



OMG Accredited Training Provider Agreement

This OMG Accredited Training Provider Agreement (“Agreement”) is made as of _____ (“Effective Date”), by and between the Object Management Group, Inc. (“OMG”), a Delaware not-for-profit corporation with a mailing address of 9C Medway Road, PMB 274 Milford, MA 01757 USA and an email address of certification@omg.org and _____ (“Provider”), a company with a business address of _____ and email address of _____.

WHEREAS, Provider is in the business of providing training to customers;

WHEREAS, OMG is a non-profit association of technological consortia that offers a variety of credentials;

WHEREAS, OMG requires Providers conducting training for OMG Credentials to be OMG accredited;

WHEREAS, the Parties wish to specify herein the terms and conditions required for Provider to complete the OMG Accreditation Process to provide training for the following specific OMG Credential(s):

_____.

NOW THEREFORE, in consideration of the mutual promises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

I. DEFINITIONS

- a. **“OMG Accreditation Process”** means the accreditation process required and authorized by OMG, for OMG Accredited Providers to deliver (an) OMG Accredited Training Course(s) for (a) specific OMG Credential(s).
- b. **“OMG Accredited Training Provider”** means an individual or company who, as determined by the sole and absolute discretion of OMG has successfully completed the OMG Accreditation Process required to provide (an) OMG Accredited Training Course(s) for (a) specific OMG Credential(s).
- c. **“Action”** means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.
- d. **“Confidential Information”** means the terms of this Agreement, together with all information exchanged between the Parties pursuant to this Agreement, except information that: (i) is or through no fault of the receiving Party becomes publicly known; (ii) is known to the receiving Party prior to disclosure by the other Party as shown by documentary evidence; (iii) is independently developed by an employee or agent of the receiving Party who did not have any direct or indirect access to the Confidential Information; or (iv) is required to be disclosed by law or by order of a court of competent jurisdiction.

- e. **"OMG Credential"** means an OMG certification, certificate, or credential.
- f. **"Intellectual Property Rights"** means all intellectual property rights comprising or relating to: (i) patents; (ii) copyrights (iii) trademarks; (iv) internet domain names, whether or not used as a trademark; (v) web addresses, web pages, website, and URLs; (vi) works of authorship, expressions, designs, and design registrations, whether or not copyrightable, including copyrights and copyrightable works, software and firmware, application programming interfaces, architecture, files, records, schematics, data, data files, and databases and other specifications and documentation; (viii) trade secrets; and (ix) any and all other intellectual property rights, and all rights, interests, and protections that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, these rights or forms of protection under the laws of any jurisdiction throughout in any part of the world.
- g. **"OMG Trademarks"** means all trademarks owned by OMG and subject to this Agreement.
- h. **"Person"** means any individual, partnership, corporation, trust, limited liability entity, unincorporated organization, association, governmental authority or any other entity.
- i. **"OMG Accredited Training Course"** means a training course for an OMG Credential which has been solely accredited by OMG.
- j. **"Trademarks"** means all rights in and to U.S. and foreign trademarks, service marks, trade dress, trade names, brand names, logos, corporate names, and domain names and other similar designations of source, sponsorship, association or origin, together with the goodwill symbolized by any of the foregoing, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, these rights and all similar or equivalent rights or forms of protection in any part of the world.

II. TERM

The Agreement will commence on the Effective Date and automatically renew annually on the anniversary of the Effective Date ("Term") if all Provider obligations are met under Section IV.a or unless otherwise terminated earlier as permitted under this Agreement.

III. APPOINTMENT TO DELIVER OMG ACCREDITED TRAINING COURSES

Provider, where they meet and maintain all requirements under this Agreement, are authorized to act on a non-exclusive basis to deliver OMG Accredited Training Courses in preparation for OMG Credential exams.

IV. GENERAL PROVIDER PERFORMANCE OBLIGATIONS

- a. **Delivering OMG Accredited Training Courses.** To successfully complete the OMG Accreditation Process and deliver (an) OMG Accredited Training Course(s), Provider must:



