



BUSINESS ASSOCIATE AGREEMENT

This agreement has been entered into on 25th January of 2016, by and between (.....) and (.....) having its registered office at (.....) (Hereinafter referred to as Business Associate) represented by its Director (s)

1. DEFINITIONS

- 1.1 "**Intellectual Property Rights**" means trademarks, service marks, trade and service names, patents, copyrights and design rights, moral rights, trade secrets and rights of confidence; all rights of forms of protection of a similar nature or having similar nature having similar or equivalent effect to any of them which may subsist anywhere in the world.
- 1.2 "**Material breach**" means a breach of a term or terms in the Agreement.
- 1.3 "**Licensed material**" means and includes a limited, non-exclusive, non-transferable, non-assignable limited license.
- 1.4 "**Course Materials**" means courses, documentation (for example questionnaires and process guidelines, education materials (example student work books, instructor guides and computer based training) and other written information (in any form including electronic) and any other materials
- 1.5 "**Programs**" means and includes any set of developed and sold products and services by (.....).
- 1.6 "**Confidential Information**" means information that is marked or otherwise identified as confidential or proprietary at the time of disclosure or reasonably should be known by recipient to be proprietary or confidential;
- 1.7 "**Designated System**" means computer system identified by Reseller for which the Products are licensed. The Products may not be relocated from such Designated System without (.....) 's written consent, and the Designated System must be located at a Facility;



1.11 “(.....)” means training, courses, services and course materials offered by (.....) Software University program. Courses maybe in various formats including but not limited to classroom scheduled seats (such as scheduled instructor led training and remotely assisted instructional learning), onsite dedicated training, customer or neutral site, lecture only training, online lecture and training, and web based training.

1.12 “(.....) **Data Sheet**” means an (.....) Standard specification document describing the details and features of the (.....) Education Services offering to be provided.

1.13 “**Statement of Work**” or “SOW” means a document signed by (.....) and Customer that describes the specific (.....) Education Services to be provided by (.....). SOWs are generally applicable to dedicated training to specific to customer’s requirements.

1.14 “**Customer**” means either (i) end-user Customer who purchases the (.....) Software University and Retail Curriculum from an authorized (.....) reseller, wholesaler, or distributor or (ii) an (.....) authorized reseller, wholesaler, or distributor who purchases (.....) Education Services in order to provide such (.....) Education services to customers.

2. SCOPE OF WORK

That (.....) by way of this agreement intends to authorize Business Associates for the following:

2.1 To promote and provide (.....) Enterprise Software University program(s).

3. TERM OF APPOINTMENT

This Agreement shall come into force on the date both parties sign this Agreement and, subject to the clauses & after clearly understanding the (.....) Software Education services program. It shall continue in force for a period of Two (2) years from the date of signing the contract.



(.....) may at its sole option renew this Agreement by advising the Business Associate in writing of its intention to renew.

4. FINANCIAL CONSIDERATION

(.....) shall be entitled to a payment of NIL from the Business Associate towards annual registration fees.

5. DUTIES AND RESPONSIBILITIES OF BUSINESS ASSOCIATE

5.1 The Business Associate shall at all time take steps to uphold and protect (.....) and (.....) interest and good name. The Business Associate shall perform and carry out the Services in strict compliance with the terms of this Agreement and in accordance with the instructions and directions of the company and shall ensure at all times that the Services are performed to a high standard of quality as may be reasonable for the company to expect in all the circumstances, and in any event in accordance with generally recognized commercial and/or educational practice and legal standards.

5.2 Seek explicit approval from (.....) for any advertising and representational materials or additional forms created for the promotion of (.....) Software Education and its programs;

5.3 Not making any misrepresentations, fraudulent or otherwise, to students or any third parties as regards to (.....), (.....), its programs and job opportunities;

5.4 The Business Associate is not authorized to negotiate, commit, cancel, rescind, terminate, conclude or confirm any application or agreements on behalf of (.....), without their approval. All applications received through the Business Associate, shall be relayed to (.....) and subject to its acceptance.

5.5 The Business Associate shall not under any circumstance be authorized to use (.....) name or capacity to receive from or collect from any student(s) or any third parties any form of commission, fees or benefit of value in connection with this Agreement. This agreement is solely



for the recruitment by the Business Associate and is not meant for any other commercial or collateral purpose(s) by the Business Associate nor shall it be used by the Business Associate to collect any commission, fees or benefit or to enter into any business dealings or arrangement with any third parties outside the scope of this Agreement. In the event a Business Associate is found to have violated or in any way breached this clause, in addition to any other rights (.....) have or may have against the Business Associate under this Agreement and/or in law, (.....) may at its option immediately terminate this Agreement at any time and pay no compensation or reimbursement whatsoever for any Services performed by the Business Associate. (.....) shall not at anytime be liable to the Business Associate and/or any third party for any debt or liability or legal costs arising from any unauthorized act of the Business Associate.

5.6 Business Associate will keep the information and data provided by (.....) as confidential communication.

5.7 Business Associate may not distribute (.....) Software Education Material to any third party without seeking express consent from (.....). Business Associate shall use (.....) Software Education materials and products only in conjunction with, and for the sole purpose of conducting training of students and for internal reference purposes and strictly not to be imparted to corporate.

5.8 (.....) grants Business Associate a right to install and use on the designated system(s) for the purpose of providing (.....) Education Services. This software may only be installed on computers that are designated specifically for education and training of Students. Such copy may not be installed on any other computers.

5.9 Business Associate shall not use or duplicate (.....) Software Education Products for any purpose other than as specified in this Agreement. Any copy of the Products, including any



partial copy, is the property of (.....) Software Education and the Business Associate will maintain the copyright notice, trademark, and any other proprietary rights notices that appear on the Products on any copies and any media. Business Associate shall comply with all rules and regulations with respect to the Products and (.....) Materials. Business Associate will not violate the licensing terms and restrictions contained in this Agreement, or (ii) provide, lease, lend, use for outsourcing or service bureau purposes or otherwise use or allow others to use a Product, (.....) Software Education Materials, or (.....) Curriculum for the benefit of any third party.

5.10 Business Associate recognizes and acknowledges (.....)'s authorization to use Licensed Marks and the goodwill related thereto and agrees that any goodwill, which accrues because of Business Associate's use of such marks, shall become the property of (.....). Business Associate further agrees not to contest or take any action in opposition to any trademark, service mark, trade name or logo of (.....) or to use, employ or attempt to register any mark or trade name which is similar to any mark or name of (.....).

6 PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

6.1 Except as otherwise limited in this Agreement, Business Associate may use or disclose (.....) Software Education services data to perform functions, activities, or services for, or on behalf of, (.....) as specified, provided that such use or disclosure would not violate the terms of the agreement between Business Associate and (.....).

6.2 Business Associate shall not make or permit alteration or removal of tags, labels, or identifying marks placed by (.....) Software Education on or within any of the Licensed Material or software provided for training. Business Associate will not use (.....) and (.....)'s trade names or abbreviations (with the exception of a logo or mark or graphic design provided by (.....)), in Business Associate's corporate title, or name or in any way that might result in confusion as to separate and distinct identities of Business Associate and (.....).



6.3 Except as otherwise limited in this Agreement, Business Associate may use (.....) Software Education services data as required for Business Associate's proper management and administration or to carry out legal responsibilities of the Business Associate.

6.4 Except as otherwise limited in this Agreement, Business Associate may disclose (.....) Software Education services data for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or provided that, if Business Associate discloses any (.....) Software Education services data to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality of (.....) Software Education services data and not to use or further disclose such information for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality of the (.....) Software Education services data is breached.

7. OBLIGATIONS OF (.....)

7.1 (.....) shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose of (.....) Software Education services data, if such changes affect Business Associate's permitted or required uses.

7.2 (.....) shall notify Business Associate of any restriction to the use or disclosure of (.....) Software Education services data that (.....) has agreed to the extent that such restriction may affect Business Associate's use of (.....) Software Education services data.

7.3 (.....) to grant to Business Associate, right to use regular trade names, trademarks, titles and logos (the "Licensed Marks") in advertising, promotion of the (.....) Software Education services.

8 TERM AND TERMINATION



8.1 TERM

This Agreement shall be effective as of the date on which it is signed by both parties and shall terminate when all of the (.....) Software Education services provided by (.....) to Business Associate, or created or received by Business Associate on behalf of (.....), is destroyed or returned to (.....), or, if it is infeasible to return or destroy (.....) Software Education services.

This agreement is valid for a period of two (2) years from the date of signing. The further renewal of the agreement is subject to the Business Associate satisfactory compliances to the terms laid down by the agreement.

8.2 Duties OF Business Associate in connection with (.....):

This agreement shall be valid provided Business Associate shall come up with annual sales target for UK region which shall be discussed and mutually agreed upon with (.....) and provided Business Associate shall honor the sales of minimum number of kits committed as mentioned in Annexure 1.

8.3 TERMINATION

(A) By Either Party for Material Breach: this Agreement may be terminated at any time without limiting any party's other rights or remedies, upon written notice identifying with specificity of the cause if either party commits a Material Breach of this Agreement and if such breach continues un-remedied for a period of ten (10) days after receipt by the other party of written notice thereof. Within three (3) days after receipt of a written notice to cure a Material Breach, the breaching party must provide non-breaching party with a written detailed response that identifies how the breaching party will cure the material Breach within the ten (10) days time frame provided above. Should the breaching party fail to provide the written response within three (3) days as is required; the non-breaching party shall have the right to immediately terminate this Agreement. Further this Agreement may be terminated if either party (i) has a receiver appointed for itself or its property, (ii) makes an assignment for the benefit of its creditors, (iii) any proceedings are commenced by, for or against either party under any



bankruptcy, insolvency or debtor's relief law seeking a reorganization of such party's debts and such proceedings are not dismissed within ninety (90) days of their commencement, or (iv) either party is liquidated or dissolved.

