



# TEERTHANKER MAHAVEER UNIVERSITY

(Established under Govt. of. U.P. Act. No. 30, 2008)

Delhi Road, Moradabad-244001 (U.P.) India

Tel. : +91-0591-2360222, 2476801, E-mail : university@tmu.ac.in, Website : www.tmu.ac.in

## PURCHASE ORDER for IBM CE Program

From: TEERTHANKER MAHAVEER UNIVERSITY  
Address: DELHI ROAD, MORADABAD 244001  
U P, INDIA

Date: 4/11/2020

Purchase Order No: Ref: TMU/FOE & CS/ACA/20-21/ODD/25

PAN No.: AAAAT6939Q

GST No.: Exempted

### PLACE of SUPPLY:

TEERTHANKER MAHAVEER UNIVERSITY

Address: DELHI ROAD, MORADABAD 244001, U P, INDIA

Contact Person Name: Prof. (Dr.) R.K. Dwivedi

Contact Person Designation: Principal, CCSIT, TMU

Contact No.: 9837771280

To: IBM India Pvt. Ltd.

Address: Subramanya Arcade 4, Bannerghatta Road Bangalore 560029

We are pleased to issue the following purchase order to you, for the training services to under Career Education for the courses as listed below:

SERVICE	QTY	Unit Cost (INR)	Total Cost in INR
Services as follows:			
1. IBM CE - TMU - 2019 Batch Btech Sem 3	40	16,500.00	6,60,000.00
2. IBM CE - TMU - 2018 Batch Btech Sem 5	40	23,000.00	9,20,000.00
3. IBM CE - TMU - 2017 Batch Btech Sem 7	40	25,000.00	10,00,000.00
Total Value			25,80,000.00
GST @ 18%			4,64,400.00
SoW Reference # ANAIN2010197475941			
Total (Rupees Thirty Lakhs Forty Four Thousand & Four Hundred Only)			Rs. 30,44,400.00

Any change in Taxes/ Duties applicable shall be charged at the time of actual Invoicing.

"We confirm that the invoice to be issued for this particular PO without GST no. as we are not registered under GST act."

Payment Terms: 100% Advance



Authorized Signature with seal of Institute





उत्तर प्रदेश UTTAR PRADESH

CD 665236

*This page has been intentionally left blank*  
"This is an integral part of the agreement  
between TMU University and ZBM India  
Pvt. Ltd. Sow # ANAIN2010197475941"



4/11/2020





उत्तर प्रदेश UTTAR PRADESH

CD 665237

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SOW Number: ANAEN2010197475941







उत्तर प्रदेश UTTAR PRADESH

CD 665235

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between TMU University and IBM India  
Pvt Ltd. SOW # ANAIN2010197475941."







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between TMU University and IBM India  
Pvt Ltd. SOW # ANAIN2010197475941"



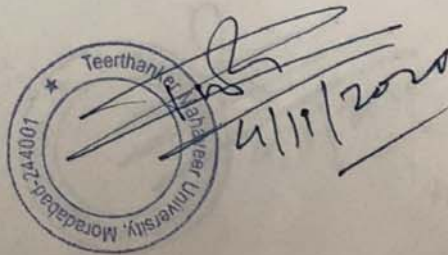




उत्तर प्रदेश UTTAR PRADESH

CD 665233

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Pvt. Ltd. SOW # ANAIN2010197475941"







उत्तर प्रदेश UTTAR PRADESH

CD 665232

"This is an integral part of the agreement  
between TNU University and IBM India  
Pvt. Ltd. SOW # ANAIN2010197475941"





## **Statement of Work**

**for**

**IBM CE - Btech Batch - 2019 Sem 3 / 2018 Sem 5 / 2017 Sem 7**

**Prepared for**

**TEERTHANKER MAHAVEER UNIVERSITY**

**SoW Number: ANAIN2010197475941**

**Version: 1.0**

**Date: 20 October 2020**

The information in this Statement of Work may not be disclosed outside of TEERTHANKER MAHAVEER UNIVERSITY and may not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the Statement of Work, provided that, if a contract is awarded to IBM as a result of or in connection with the submission of this Statement of Work, TEERTHANKER MAHAVEER UNIVERSITY will have the right to duplicate, use or disclose the information to the extent provided by the contract. This restriction does not limit the right of TEERTHANKER MAHAVEER UNIVERSITY to use information contained in this Statement of Work if it is obtained from another source without restriction. IBM retains ownership of this Statement of Work.





