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# Apple

Confidential Information



(v3Aug2021)

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## Apple Authorised Training Centre Agreement for Education

This Apple Authorised Training Centre Agreement for Education ("Agreement") is entered into between Apple India Private Limited with registered office located at 19th Floor, Concorde Tower C, UB City No 24 Vittal Mallya Road, Bangalore 560001, Karnataka, India ("Apple") and the Apple Authorised Training Centre ("Training Centre") identified below, collectively known as the "Parties", each of whom agrees to be bound by and comply with all terms and conditions contained in the Agreement.

Training Centre Name: TEERTHANKER MAHAVEER UNIVERSITY

Trading As: \_\_\_\_\_

Address: TMW, DELHI ROAD, MORADABAD, Delhi, 244001, India

Tax Registration Number: AAAJT2622H

Company Registration Number: \_\_\_\_\_

This Agreement provides requirements for Training Centre, as an Apple Authorised Training Centre, to deliver Training Classes and/or Testing Services (as defined below).

### 1. Definitions

"Apple Authorised Training Centre" or "AATC" means a Training Centre that Apple has an Apple Authorised Training Centre Agreement then in effect.

"AATCE" means Apple Authorised Training Centre for Education.

"Agreement" means, collectively, this Apple Authorised Training Centre Agreement, including any Exhibits, Ancillary Terms, and any amendments, additions, documents or materials incorporated by reference.

"Ancillary Terms" means and includes the Policies and Practices, Apple Identity Guidelines, Classroom Requirements, the terms of service and/or terms of use pertaining to Apple Sales Web, any additional documents that Apple subsequently incorporates by reference in any of the foregoing, and any variations or amendments to the foregoing made by Apple as permitted herein.

"Apple Confidential Information" means information in oral or written form that Training Centre knows or has reason to know is confidential information, including, but not limited to, this Agreement, business and marketing plans, financial information and data, personnel information, information regarding strategic alliances, costs or pricing data, the identities of customers and/or prospective customers, and any information relating to new product launches, including the release dates and product specifications. Apple Confidential Information shall not include any information that: (i) was rightfully in a Training Centre's possession prior to disclosure without any obligation to maintain its confidentiality; (ii) was independently developed by Training Centre without the use of or reference to Apple Confidential Information; or (iii) is now or becomes, publicly available other than through disclosure by Training Centre in breach of this Agreement.

"Apple Course Material" means collectively the Instructor Material and Student Material, as defined below.

"Apple Exam" means an Apple proprietary examination delivered at an Authorised Location from the Apple Portal Site and administered by a Training Centre.

"Apple Identity Guidelines" means Apple's Guidelines for Using Apple Trademarks and Copyrights as published at <http://www.apple.com/legal/trademark/guidelinesfor3rdparties.html>.

"Apple Marks" means all trademarks, service marks, trade dress, logos, taglines, slogans, product names, any other word, phrase, symbol, or design that identifies or distinguishes the source of goods or services from those of others, registered or unregistered, directly or indirectly owned by or licensed to Apple anywhere in the world, including but not limited to Apple, the Apple logo used on and in connection with the Apple Course Material, a Training Class or Testing Service and any designations, marks or program identifiers (e.g. as "Apple Authorised Training Centre for Education," "AATCE," "Apple Authorised Training Centre," or "AATC").

"Apple Portal Site" means the password protected website administered by Apple or its agent that provides Training Centres and Students access to scheduling and class evaluations.

"Apple Sales Web" or "ASW" means the web site maintained by Apple for access and use by Training Centres and through which Apple may, from time to time, provide product information, Ancillary Terms, training resources, marketing support and materials, business and product announcements, and certain other information and materials relevant to Training Centre's activities as an Apple Authorised Training Centre.

"Apple Testing Material" means the Testing System Software, Apple Exam and related information that is proprietary to Apple or licensed thereto, and which is accessed by or provided to a Training Centre for the limited purpose of performing Testing Services at an Authorised Location.

"Authorised Apple Exam List" means the list of Apple Exam(s) that the Training Centre is authorised to administer under this Agreement.



"**Authorised Location**" means the location(s) at which Apple authorises a Training Centre to provide Training Classes and Testing Services under this Agreement.

"**Certified Trainer**" means an individual certified by Apple to instruct an Apple Course Material at a Training Class.

"**Classroom Requirements**" means the AATC and AATCE classroom requirements that govern the minimum standards for facilities and classrooms for delivery of Training Classes and Testing Services made available to Training Centre and published at ASW.

"**Instructor Material**" means Apple's proprietary course curriculum for use by a Certified Trainer to assist in instructing Students on the subject matter being taught during a Training Class.

"**Policies and Practices**" means policies, practices, programs and supplementary terms that (i) govern Training Centre's performance under and in connection with this Agreement and its use of or activities under or with respect to any other Apple-provided resources and systems throughout the Term, (ii) are published at ASW or other Apple web sites or otherwise provided to Training Centre, and (iii) may be updated periodically by Apple at Apple's sole discretion.