1. Make payments of \$2,000 to OMG on the Effective Date and every annual anniversary thereafter.
 2. Provide (a) Training Course(s) which, at a minimum, covers all corresponding OMG Credential exam topics.
 3. Only have trainers who have a current score of 70% or better on their OMG Credential(s) exams lead their corresponding OMG Accredited Training Course(s).
 4. Have the OMG Accredited Training Course(s) meet the minimum durational requirements set forth by OMG.
 5. Provide (an) online and/or onsite OMG Accredited Training Course option(s); and
 6. Conduct the OMG Accredited Training Course(s) in accordance with this Agreement.
- b. **Prohibited Acts.** Notwithstanding anything to the contrary in this Agreement, Provider, will not:
1. Deliver OMG Accredited Training Course(s) for any OMG Credential(s) through, or on behalf of, any entity other than OMG;
 2. Deliver OMG Accredited Training Course(s) for any OMG Credential(s) for which Provider has not successfully completed the OMG Accreditation Process;
 3. Make any statements, orally or in writing, publicly or privately, that are untrue and/or that may harm the reputation of OMG, its business, products and/or services while conducting OMG Accredited Training Course(s);

V. PROVIDER REPRESENTATIONS AND WARRANTIES

- a. Provider represents, warrants, and covenants to OMG that as of the Effective Date and during the Agreement Term:
1. All OMG Accredited Training Courses will be conducted in a timely, professional and workmanlike manner in accordance with the highest generally accepted standards of the profession existing at the time they are delivered or performed and, in cases where specific technical expertise is required, in accordance with such specific technical requirements.
 2. Provider represents and warrants that it will comply with all applicable laws, ordinances, rules, and regulations, and guidelines, and shall not violate any third-party rights in conducting (an) OMG Accredited Training Course(s).

VI. INTELLECTUAL PROPERTY

- a. **Ownership of Intellectual Property.** OMG and Provider acknowledges and agrees that:
1. Provider shall not acquire any ownership interest in any of OMG's Intellectual Property Rights and OMG shall not acquire any ownership interest in any of Provider's Intellectual Property Rights under this Agreement.



- b. Provider hereby grants to OMG a limited, revocable, non-exclusive, non-transferable, and non-sublicensable license to use Provider's trade name, trademark, name, contact details, educational background, likeness, or other indicia of personal identity during the Agreement Term solely on or in connection with the promotion, advertising, and sale of the OMG Accredited Training Course(s). OMG may display the name, trade name, and contact details of Provider on their respective websites. Should Provider wish not to have their details so displayed by OMG, Provider must contact OMG directly via certification@omg.org and request for this information to be removed.

- c. **Prohibited Acts.** OMG and Provider shall not;
 - 1. At any time, commit (or permit to be committed) any act, or fail (or permit the failure) to act in any way that could reasonably be expected to contest, impair the validity of, damage, or reflect adversely on ownership by OMG or Provider of all right, title and interest in and to either OMG's or Provider's intellectual property rights in OMG Credentials or any derivative works thereof;
 - 2. Use any software or hardware to connect to OMG or OMG's third party vendors to access Credentials, labs or exams where such contains any 'back door', 'time bomb', 'trojan horse', 'worm', 'drop dead device', 'virus' or other software code designed to (i) permit access or use of OMG's or the third party vendor's computer system by a nonauthorized party, (ii) disable, damage or erase any personal identification data on OMG's or any third party vendor's system, or (iii) perform any other unauthorized action on OMG's or a third party vendor's system.

VII. CONFIDENTIAL INFORMATION

Neither Party shall use or disclose Confidential Information provided by the other Party, except as may be required under this Agreement, without the prior, written consent of the disclosing Party. Parties agree not to make copies of, discuss, disclose or otherwise disseminate, or assist or permit others to copy, discuss, disclose or otherwise disseminate, any Confidential Information and not to use the Confidential Information for any purpose whatsoever except to carry out Services and its obligations under this Agreement. Each Party shall take all reasonable steps to safeguard Confidential Information and protect it from disclosure, misuse, loss or theft.

VIII. INDEMNIFICATION

- a. Provider shall indemnify, hold harmless, and defend OMG and its parent, officers, directors, partners, members, shareholders, employees, agents, affiliates, successors, subcontractors and permitted assigns (collectively, "OMG Indemnified Parties") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys' fees, fees, and the costs of enforcing any right to indemnification under this Agreement and the cost of pursuing any insurance Providers, incurred by the OMG



Indemnified Parties (collectively, "Losses"), arising out of or relating to any Action of a third party:

1. Relating to a breach or non-fulfillment of any representation, warranty, or covenant in this Agreement by Provider;
2. Alleging or relating to any negligent act or omission of Provider (including any recklessness or willful misconduct) in connection with the performance of its obligations under this Agreement;
3. Alleging or relating to any bodily injury, death of any Person or damage to real or tangible personal property caused by the acts or omissions of Provider; or
4. Relating to any failure by Provider, to comply with any applicable law, regulation, court or governmental order; or
5. Alleging that Provider breached its agreement with a third party as a result of or in connection with entering into, performing under or terminating this Agreement.

