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Enterprise Service Terms

Last updated November 9, 2020

Enterprise Service Terms

For employers that are integrating Udacity subscription Courses into their corporate educational programs, these terms set forth the means by which your employees may receive access to the Udacity platform and offerings, and the terms and conditions for its provision (also referred to as the "Agreement").

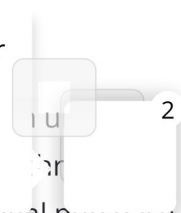
BY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT OR EXECUTING A KEY TERMS SCHEDULE, ORDER FORM OR OTHER ORDER DOCUMENT REFERENCING THIS AGREEMENT; FURTHER, BY PROVIDING YOUR ACCESS TO THE SERVICES TO YOUR EMPLOYEES, YOU ARE ACCEPTING ALL OF THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS, YOU MAY NOT PARTICIPATE IN UDACITY'S SERVICES OR OFFERINGS. YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU.

For purposes of these terms, and your access, you, the employer shall be referred to as the "Customer." The terms and conditions found herein are intended for incorporation by reference into the invoice, purchase order or other ordering document if entered into between Udacity and Customer or provided to Customer.

1. INTRODUCTION. This agreement grants a license to use the Udacity platform and offerings under the terms set forth herein and in the applicable Order Form. This Agreement shall govern Customer's initial purchase as of the Effective Date as well as any future purchases made by Customer that reference this Agreement.



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2. DEFINITIONS. “**Affiliate**” means an entity that controls, or is under the common control of, another entity such as a subsidiary, parent, or other affiliated entity or business. For purposes of this definition, “**Control**” means having ownership of the majority of voting stock or assets of another entity or business. “**Applicable Data Privacy Laws**” shall mean applicable national, federal, state and provincial laws relating to data privacy, the protection of personal information or data, and the cross-border transfer of personal information or data, including, without limitation, the California Consumer Privacy Act (“**CCPA**”), the General Data Protection Regulation (“**GDPR**”), and any European Union law or regulation that may be enacted to replace the EU Directive or the GDPR.

“**Course Materials**” means materials made available by Udacity in connection with an Online Course, including course descriptions, course videos, interactive features, student projects or other content.

“**Customer Personal Data**” shall mean Registration Data (i.e., name and email address of each student) provided by Customer to Udacity for the purpose of enrolling students to Udacity platform. Udacity does not receive any additional personal data from Customer other than data herein defined.

“**Online Course**” means an online learning program for a specific topic consisting of (i) Course Materials, (ii) access to tools for online collaboration between Students and other enrollees and (iii) online feedback and coaching from Udacity-selected course instructors, mentors and/or reviewers. Online Courses may be provided through the Udacity Platform, Third-Party Tools or other means designated by Udacity. “**Order Form**” means a document incorporated into this Agreement or subsequently entered into under this Agreement. “**Purchase Order**” means a document supplied by Customer for their internal administrative purposes to support Customer’s accounting records and facilitate payment of invoices as set forth in Section 5. (Fees and Payments) below. “**License**” means access to the Online Courses during the applicable License Term. “**License Start Date**” means the start date for License designated on the applicable Order Form. “**License Term**” means the duration of Online Course access designated on the applicable Order Form beginning on the License Start Date. “**Services**” means, without limitation, all information, content, services, and materials made available through any Udacity website, social media channels, or other online or onsite channels that enable Students to participate in any Udacity online educational programs, Online Courses and related services, or any part thereof. “**Specifications**” means either a specific document describing the services, or “descriptions, instructions, and/or documentation related to the delivery of the Services set forth in the applicable Udacity Website.” “**Student**” means a named enrollee in an Online Course. “**Third-Party Tools**” means any non-Udacity website, application, software, or technology used in the provision of the Services, including but not limited to messaging, communications platforms, online resources and repositories, or programming language tools, translators or compilers. “**Udacity Platform**” means the Udacity online learning platform accessible through www.udacity.com or any other sites or services identified by Udacity from time-to-time. “**Udacity User Terms**” means the then-current version of Udacity’s Enterprise student terms of use at www.udacity.com/legal/enterprise-student-tou, privacy policies, user conduct code, honor code and other policies applicable to Students. “**Website**” means www.udacity.com, classroom.udacity.com, www.knowlabs.com or other websites owned by Udacity and licensed under this Agreement.

3. LICENSE TO THE UDACITY PLATFORM.

3.1 License Grant. Subject to Customer's compliance with this Agreement, Udacity hereby grants Customer, including Students, worldwide, non-exclusive, non-transferable, non-sublicensable limited right and license (a) to access, internally use and display the Services, including the content, at Customer's location solely as necessary to participate in the Online Courses as permitted hereunder and indicated in the applicable Order Form, and (b) to download corresponding Course Materials. Customer must abide by all copyright notices, in any Online Course, or in the Course Materials. Customer may not delete any attributions, legal or proprietary notices on the Websites, in the Online Courses, or on the Course Materials. Customer is responsible under this Agreement for non-compliance with usage rights by its Students.

3.2 Customer Obligations. Customer may use the Udacity Platform only in accordance with the Agreement (including any Order Form) for its internal business purposes. Customer shall keep user ID and password information strictly confidential and not share such information with any unauthorized persons. Customer will not (and will not allow anyone else to): (a) rent, lease, copy, disclose, provide access to or sublicense the Udacity Platform; (b) use the Udacity Platform for the benefit of or to provide any service to a third party; (c) reverse engineer, decompile, disassemble, or otherwise seek to obtain the source code or non-public APIs to the Udacity Platform, except to the extent expressly permitted by applicable law (and then only upon advance notice to Udacity); (d) remove any product-identification or proprietary notice or legend from the Udacity Platform; (e) publicly disseminate information regarding the performance of the Udacity Platform.

4. STUDENT SUCCESS ACKNOWLEDGMENT. 4.1 Udacity's provision of Online Courses is dependent on Customer identifying suitable Students and ensuring that such Students have sufficient time allocated in their schedules to complete Online Courses prior to the end of the applicable Seat License Term. Customer acknowledges that Udacity is not responsible for any Student not completing an Online Course during the applicable Seat License Term.

5. FEES AND PAYMENTS. 5.1. Fees. All fees are as set forth in the applicable Order Form and shall be paid by Customer within thirty (30) days of invoice, unless otherwise specified in the applicable Order Form. Except as expressly set forth in Section 7 (Limited Warranty), and Section 10 (Indemnification), all fees are non-refundable. Customer is required to pay any sales, use, GST, value-added, withholding, or similar taxes or levies, whether domestic or foreign, other than taxes based on the income of Udacity. Any late payments shall be subject to a service charge equal to 1.5% per month of the amount due or the maximum amount allowed by law, whichever is less. Udacity may enter into purchase orders directly from or with Customer's Affiliates, who shall then be subject and party to this Agreement as if they were the Customer; provided however, Customer shall be a guarantor of all purchases by its Affiliates.

5.2. Customer Purchase Orders. No provision of any Customer Purchase Order or other business form employed by Customer will supersede the terms and conditions of the Agreement, and any such document relating to the Agreement shall be for administrative purposes only with no legal effect. If no Purchase Order number is supplied by Customer, Customer agrees to timely pay a proper submitted invoice without reference to a Purchase Order number.

6. TERM AND TERMINATION. 6.1. Term. The Agreement (including these Enterprise License Terms) is effective as of the Effective Date and expires on the date of expiration or termination of all Seat Licenses.

6.2. Termination for Cause. Either party may terminate the Agreement (and all related Order Forms) if the other party (a) fails to cure any material breach of the Agreement (including a failure to pay fees) within thirty (30) days after written notice; (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors' arrangement, composition, or comparable proceeding, or if any such proceeding is instituted against that party (and not dismissed within sixty (60) days thereafter).

6.3. Effect of Termination. Upon any expiration or termination of the applicable Seat License Term or the Agreement, Customer shall immediately cease any and all use of and access to Udacity Materials made available in connection with the applicable Seat License, including the Udacity Platform and any Online Course. Customer acknowledges that following termination it shall have no further access to any Udacity Materials, and that Udacity may delete any such data as may have been stored by Udacity at any time. Furthermore, Customer acknowledges that upon any expiration or termination of a Course License, Students will not be able to access or complete any Online Course in progress. Except where an exclusive remedy is specified, the exercise of either party of any remedy under the Agreement, including termination, will be without prejudice to any other remedies it may have under the Agreement, by law or otherwise.