"**Student**" means an individual who registers with a Training Centre to attend a Training Class and / or to take an Apple Exam.

"**Student Materials**" means the Apple's proprietary course curriculum for use by Students to assist in learning about the subject matter being taught during a Training Class.

"**Term**" means the term of this Agreement, from the date signed by Apple, (the "**Effective Date**") to Midnight, Greenwich Meridian Time, on June 30, 2023, unless otherwise terminated earlier in accordance with section 16 of this Agreement.

"**Testing Services**" means the scheduling, delivery, and proctoring of any and all Apple Exams offered and delivered to Students through the Training Centre, and the performance of related activities and procedures incidental thereto as required by Apple.

"**Testing Service Manual**" means the most-current version of any documentation, in written form or on electronic media, supplied to a Training Centre by Apple or third party suppliers, which covers operations, testing service policies and procedures, security requirements or similar information that a Training Centre must adhere to in performing Testing Services.

"**Testing System Software**" means the data communications, testing systems and software that are proprietary to Apple or licensed to Apple by third party suppliers and all changes, enhancements, upgrades, improvements, and modifications thereto and derivative works thereof. Testing System Software includes all software and systems necessary to or used by Apple or third party suppliers to register Students, administer an Apple Exam, processes results and communicate with Students.

"**Training Centre**" means an entity authorised by Apple to provide Training Classes and/or Testing Services at an Authorised Location.

"**Training Class**" means a course of instruction in which a body of Students, who are registered with a Training Centre and led by a Certified Trainer, are taught a subject with the use of Apple Course Materials at an Authorised Location.

## **2. Interpretation**

In the event of any conflict or inconsistency in the Agreement, the more specific provisions that govern the subject matter will take precedence over more general provisions.

Training Centre acknowledges that it has received or is able to access physical or electronic copies of the Ancillary Terms referenced above.

## **3. Appointment**

Subject to the terms of this Agreement, Apple appoints Training Centre as a limited and non-exclusive AATCE for the delivery of Training Classes and/or Testing Services to Students in accordance with the terms of this Agreement; and Training Centre accepts this appointment.

## **4. Scope of Authorization**

**4.1** Upon Apple's confirmation that Training Centre has compliant Authorised Location(s) and available Certified Trainers, Training Centre is authorised to deliver Training Classes and/or Testing Services, as authorised under this Agreement. Training Centre will determine its own prices for delivery of a Training Class and/or an Apple Exam.

**4.2** Notwithstanding anything to the contrary, Apple reserves the right at any time upon thirty (30) days prior written notice, to add, remove or modify a Training Centre's Authorised Location, authorised Training Class, or authorised Apple Exam or vary or amend the scope of the Training Centre's authorisation under this Agreement.

**4.3** Notwithstanding anything to the contrary, Apple reserves the right to add, remove or modify the Policies and Practices at any time without notice. Training Centre will have a commercially reasonable period of time to implement changes by Apple, not to exceed thirty (30) days.

**4.4** Training Centre will use only the Apple Course Material or Apple Exams when delivering Training Classes or providing an examination in which the subject matter is related to a product that is proprietary to Apple. Training Centre will not utilise used Student Material to deliver Training Classes. Training Centre may also deliver their own course materials, provided no representation is made that the course materials are endorsed by Apple or are led by a Certified Trainer.

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4.5 Apple grants Training Centre a non-exclusive, non-transferable, limited right to access and use the Testing System Software accessible through the Apple Portal Site for the sole purpose of delivering Testing Services in connection with an Apple Exam to Students located at an Authorised Location.

## **5. Training Centre's Obligations**

5.1 Training Centre shall act at all times and conduct its activities in a professional and competent manner and maintain a high level of customer satisfaction. Without limitation, Training Centre will: (i) adhere to all requirements of the Ancillary Terms; (ii) communicate with Students in a courteous and timely manner, providing information on and availability of Training Classes and Apple Exams; (iii) register Students and provide administration services that among others enable the facilitation and confirmation of Student's payment; (iv) acquire and keep current at all times an inventory of Apple Course Material materials and/or Apple Exam eligibility codes that is reasonably sufficient to meet Training Centre's obligations under this Agreement; (v) obtain all required certifications, registrations and licenses, and comply with all applicable laws and regulations; and (vi) make commercially reasonable efforts to notify Students of the copyright notices contained within the Apple Course Material.

5.2 Throughout the Term, Training Centre will maintain a current live e-mail address, which it will provide to Apple and have internet access at all times, and will access e-mail and ASW regularly to ascertain whether Apple has varied or amended the Ancillary Terms.

5.3 Training Centre will notify Apple promptly in writing of any (i) suspected intellectual property infringement or erroneous information contained in the Apple Course Material and/or Apple Exams, (ii) suspected violations of Apple's proprietary rights or (iii) claims or proceedings any of which that concern Apple Course Material and/or Apple Exams. All such notices shall be regarded as Apple Confidential Information by Training Centre and will be subject to the Confidentiality provision(s) contained in this Agreement.

5.4 If applicable, Training Centre will be responsible for the collection (and remittance to the proper taxing authority) of all applicable sales tax and use taxes associated with the resale of Apple Exams or provision of Training Classes.

5.5 Training Centre must notify Apple at least thirty (30) days in advance of any of the following changes, subject to Apple's prior written approval; (i) changing the location of an Authorised Location; (ii) closing an Authorised Location; (iii) adding a new Authorised Location; or (iii) changing its legal or operating business name, address (including web URLs) or contact information. All requests for approvals of any of the changes described in this clause shall be evaluated at Apple's sole discretion. Apple makes no guarantee that it will grant any such approval(s) or as to the conditions under which any such approval(s) might be granted.

## **6. Apple Exams and Training Classes**

### **6.1 Apple Exams**

Training Centre is authorised to deliver the Apple Exams listed in the Authorised Apple Exam List. Exam vouchers to run the Apple Exams are purchased directly from Apple's third party exam provider who charges a fee for exam vouchers.

### **6.2 Training Classes**

Apple will provide access to a set of Instructor Materials to Training Centre to be used exclusively to instruct the Training Class. Training Centre is responsible for acquiring a set of Student Materials for each Student registered for a Training Class held at an Authorised Location. It is Training Centre's duty to ensure that each attending Student use only the Student Material corresponding to the Training Class set forth in the Authorised Training Class List. Training Centre is not authorised to provide copies of the Apple Course Material to any person not enrolled in the Training Class.

## **7. Confidentiality**

7.1 During the Term and for five (5) years thereafter, Training Centre will not use Apple Confidential Information except as required to fulfil its obligations under the Agreement, or disclose such Apple Confidential Information except to employees or contractors that have a need to know or as required by law. Training Centre shall not make any disclosure or public statement regarding any item of Apple Confidential Information. Training Centre may disclose Apple Confidential Information to the extent required by law, provided that it first makes reasonable efforts to give Apple notice of such requirement prior to any such disclosure and takes reasonable steps to obtain protective treatment of the Apple Confidential Information.

7.2 Apple will not use Training Centre confidential information that is: (i) reduced to a tangible form, (ii) independently developed by Training Centre without the use of or reference to any Apple Confidential Information, and (iii) provided specifically at Apple's request after execution of this Agreement and after execution of an acknowledgment signed by an Apple sales director that such information shall be treated as confidential ("**Training Centre Confidential Information**"), except as required to achieve the objectives of this Agreement, or disclose such Training Centre Confidential Information to affiliates, employees, agents or contractors who have a need to know or as required by law. Training Centre Confidential Information shall not include any information that: (a) is communicated verbally, (b) was rightfully in Apple's possession prior to disclosure without any obligation to maintain its confidentiality; (c) was independently developed by Apple without the use of Training Centre Confidential Information; (d) is required to verify Training Centre's compliance with export laws or any other provisions of this Agreement; (e) is now, or hereafter becomes, publicly available other than through disclosure by Apple in breach of this Agreement; or (f) is customer information.

## **8. Limited Warranty**

8.1 Apple warrants to Training Centre that Apple Exams and Instructor Materials conform to their general descriptions. These warranties are non-transferable. Training Centre's sole and exclusive remedy for any breach of this warranty is replacement of the non-conforming material upon return to Apple of the non-conforming material, if applicable.



**8.2** APPLE PROVIDES NO OTHER CONDITION OR WARRANTY TO TRAINING CENTRE, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO ANY ITEMS PROVIDED BY APPLE UNDER THIS AGREEMENT. ALL OTHER WARRANTIES, CONDITIONS, TERMS, UNDERTAKINGS, OBLIGATIONS AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED (INCLUDING, WITHOUT LIMITATION, WARRANTIES, CONDITIONS, TERMS, UNDERTAKINGS, OBLIGATIONS AND REPRESENTATIONS IMPLIED BY STATUTE, COMMON LAW, TRADE USAGE, COURSE OF DEALING OR OTHERWISE AND INCLUDING CONDITIONS AND WARRANTIES RELATING TO SATISFACTORY QUALITY, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE), STATUTORY OR OTHERWISE ARE HEREBY EXCLUDED TO THE FULLEST EXTENT PERMITTED BY LAW.

## **9. Records, Inspections and Audit**

**9.1** Unless otherwise instructed by Apple, Training Centre will report to Apple once a semester the number of Students enrolled in Training Class, the type and number of Training Classes held by Training Centre, and any other information reasonably related to the provision of Training Classes or Testing Services, as requested by Apple.