IX. LIMITATION OF LIABILITY

EXCEPT FOR PROVIDER'S INDEMNIFICATION OBLIGATIONS HEREUNDER, IN NO EVENT SHALL EITHER PARTY, ANY OF ITS AFFILIATES, OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR SUBCONTRACTORS, OR ANY THIRD-PARTY LICENSORS OR COPYRIGHT HOLDERS BE LIABLE UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL THEORY, FOR ANY LOST PROFITS, LOSS OF DATA, EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER OR NOT THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL THE COMBINED MAXIMUM LIABILITY OF OMG OR ANY OF ITS SUBCONTRACTORS ARISING OUT OF OR RELATING TO THIS AGREEMENT EXCEED THE TOTAL FEES PAID AS A PART OF THE OMG ACCREDITATION PROCESS BY PROVIDER UNDER THIS AGREEMENT. NO ACTION, REGARDLESS OF FORM, ARISING FROM OR RELATING TO THIS AGREEMENT MAY BE BROUGHT BY PROVIDER MORE THAN ONE YEAR AFTER PROVIDER BECOMES AWARE THAT SUCH ACTION HAS ACCRUED. THE FOREGOING REPRESENTS AN EXPRESS ALLOCATION OF RISK BETWEEN THE PARTIES.

X. TERMINATION

- a. Either Party may terminate this Agreement without cause with ninety (90) days' prior notice. Upon termination under this Section, Provider's accreditation for any OMG Credential will immediately terminate.

XI. GENERAL PROVISIONS

- a. *Assignment.* This Agreement may not be assigned by Provider without OMG's written consent.

- b. *Severability.* If any provision of this Agreement or the application of any such provision to any person or circumstance shall be declared to be invalid, unenforceable or void, such decision shall not have the effect of invalidating or voiding the remainder of this Agreement, it being the intent and agreement of the Parties that this Agreement shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting therefore another provision that is valid, legal and enforceable so as to materially effectuate the Parties' intent.
- c. *Entire Agreement.* This Agreement (including without limitation any amendments hereto) constitutes the entire agreement and understanding between the Parties and supersedes all prior and contemporaneous agreements, whether oral or written with regard to the subject matter herein. It may not be amended or modified except in a writing signed by each Party.
- d. *No Interpretation.* This Agreement shall be construed as if it was prepared by the Parties jointly, and any uncertainty or ambiguity shall not be interpreted against either Party.
- e. *Waiver.* No Party hereto shall be deemed to have waived a right, power, or privilege provided for hereunder, unless such waiver is made in writing, and signed by the Party against whom such waiver is sought.
- f. *Survival of Terms.* The provisions of this Agreement which by their nature extend beyond the termination of this Agreement will survive and remain in effect until all obligations are satisfied, specifically, Taxes, Audit, Disclaimer, Confidential Information, Liability, Termination and Consequences of Termination or Expiration.
- g. *Dispute Resolution.* The Parties agree that they will initially attempt to settle any dispute, claim or controversy arising out of this Agreement through consultation and negotiation in good faith and the spirit of mutual cooperation.
- h. *Governing Law; Jurisdiction.* This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, without giving effect to the principles of conflicts of laws thereof. Any action relating to this Agreement shall be instituted and prosecuted in a state or federal court located in Worcester County, Massachusetts. The Parties hereby consent to the jurisdiction of any federal or state court sitting in Worcester County, Massachusetts.
- i. *Notice.* Any notice provided for herein shall be deemed to have been received when sent by overnight courier or nationally recognized overnight courier to the Party's physical address as indicated in the preamble of this Agreement or by email to the email address indicated in the preamble of this Agreement or to an address otherwise specified in writing by a Party for notice under this Agreement.
- j. *Independent Contractors.* The relationship between the Parties is and shall at all times remain that of independent contractors. Nothing in this Agreement shall be deemed to create a joint venture, partnership, franchise, agency, employment or other relationship between the Parties.



IN WITNESS WHEREOF, the parties have caused this Agreement to be signed by their duly designated and authorized representatives.

THE OBJECT MANAGEMENT GROUP

Name:

Title:

Date:

Name: William R. Hoffman

Title: Chairman & CEO

Date: