“Spryker Standard Accelerator Package”	means Spryker’s free offering with regard to Accelerators as described in the Partner SSD.
“Spryker Standard Demo Package”	means Spryker’s free offering with regard to Demos.
“Technology Partner”	means a partner being bound to Spryker by way of an agreement that is offering services that can be used alongside the Spryker Software Products.