**9.2** Training Centre will maintain, at the applicable Authorised Locations, its records, contracts and accounts relating to the delivery of Apple Exams and/or Training Classes for at least eight (8) years from the date of this Agreement. During the Term and for eight (8) years after its expiration or termination, Apple will have the right to inspect Training Centre's records, contracts and accounts relating to the delivery of Apple Exams and/or Training Classes.

**9.3** During the Term and for a period of eight (8) years after expiration or termination of the Agreement, Apple will have the right to conduct an audit of Training Centre's Authorised Locations and other related facilities, and Training Classes, at any time during regular business hours for purposes of verifying Training Centre's compliance with the terms of this Agreement. Upon Apple's reasonable request, made directly by Apple or by Apple's external auditors, Training Centre will promptly provide copies of any requested records, financial statements and documents.

**9.4** A failure by the Training Centre to respond promptly to or cooperate with Apple's request to inspect or audit Training Centre's records, contracts and accounts relating to the delivery of Training Classes and/or Testing Services (made directly by Apple or by Apple's external auditors) will be viewed as a material breach of this Agreement and grounds for immediate termination.

**9.5** If applicable, Training Centre will provide Apple with resale certificate numbers and any other documentation requested by taxing authorities to substantiate any claim of exemption from taxes, duties, or imposts.

**9.6** If Apple determines that Training Centre has failed to maintain any of the documentation required pursuant to this Agreement or otherwise engages in any wrongful conduct with respect to this Agreement, Apple may view this as a material breach of this Agreement and grounds for immediate termination.

## **10. Export Obligations**

**10.1** All Training Classes and/or Testing Services provided pursuant to the Agreement and any Apple content made available to Training Centre are subject to all applicable laws, regulations, orders and other limitations on the export and re-export of commodities, technical data and software. Training Centre shall be solely responsible for compliance with all applicable export and re-export control rules that apply to its training activities and Training Centre agrees that it will not export, re-export, resell or transfer any export-controlled commodity, technical data or software: (i) to any country or national or resident of a country to which trade is embargoed by the United States, or any other relevant authority; (ii) to any person or entity on any United States restricted party lists, (examples: United Nations Sanctions List, United States Denial Lists, Office of Foreign Assets Control Specially Designated Nationals List, etc.) or; (iii) for use in, or to an entity that might engage in, any sensitive nuclear, chemical or biological weapons, or missile technology end-uses unless authorized by the United States Government, and any other relevant government agency by regulation or specific license.

**10.2** Training Centre agrees that no Confidential Information, or any portion thereof, will be exported to any country in violation of the United States Export Administration Act and of the laws of the jurisdiction in which the Confidential Information was obtained.

## **11. Proprietary Rights**

### **11.1 Apple Marks**

Training Centre is permitted to use the Apple Marks and the designations "Apple Authorised Training Centre", "AATC", "Apple Authorised Training Centre for Education" or "AATC" in furtherance of Training Centre's appointment, provided that all such use complies with the Apple Identity Guidelines, Apple's Guidelines for Using Apple Trademarks and Copyrights as published on Apple's web site at <http://www.apple.com/legal/trademark/guidelinesfor3rdparties.html> as updated from time to time, and the Policies and Practices. This Agreement does not grant to Training Centre any rights with respect to any other Apple intellectual property, including trade dress, design (and particularly the design of Apple's retail stores and web sites), and look and feel, and Apple reserves all rights to the exclusive use of its intellectual property. Other than specifically authorised by this Agreement or another agreement between Training Centre and Apple, Training Centre will not do anything that suggests Apple's endorsement or recommendation or otherwise creates an association with Apple. Training Centre agrees that Apple owns all rights in the Apple Marks, and that any use by Training Centre shall inure to the benefit of Apple. Except as expressly permitted hereunder, Training Centre agrees not to use any Apple trademark, service mark, logo, trade dress, design, "look and feel" (e.g., the design and layout of Apple's retail stores or websites, or the name under which Training Centre does business) in any manner whatsoever, or act in any manner that implies an endorsement of Training Centre by Apple. Training Centre will not remove, obfuscate or add any mark to any Apple Course Material materials provided by Apple.

### **11.2 Training Centre Publications**

All course catalogues, promotion publications and other materials promoting Training Classes offered by the Training Centre must always comply with the Apple Identity Guidelines.

### **11.3 Instructor Materials and Apple Exams**

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Training Centre acknowledges and agrees that Instructor Materials and Apple Exams are proprietary to Apple and that Apple retains all rights, title, and interest, in so far as it has right thereto. Training Centre agrees that this Agreement does not grant Training Centre any title or other right of ownership to the Instructor Materials or Apple Exams, or any title, license or other right of ownership to any Apple trademark. In providing copies of the Instructor Materials or Apple Exams, Apple grants to the Training Centre a personal, non-exclusive, limited right to distribute single copies of the Instructor Materials and Apple Exams to each Certified Trainer, in whole and not separately, for instructing Training Classes at Authorised Locations. Training Centre will not disassemble, copy, vary, amend, create derivative works, or otherwise change the Student Materials, instructor materials, or Apple Exams.