6.4. Survival. The following Sections shall survive any expiration or termination of the Agreement: 3.2 (Customer Obligations), 5 (Fees and Payment), 6 (Term and Termination), 7.2 (Warranty Disclaimer), 8.1 (Udacity Materials), 9 (Limitation of Remedies and Damages), 10 (Indemnification), 11 (Confidential Information) 12 (Data Privacy) and 14 (General Terms).

7. LIMITED WARRANTY. 7.1. Limited Warranty. Udacity warrants, for Customer's benefit only, that it will provide the Online Courses in substantial accordance with the Specifications, including any descriptions set forth on the applicable Order Form. Udacity's sole liability (and Customer's sole and exclusive remedy) for any breach of this warranty shall be, at no charge to Customer, for Udacity to use commercially reasonable efforts to correct the reported non-conformity, or if Udacity determines such remedy to be impracticable, either party may terminate the applicable Seat License and Customer shall receive as its sole remedy a refund of any fees Customer has pre-paid for use of such Seat License for the terminated portion of the applicable Seat License. The limited warranty set forth in this Section 7.1 shall not apply: (i) unless Customer makes a claim within thirty (30) days of the date on which Customer first noticed the non-conformity, or (ii) to access to Online Courses provided on a no-charge or evaluation basis.

7.2. Warranty Disclaimer. a) EXCEPT FOR THE LIMITED WARRANTY IN SECTION 7.1, ALL ONLINE COURSES AND PERFORMANCE DATA ARE PROVIDED "AS IS". NEITHER UDACITY NOR ITS SUPPLIERS MAKES ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT. UDACITY DOES NOT WARRANT THAT CUSTOMER'S OR ANY STUDENT'S USE OF ANY ONLINE COURSE WILL BE UNINTERRUPTED OR ERROR-FREE. UDACITY SHALL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR OTHER SYSTEMS OUTSIDE THE REASONABLE CONTROL OF UDACITY. CUSTOMER

MAY HAVE OTHER STATUTORY RIGHTS, BUT THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE SHORTEST PERIOD PERMITTED BY LAW. b) UDACITY DOES NOT REPRESENT OR WARRANT THAT THE ONLINE COURSES WILL BE ACCURATE, COMPLETE OR CURRENT, MEET CUSTOMER'S NEEDS OR ACHIEVE CUSTOMER'S DESIRED RESULTS OR THAT ANY STUDENT WILL SUCCESSFULLY COMPLETE AN ONLINE COURSE. UDACITY IS NOT RESPONSIBLE FOR ANY DECISIONS CUSTOMER MAKES BASED ON PERFORMANCE DATA. 7.3. Third-Party Tools. Udacity may utilize Third-Party Tools (including, for example, Slack, GitHub or YouTube) as the subject matter, as tools related to the subject matter, or to deliver elements of Online Courses. While using Third-Party Tools Students may be subject to such providers' terms and conditions, and, in any event, Udacity is not responsible for the operation of, or any changes to, Third-Party Tools or the acts or omissions of Third-Party Tool providers.

8. INTELLECTUAL PROPERTY RIGHTS. 8.1. Udacity Materials. Customer agrees that Udacity or its suppliers retain all right, title and interest (including all patent, copyright, trademark, trade secret and other intellectual property rights) in and to Online Courses, including training videos, Course Materials and the Udacity Platform, performance data, and any and all related and underlying technology, content and documentation; and any derivative works, modifications or improvements of any of the foregoing, including as may incorporate Feedback (collectively, "Udacity Materials"). Except for the limited License rights expressly set forth in the Agreement, and notwithstanding any use of the words "purchase", "sale" or like terms, no other rights in any Udacity Materials are granted to Customer.

9. LIMITATION OF REMEDIES AND DAMAGES. 9.1. Consequential Damages Waiver. EXCEPT FOR ANY CLAIM ARISING FROM A PARTY'S BREACH OF ITS OBLIGATIONS IN SECTION 11 (CONFIDENTIAL INFORMATION), NEITHER PARTY (NOR ITS SUPPLIERS) SHALL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT FOR ANY LOSS OF USE, LOST DATA, LOST PROFITS, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR CONSEQUENTIAL DAMAGES OF ANY KIND, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

9.2. Liability Cap. UDACITY'S AND ITS SUPPLIERS' ENTIRE LIABILITY TO CUSTOMER ARISING OUT OF OR RELATED TO THE AGREEMENT SHALL NOT EXCEED THE AMOUNT ACTUALLY PAID BY CUSTOMER TO UDACITY DURING THE PRIOR TWELVE (12) MONTHS UNDER THE AGREEMENT.