(B) By (.....): (.....) may terminate this Agreement at any time, on thirty (30) days written notice to the Business Associate in cases of violation of the terms mentioned in the agreement. In addition, (.....) may upon written notice to the Business Associate, terminate or alter this Agreement at any time as to any Products or Services, if any agreement between (.....) and any third party relating to (.....) Software Education services is terminated, substantially changed, or modified. The Business Associate shall, within ten (10) days from receipt of a notice under this provision notify all Institutions including Academic, Government and Corporate to whom it has sold Products or Services of the termination of this Agreement unless otherwise directed by (.....).

9. DUTIES OF BUSINESS ASSOCIATE UPON TERMINATION

9.1 Upon termination, Business Associate shall remove all references to images and logos representing or relating to (.....) Software Education from Business Associate's website, printed material, or retail storefront operated by Business Associate.

9.2 Upon termination of this Agreement, for any reason, Business Associate shall return or destroy all the data received from (.....), or created or received by Business Associate on behalf of, (.....). This provision shall apply to information that is related to (.....) Software Education services in the possession of the Business Associate. Business Associate shall retain no copies of the (.....) Software Education services.

9.3 Upon expiration or earlier termination of this Agreement, the limited license granted to Business Associate in the Licensed Marks shall immediately terminate and Business Associate shall immediately cease and desist all use of the Licensed Marks.



9.4 In the event that Business Associate determines that returning or destroying the (.....) Software Education services data is not feasible, Business Associate shall provide to (.....) notification of the conditions that make return or destruction unfeasible.

9.5 If Business Associate has breached a material term of this Agreement and cure is not possible or if Business Associate does not cure a curable breach or end the violation within a reasonable time as specified by, and at the sole discretion of, (.....) may immediately terminate this Agreement.

9.6 Duties of (.....) in connection with Business Associate:

9.6A (.....) will not initiate any other partner (s) in UK for next two (2) years from the date of signing the contract provided Business Associate honors the minimum committed sales target agreed upon year on year. Any business enquires to (.....) in the UK region will be routed through Business Associate for closure.

9.6B Interest of (.....) should be protected if it is noticed/proved that, Business Associate or any one claiming as it representative assings or hiers of (.....) Software Education has made any attempt/effort/overtures to by-pass (.....) directly/indirectly engaging with any (.....)SU training partners other than (.....) without the information to and written consent from (.....).

10. EFFECT OF TERMINATION

Entire Agreement: The Business Associate acknowledges the Terms and Conditions amended from time to time, constitute the entire Business Associate Agreement between (.....) and the Business Associate, and that no promises, representations or agreements of any kind between (.....) and Business Associate shall be binding upon the parties, unless in writing and signed by an authorized representative of (.....), and agent of Business Associate. If any portion of this Business Associate Agreement is found to be unenforceable or invalid, all other provisions shall survive such determination, and shall remain valid and enforceable. All powers, rights, and remedies given to (.....) are cumulative, not exclusive, and are in addition to any other rights and remedies provided by law, or equity.



The waiver by (.....) at any time of any of its rights under this Business Associate Agreement shall not be deemed a continuing waiver and shall not preclude the subsequent enforcement of any such right or any other right. All Headings in this Sales Agreement are for convenience of the parties and are for reference only and shall not be considered in determining the legal effect of any provision.

11. NOTICES

Any notices or delivery required, or permitted, under this Agreement will be deemed completed when hand-delivered, delivered by agent, properly addressed to the parties at their respective addresses provided below.

If to (.....): gaurav.kapoor@etrainindia.com

If to Business Associate: karan@techgeekuk.com

12. HEADINGS

The headings for each Article in the Agreement have been inserted for convenience of reference only and are not intended to limit or expand the meaning of the language contained in the particular Article.

13. SEVERABILITY

If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms, will remain in full force and effect as if such invalid or unenforceable term had never been included

14. ARBITRATION

Any disputes arising from the execution of, or in connection with, this Agreement shall be settled through amicable consultation between the parties. In the event that a settlement cannot be reached through amicably the matter maybe referred to Arbitration. The aggrieved party shall refer the dispute submitted to a sole Arbitrator to be appointed by (.....). The arbitration shall be conducted in accordance with the Arbitration and Conciliation Act 1996. The award rendered by the arbitration commission shall be final and legally binding on both parties hereto. The parties shall jointly bear the arbitration fees. The seat of Arbitration shall be New Delhi.



IN WITNESS WHEREOF, (.....) and the Business Associate cause this agreement to be executed by their duly authorized representative:

Annexure 1

Price Protection: The above pricing model offered by (.....) is valid until 15th February 2017 from the date of signing the contract.

Order Projection Year 2017: Order Projection for the year 2017 will be provided by (.....) UK during December 2016.

For: M/s. (.....)

For: (.....)

Signature:

Signature:

Name: Gaurav Kapoor

Name: Karan Kumar

Designation: Managing Director

Designation: Director