#### **11.4 Apple Proprietary Customer Information**

Notwithstanding anything to the contrary herein, Training Centre acknowledges that: (i) Apple maintains customer information independently derived from sources other than Training Centre, including but not limited to product registration and use of Apple's web sites by customers and prospective customers; (ii) such customer information may be identical to information contained in any reports or sales data furnished by Training Centre or that Training Centre has developed, maintains, or collects; and (iii) Apple owns its customer information and all proprietary interests therein, whether or not Training Centre has derived or maintains identical information or has or asserts any rights therein. Training Centre hereby disclaims any right or interest whatsoever in Apple's customer information and agrees not to contest Apple's rights therein.

#### **11.5 Protection of Apple's Proprietary Rights**

Training Centre agrees to use reasonable endeavours to protect Apple's proprietary rights and to co-operate without charge in Apple's efforts to protect its proprietary rights.

### **12. Business Ethics**

**12.1** Training Centre agrees that Training Centre: (i) has reviewed and understands the policies included or referenced in this Agreement with respect to ethical business conduct; and (ii) will fully comply with all such policies.

**12.2** Training Centre agrees and will comply throughout the Term with all applicable laws and regulations enacted to address bribery and corruption, including the United States Foreign Corrupt Practices Act ("FCPA"), the principles of the OECD Convention on Combating Bribery of Foreign Public Officials (the "OECD Convention") and any corresponding laws of all countries where business or services will be conducted or performed pursuant to this Agreement. Training Centre shall not, directly or indirectly, pay, offer, promise, or give anything of value (including any amounts paid or credited by Apple to Training Centre) to any employee or official of a government, government controlled enterprise or company, political party, or to any other person while being aware of or having a belief that such money or item of value will be passed on to one of the above, to influence any act or decision by such person or by any governmental body for the purpose of obtaining, retaining, or directing business to Apple. Additionally, Training Centre, to the extent permissible by law, shall notify Apple of any circumstance whereby, to the best of the Training Centre's knowledge, an owner, partner, officer, director or an employee of the Training Centre has been or will become, during the Term, an official or employee of a governmental entity or political party or a candidate for political office.

**12.3** Training Centre acknowledges that any changes or breaches of their internal policies and processes that may have a detrimental reputational effect on Training Centre will be disclosed to Apple immediately at which time Apple has the right to re-assess the appointment of Training Centre as a limited and non-exclusive third party independent contractor and terminate the Agreement in accordance with section 16.2.

**12.4** Training Centre represents and warrants that: (i) all information provided to Apple in connection with Training Centre's selection and approval as an AATC or ATTCE is complete and true; and (ii) any and all information required or requested by Apple during the Term will be complete and true.

**12.5 FCPA.** Training Centre shall not directly or indirectly pay, offer, promise or give or authorize to pay, offer or give money or anything of value to any employee or official of a government or department thereof, political party or a candidate for political office, to any employees or officials of a public international organisation, or to any employees of enterprises or companies owned or controlled by a government, or to any other person while being aware of or having a belief that such money or item of value will be passed on to one of the above, to influence any act or decision by such person or by any governmental body for the purpose of obtaining, retaining or directing business to Apple. Training Centre warrants it shall not undertake any activity or action that may cause Apple to be in breach of the rules or regulations of the FCPA or similar legislation in the Territory.

### **13. Insurance**

Throughout the Term, Training Centre will maintain public or general liability insurance, including coverage for bodily injury, property damage, and contractual liability, with limits of not less than one million Euros (EUR1,000,000) per occurrence or per claim. Such insurance shall include an indemnity to principals provision with Apple as principal for liabilities based on the operations of the Training Centre. A Certificate of Insurance, Broker's Letter, or similar documentation of coverage will be made available to Apple at its request.

### **14. Indemnity**

**14.1** Training Centre will defend, hold harmless and indemnify Apple, its subsidiaries and affiliates, and their respective officers, directors, employees and agents from and against any claim or proceeding brought by a third party against Apple arising out of the acts and/or omissions of Training Centre, its officers, directors, employees, agents, or contractors, excluding acts or omissions expressly required by Apple under this Agreement.

**14.2** If Apple seeks indemnification under this section, Apple will cooperate with and provide reasonable assistance to the indemnifying party in defending or settling any indemnified claim or proceeding. Neither party will make public the existence or terms of any settlement.