9.3. Nature of Claims and Failure of Essential Purpose. The parties agree that the waivers and limitations specified in this Section 9 apply regardless of the form of action, whether in contract, tort (including negligence), strict liability or otherwise and will survive and apply even if any limited remedy specified in the Agreement is found to have failed of its essential purpose.

10. INDEMNIFICATION. 10.1. Udacity Indemnification. Udacity shall defend Customer from and against any claim by a third party alleging that an Online Course when used as authorized under the Agreement infringes a copyright or trademark and shall indemnify Customer from and against any damages and costs awarded against Customer or agreed in settlement by Udacity (including reasonable attorneys' fees) resulting from such claim, provided that Udacity shall have received from Customer: (i) prompt written

notice of such claim (but in any event notice in sufficient time for Udacity to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense and settlement (if applicable) of such claim; and (iii) all reasonable necessary cooperation of Customer. If Customer's use of an Online Course is (or in Udacity's opinion is likely to be) enjoined, if required by settlement or if Udacity determines such actions are reasonably necessary to avoid material liability, Udacity may, in its sole discretion: (a) substitute substantially functionally similar products or services; (b) procure for Customer the right to continue using such Online Course; or if (a) and (b) are not commercially reasonable, (c) terminate the Agreement and refund to Customer the fees paid by Customer for the portion of the Online Course that was paid by Customer but not rendered by Udacity. The foregoing indemnification obligation of Udacity shall not apply: (1) if such Online Course is modified by any party other than Udacity, but solely to the extent the alleged infringement is caused by such modification; (2) if such Online Course is combined with products or processes not provided by Udacity, but solely to the extent the alleged infringement is caused by such combination; (3) to any unauthorized use of such Online Course; (4) to any action arising as a result of Third-Party Tools or any third-party deliverables or components contained within such Online Course; or (5) if Customer settles or makes any admissions with respect to a claim without Udacity's prior written consent. THIS SECTION 10 SETS FORTH Udacity's AND ITS SUPPLIERS' SOLE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT. 10.2. Customer Indemnification. Customer shall indemnify, defend and hold harmless Udacity, its subsidiaries and affiliates, and each of their officers, directors, agents, employees, and assignees from any and all claims, liabilities, expenses and damages, including reasonable attorneys' fees and costs, made by any third party relating to or arising out of Customer's, including Students, (a) use or attempted use of the Services in violation of this Agreement, (b) use or attempted use of any code, program, data, information or any other Course Materials provided through the Services in a manner inconsistent with this Agreement, (c) violation of any law, or (d) posting or otherwise making available to Customer, or Student, created material on or through the Services, including without limitation any claim of infringement of intellectual property or other proprietary rights.

11. CONFIDENTIAL INFORMATION. Each party (as "Receiving Party") agrees that all code, inventions, know-how, business, technical and financial information it obtains from the disclosing party ("Disclosing Party") constitute the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any Udacity Materials and the terms and conditions of the Agreement shall be deemed Confidential Information of Udacity without any marking or further designation. Except as expressly authorized herein, the Receiving Party will (1) hold in confidence and not disclose any Confidential Information to third parties and (2) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under the Agreement. The Receiving Party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know (including, for Udacity, the subcontractors referenced in Section 13.9), provided that such representatives are bound to confidentiality obligations no less protective of the Disclosing Party

than this Section 11 and that the Receiving Party remains responsible for compliance by any such representative with the terms of this Section 11. The Receiving Party's confidentiality obligations shall not apply to information that the Receiving Party can document: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information. The Receiving Party may make disclosures to the extent required by law or court order, provided the Receiving Party notifies the Disclosing Party in advance and cooperates in any effort to obtain confidential treatment. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