### **15. Limitation of Liability and Remedies**





**15.1** DIRECT DAMAGES FOR ALL CLAIMS MADE BY TRAINING CENTRE ARISING FROM THIS AGREEMENT SHALL BE LIMITED TO TEN THOUSAND US DOLLARS (\$10,000 USD) OR LOCAL EQUIVALENT. IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, STATUTE OR OTHERWISE, SHALL APPLE BE LIABLE FOR ANY LOSS OF PROFIT OR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, INDIRECT LOSSES (INCLUDING, LOSS OF DATA, INTERRUPTION IN USE, UNAVAILABILITY OF DATA, OR OTHER ECONOMIC ADVANTAGE) OR FOR PUNITIVE OR EXEMPLARY DAMAGES.

**15.2** THE REMEDIES SET FORTH IN THIS AGREEMENT SHALL BE TRAINING CENTRE'S SOLE AND EXCLUSIVE REMEDIES FOR ANY CLAIMS AGAINST APPLE UNDER OR RELATED TO THIS AGREEMENT.

**15.3** THE PARTIES AGREE THAT THE TERMS OF THE AGREEMENT, INCLUDING THOSE CONCERNING WARRANTIES, INDEMNITY AND LIMITATIONS OF LIABILITY, REPRESENT A FAIR ALLOCATION OF RISK BETWEEN THE PARTIES WITHOUT WHICH THEY WOULD NOT HAVE ENTERED INTO THIS AGREEMENT.

**15.4** The limitation in the preceding sentence shall not apply to (i) indemnity claims under Section 14, or (ii) any claims by Apple against Training Centre for violation of intellectual property rights. The remedies set forth in this Agreement will be Training Centre's sole and exclusive remedies for any claim against Apple under or related to this Agreement. Training Centre waives and relinquishes any rights or claims under franchise, dealership, agency, or other statutes, or at common law, that would or might arise out of Apple's termination of this Agreement or Apple's refusal to renew or extend the term of this Agreement. NOTHING IN THIS AGREEMENT IN ANY WAY EXCLUDES OR LIMITS APPLE'S LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY APPLE'S NEGLIGENCE OR FOR FRAUD.

## **16. Term and Termination**

### **16.1 Termination for Convenience**

This Agreement may be terminated by either party at any time for convenience (i.e., for any or no reason), on thirty (30) days' written notice to the other party.

### **16.2 Termination for Cause**

Apple may immediately terminate this Agreement and any other existing agreement with Training Centre and without any period to remedy if: (i) Training Centre fails to fully perform any obligation under this Agreement or violates any practices or procedures set forth herein; (ii) Training Centre commits a criminal offence or engages in any unlawful or unfair business practice; (iii) there is a material change in or transfer of Training Centre's management, ownership, control or business operations, or Training Centre becomes affiliated, through common management, ownership, or control, with any person or entity that is unacceptable to Apple; (iv) Training Centre's actions expose or threaten to expose Apple to any liability, obligation, or violation of law; (v) Training Centre fails to maintain sufficient net worth and working capital to meet its obligations; (vi) a receiver, administrator, administrative receiver, insolvency practitioner or similar official is appointed in respect of Training Centre or its property, or if Training Centre makes an assignment of substantially all of its assets for the benefit of its creditors, or if any bankruptcy or insolvency proceedings are commenced by or against Training Centre, or if Training Centre is liquidated, dissolved, has a petition presented or an order made for its winding up or ceases or threatens to cease to trade; (vii) Training Centre closes its last Authorised Location or terminates its last Certified Trainer; (viii) Training Centre fails to satisfy any of its obligations under the Ancillary Terms to a non-material degree and fails to cure such failure within thirty (30) days of being notified in writing of the requirement to do so; or (ix) Training Centre abandons this Agreement.

### **16.3 Effect of Notice of Termination**

If either party gives notice of termination of the Agreement according to Section 16: (i) all unpaid invoices issued by Apple will be accelerated and become immediately due and payable on the effective date of termination; and (ii) Apple may refuse all or part of Training Centre's orders received by Apple after the date of notice of termination. Training Centre may continue to use the designation "Apple Authorised Training Centre", "AATC", "Apple Authorised Training Centre for Education" or "AATCE" until the effective date of termination.

### **16.4 Effect of Expiration or Termination**

Upon expiration or termination of this Agreement: (i) Training Centre will immediately cease use of the Apple Marks and the designation "Apple Authorised Training Centre" or other designations as may have been designated by Apple, including but not limited to use in all of its marketing material, on its premises and on the Training Centre website; (ii) Training Centre will complete all Training Classes in progress; (iii) Training Centre will return promptly to Apple all Apple property in Training Centre's possession, such as material provided to Training Centre by Apple, including material comprising or containing Apple Confidential Information; and (iv) Training Centre shall not be Authorised to access ASW.

### **16.5 Survival**

All defined terms and the following sections of this Agreement shall survive expiration or any termination of the Agreement: 7 (Confidentiality); 8.2 (Limited Warranty); 9 (Records, Inspections and Audit); 11 (Proprietary Rights) (excluding any licenses granted therein, all of which shall terminate upon termination or expiration of this Agreement); 14 (Indemnity); 15 (Limitation of Liability and Remedies); 16.4 (Effect of Expiration or Termination); 16.5 (Survival); 17 (General Terms) and any other sections that by their nature would reasonably be expected to survive expiration or termination.