12. DATA PRIVACY.

Inside EU: The parties acknowledge that any registration data (i.e., name and email address) for Students who reside in the EEA shall be subject to General Data Protection Regulations of the European Union ("GDPR"). With respect to registration data as between Customer and Udacity, Udacity will be considered a Data Processor and Customer the Data Controller. Outside EU: The parties agree to comply with all applicable Data Privacy Laws. Udacity agrees that it shall: (a) only use Customer Personal Data for the purpose of providing the Service and as required by law; (b) not sell or exchange for anything of value or use for any other purpose (other than as set forth in (a)) Customer Personal Data; (c) provide Customer with commercially reasonable assistance in responding to any request that Customer may receive under the CCPA or any other applicable law that provides individuals with rights regarding Customer Personal Data; and (d) provide Customer with commercially reasonable assistance to the extent necessary for Customer to comply with the CCPA, such as providing information that Customer may require to provide an adequate privacy notice to individuals whose personal data is contained in Customer Personal Data and/or providing responses to inquiries from a regulator.

13. CO-MARKETING.

During the Term, Customer grants Udacity the right to include Customer's name and logo on a list of Udacity customers provided however that any press releases or other public statements published by either party regarding the parties' relationship or this Agreement shall be agreed by the parties in writing prior to such publication.

14. GENERAL TERMS. 14.1. Assignment. The Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Neither party may assign the Agreement without the advance written consent of the other party, except that either party may assign the Agreement in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of such party's assets or voting securities. Any attempt to transfer or assign the Agreement except as expressly authorized under this Section 13.1 will be null and void. 14.2. Severability. If any provision of the Agreement shall be

adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that the Agreement shall otherwise remain in effect.

14.3. Governing Law; Jurisdiction and Venue. The Agreement shall be governed by the laws of the State of California and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. The jurisdiction and venue for actions related to the subject matter hereof shall be the state and United States federal courts located in Santa Clara County, California and both parties hereby submit to the personal jurisdiction of such courts.

14.4. Notice. Any notice or communication required or permitted under the Agreement shall be in writing to the parties at the addresses set forth on the Order Form or at such other address as may be given in writing by either party to the other in accordance with this Section 13.5 and shall be deemed to have been received by the addressee (i) if given by hand, immediately upon receipt; (ii) if given by overnight courier service, the first business day following dispatch or (iii) if given by registered or certified mail, postage prepaid and return receipt requested, the second business day after such notice is deposited in the mail.

14.5. Amendments; Waivers. No supplement, modification, or amendment of the Agreement shall be binding, unless executed in writing by a duly authorized representative of each party to the Agreement. No waiver will be implied from conduct or failure to enforce or exercise rights under the Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.

14.6. Entire Agreement. The Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of the Agreement. Customer acknowledges that the Online Course are online, License-based products, and that in order to provide improved customer experience Udacity may make changes to the Online Course. 14.7. Force Majeure. Neither party shall be liable to the other for any delay or failure to perform any obligation under the Agreement (except for a failure to pay fees for services rendered) if the delay or failure is caused by unforeseen events that occur after the signing of the Agreement and that are beyond the reasonable control of such party, such as a strike, blockade, war, act of terrorism, riot, natural disaster, pandemic, epidemic, substantial failure or diminishment of electricity, telecommunications networks, or refusal of a license by a government agency.

14.8. Subcontractors. Udacity may use the services of third-party instructors, mentors, reviewers and other subcontractors and permit them to exercise the rights granted to Udacity in order to provide the Online Courses and the Udacity Platform under the Agreement, provided that Udacity remains responsible for (i) compliance of any such subcontractor with the terms of the Agreement and (ii) for the overall performance of Udacity as required under the Agreement.

14.9. Subpoenas. Nothing in the Agreement prevents Udacity from any disclosures to the extent required by law, subpoenas, or court orders, however Udacity will use commercially reasonable efforts to notify Customer where permitted to do so. 14.10. Independent Contractors. The parties to the Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent. 14.11. Export

Control. In its use of the Udacity Platform, Customer agrees to comply with all export and import laws and

regulations of the U.S. and other applicable jurisdictions. Without limiting the foregoing, (i) Customer represents and warrants that it is not listed on any U.S. government list of prohibited or restricted parties or located in (or a national of) a country that is subject to a U.S. government embargo or that has been designated by the U.S. government as a “terrorist supporting” country, (ii) Customer shall not knowingly designate any employees as Students in violation of U.S. export laws, and (iii) Customer shall not submit to the Udacity Platform any information that is controlled under the U.S. International Traffic in Arms Regulations.

Updated November 10, 2020