## **17. General Terms**

### **17.1 Governing Law, Dispute Resolution, Jurisdiction and Venue**

This Agreement shall be construed in accordance with and governed by the laws of India and subject to the provisions of this Section 17.1.1 and Section 17.1.2, each Party hereby agrees to submit to the exclusive jurisdiction of the courts in New Delhi, India.

17.1.1 Subject to Section 17.1.2, all disputes arising out of or in connection with the Agreement shall be settled through good-faith negotiation between Apple representative and the account manager representing Training Centre. Either Party may give written notice



of a dispute to the other Party within (10) days of the occurrence of the event, which gives rise to such dispute or such event came to the notice of either Party, with the Parties taking the following steps:

(i) Both Parties shall nominate one person to attempt amicable settlement of the dispute within five (5) days of notice being received, and such attempt will commence immediately thereafter.

(ii) If any dispute arising between the Parties is not amicably settled within 5 (five) days of commencement of attempts to settle the same, then the Parties will try in good faith to resolve the dispute by amicable negotiation between the Senior management representing Apple and R Training Centre;

(iii) If any dispute arising between the Parties is not amicably settled within 10 (ten) days of commencement of attempts to settle the same, the disputes shall be referred for arbitration under the provisions of the Arbitration and Conciliation Act 1996. The Parties agree (a) that the Arbitration proceedings will be conducted in New Delhi, which shall be the seat of the Arbitration; and (b) the panel of arbitration shall consist of one (1) member to be appointed by the Parties mutually. If the Parties fail to mutually decide on an Arbitrator within one calendar month of receipt of notice calling for the same then either Party shall have the right to get the Arbitrator appointed by the High Court of New Delhi.

17.1.2 Notwithstanding the above, in relation to any dispute involving any allegations of (a) misuse of Sensitive Personal Data or Information ("SPDI") or misuse or disclosure of Confidential Information or breach of confidence; or (b) in event of an infringement or violation of Apple Intellectual Property or any intellectual property related dispute or (c) any other dispute in which Apple's rights are reasonably likely to suffer significant prejudice in the event that it is not able to apply to the court for non-monetary relief to restrain such acts or events, then in any such foregoing cases, the Parties agree that Apple may apply to the courts of appropriate jurisdiction for any relief including ad-interim or permanent injunction relief and / or damages without regard to or without having to go through any of the other procedures or process provided for by Section 17.1.1 above.

#### 17.2 Limitation of Claims

The Parties' efforts to resolve any dispute or controversy shall not toll or extend the required period for commencing arbitration as set forth in Section 17.1. TO THE EXTENT PERMITTED BY LAW, ANY CLAIM ARISING OUT OF ANY DISPUTE OR CONTROVERSY BETWEEN THE PARTIES TO THE AGREEMENT SHALL BE DEEMED AS IRREVOCABLY ABANDONED AND SUCH RIGHT AND CLAIM SHALL STAND EXTINGUISHED UNLESS SUCH CLAIM IS ASSERTED WITHIN TWO (2) YEARS FROM THE EARLIER OF: (A) THE NOTICE OF TERMINATION UNDER SECTION 16 OR, (B) THE WRITTEN NOTICE OF THE DISPUTE OR CONTROVERSY UNDER SECTION 17.1, OR (C) THE DATE THE ACTION ACCRUED.

#### 17.3 Notice under the Agreement

Any notice under this Agreement, except notices of changes in Ancillary Terms as provided below, must be in writing and will be deemed given immediately if communicated electronically or through Apple Sales Web, or ten (10) days after being sent by registered mail, return receipt requested, to the address stated below for Apple and to the address designated in this Agreement by Training Centre for receipt of notices, or as may be provided by the parties.

Office of the Finance Director  
Apple India Private Limited  
19 Floor, Concorde Tower C  
UB City No 24 Vittal Mallya Road  
Bangalore 560001  
India

Either Party may give notice of its change of address for receipt of notices by giving notice in accordance with section 17.3, or as Authorised by Apple.

Notices of changes in Ancillary Terms will be given by Apple by posting on ASW or when sent by email and will be deemed given when posted on ASW or when sent by email to the address provided by Training Centre.

#### 17.4 Assignment or Material Change by Training Centre

Training Centre will notify Apple promptly in writing if there is a material change in Training Centre's ownership, management, control or financial condition; if there is a material change in the status of an Authorised Location; or Training Centre acquires an ownership, managerial or controlling interest in a third party that provides training services or classes. Training Centre may not assign this Agreement or any right or benefit hereunder in whole or part without Apple's prior written approval.

Apple may assign this Agreement, in whole or in part, in Apple's sole and absolute discretion, to any affiliate of or successor in interest to Apple, without the consent of Training Centre.

#### 17.5 Privacy

Training Centre acknowledges that in performing Testing Services and/or delivering Training Classes under this Agreement, Training Centre will gather, transfer, process, and use the personal data of Students. Such personal data may include the name, address, telephone number, and electronic mail address of Students. Training Centre warrants that any data transferred for use has been collected in accordance with the data protection laws applicable in the country in which the Student is based, including if appropriate, notice prior to or at registration that personally identifiable information may be shared with other third parties for evaluation, marketing and administration purposes. Training Centre shall take appropriate legal, organisational, and technical measures to ensure the confidentiality of personal data in accordance with applicable law.

#### 17.6 Variations & Amendments

Without prejudice to any other provision of this Agreement, Apple shall be entitled in its absolute discretion to make variations and amendments as follows: (i) variations and amendments to the Agreement may be made upon thirty (30) days' written notice from Apple Sales Contract Management to Training Centre, which notice may be given by email; and (ii) variations and amendments to the Ancillary Terms may be made by Apple without notice to Training Centre, and such variations and amendments will be immediately binding on Training Centre upon Apple's posting of any varied or amended version(s) on ASW or otherwise communicating such varied or amended version(s) in





writing. Variations and amendments to the Agreement which are mutually executed shall take immediate effect. Except as otherwise provided in this Agreement, no modification to this Agreement will be binding unless in writing and signed by an authorised representative of each party.

#### 17.7 Relationship of Parties

Training Centre acknowledges that Training Centre is an independent contractor, has no power or authority to bind Apple, and under this Agreement, is only contracting for certain goods and services. Nothing in the Agreement creates any other relationship between Apple and Training Centre such as employer-employee, principal-agent or franchisor-franchisee as between Apple and Training Centre or any employees, agents or contractors of Training Centre. Training Centre acknowledges that Apple can provide the Apple Course Material and Apple Exams directly to any person, including Training Centre's customers. Training Centre shall confirm the status of its relationship to Apple and its lack of authority to act on Apple's behalf whenever necessary to avoid third party confusion.

#### 17.8 Severability

If a court of competent jurisdiction holds that any provision of this Agreement is invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect, and this Agreement will be adjusted if possible, so as to give maximum effect to the original intent and economic effect of the parties.

#### 17.9 Waivers

A party's waiver of any breach by the other party or failure to enforce a remedy will not be considered a waiver of subsequent breaches of the same or of a different kind.

#### 17.10 Headings and Construction

Paragraph headings are for reference only and will not affect the meaning or interpretation of this Agreement. Wherever the singular is used, it includes the plural, and wherever the plural is used, it includes the singular.

#### 17.11 Entire Agreement

Apple and Training Centre acknowledge that this Agreement supersedes and extinguishes all previous agreements and representations (whether oral or written), between or on behalf of the Parties with respect to its subject matter. The Agreement contains all of Apple's and Training Centre's agreements, warranties, understandings, conditions, covenants, promises or representations with respect to its subject matter. Apple and Training Centre acknowledge and agree that they have not relied on any other agreements, warranties, understandings, conditions, covenants, or representations in entering into this Agreement. Neither Apple nor Training Centre will be liable for any agreements, warranties, understandings, conditions, covenants, promises or representations not expressly stated or referenced in this Agreement. Apple is deemed to have refused any provisions in purchase orders, invoices or other documents or statements from Training Centre that purport to alter or have the effect of altering any provision of the Agreement and such refused provisions will be unenforceable. This Agreement will be executed in the English language only. Training Centre expressly waives any right it may have under the law(s) of its country of domicile to have this Agreement written in the official language(s) thereof.

#### 17.12 Counterparts

This Agreement may be executed in one or more counterparts (including by facsimile), each of which when so executed shall be deemed to be an original and shall have the same force and effect as an original. Such counterparts together shall constitute one and the same instrument.

The duly authorised representatives of the Parties execute this Agreement as of the effective date set forth below.

RK

MS

SK

TEERTHANKER MAHAVEER UNIVERSITY

*RAJESH KUMAR*

a51ab.....17bdc

Signed By : RAJESH KUMAR

Title : Head IT

Company : TEERTHANKER MAHAVEER UNIVERSITY

Email : tmuaatce@tmu.ac.in

IP Address : 14.139.238.132

Date : Wed Jun 22 2022 07:44:10 GMT

Apple India Private Limited

*Mukund Saraf*

8e969.....0d15e

Signed By : Mukund Saraf

Title : Finance Controller

Company : Apple India Private Limited

Date : Fri Jun 24 2022 05:56:55 GMT

Apple India Private Limited

*Sandeep Karmakar*

d17bf.....b8bdd

Signed By : Sandeep Karmakar

Title : Authorised Signatory

Company : Apple India Private Limited

Date : Fri Jun 24 2022 06:20:05 GMT