## Table of Contents

1. Overview and Approach .....	3
2. IBM Statement of Work .....	3
3. Project Scope .....	3
4. Key Assumptions .....	4
5. IBM Responsibilities .....	4
6. Customer Responsibilities .....	5
6.1 Customer Project Manager .....	5
6.2 Customer Other Responsibilities .....	7
7. Deliverable Materials .....	8
8. Completion Criteria .....	8
9. Estimated Schedule .....	9
10. Charges .....	9
11. Schedule .....	9
12. Payment .....	9
13. Additional Terms and Conditions .....	11
13.1 Termination .....	11
Each party will comply with all applicable export and import laws, regulations, and associated embargo and sanction regulations, including prohibitions on export for certain end uses or to certain end users .....	11
13.2 Data Processing Protection .....	11
13.3 COVID clause .....	11
13.4 Offer Expiration Date .....	11
<b>Appendix A: Project Procedures .....</b>	<b>13</b>
<b>Appendix B: General Terms and Conditions .....</b>	<b>15</b>
<b>Appendix C: Materials .....</b>	<b>16</b>
<b>Appendix D: Sample Project Change Request .....</b>	<b>17</b>
1. Processing .....	18
1.1 Processing Activities .....	18
2. Customer Personal Data .....	18
2.1 Categories of Data Subjects, Types of Customer Personal Data and Special Categories of Customer Personal Data .....	18
3. Technical and Organizational Measures .....	18
3.1 Data Protection .....	18
3.2 Access Control .....	18
3.3 Security Policies .....	18
4. Deletion and Return of Customer Personal Data .....	19
5. Subprocessors .....	19
6. International Data Transfer .....	19
6.1 EU Standard Contractual Clauses .....	19
7. Data Privacy Officer and Other Controllers .....	19
8. IBM Privacy Contact .....	19





**1. Overview and Approach**

This Statement of Work ("Statement of Work" or "SOW") is being executed between TEERTHANKER MAHAVEER UNIVERSITY or ("Customer") and IBM India Private Limited ("IBM") for the Information Server.

**2. IBM Statement of Work**

This section describes the work to be provided by IBM (the "Services") to TEERTHANKER MAHAVEER UNIVERSITY ("the Customer") under the terms and conditions of the agreement identified in the signature block of this SOW, (the "Agreement"). In addition, Customer responsibilities are listed.

Changes to this SOW will be processed in accordance with the procedure described in Appendix A-1: Project Change Control Procedure. The investigation and the implementation of changes may result in modifications to the Estimated Schedule, Charges, and other terms of this SOW.

The following are incorporated in and made part of this SOW:

- a) Appendix A: Project Procedures
- b) Appendix B: General Terms & conditions
- c) Appendix C: Materials
- d) Appendix D: Sample Project Change Request form
- e) Exhibit 1: Data Processing Addendum Exhibit

To the extent there is any contradiction, inconsistency or ambiguity between the terms of this SOW identified below, this SOW will govern.

**3. Project Scope**

Under this project, IBM will:

- Provide IBM Developer Skills Network Private Instance for the students as highlighted under points 9 & 10 in page 9 of the contract.
- Provide capacity for up to 120 learners (Students) on the IBM Developer Skills Network Private Instance of which 120 learners are enrolled under IBM Career Education Joint Program offered at TEERTHANKER MAHAVEER UNIVERSITY under this SoW.
- Additional access would be given to TEERTHANKER MAHAVEER UNIVERSITY faculties on need basis limiting to 50 faculties overall
- Assessment and certificate/badge generation would be done from IBM Developer Skills Network private instance platform wherever applicable.
- For the avoidance of doubt, the course content is exclusively owned or licensed by IBM and the Customer shall in no event prepare any derivative works of the same. Further, upon expiry of the term of this SOW, the Customer shall promptly return or destroy such course content in their possession and submit a certification to IBM in this regard.
- Customer may at its option upload course content developed by itself on the skills network. IBM shall have no obligation to verify such course content. Customer shall be solely responsible and liable for any and all claims relating to such course content uploaded by the Customer in terms of intellectual property, authenticity, genuineness of the material/ course content. For course content uploaded by the Customer and courses offered by the Customer IBM shall not be providing any completion certificate.

IBM and Customer will each comply with applicable export and import laws and regulations, including those of the United States that prohibit or limit export for certain uses or to certain end users, and each party will cooperate with the other by providing all necessary information to the other, as needed for compliance. Each party will provide the other with advance written notice prior to providing the other party with access to data requiring an export license.





IBM's estimated charges and schedule are based on performance of the activities listed in the "IBM Responsibilities" section below. Deviations that arise during the project will be managed through the procedure described in Appendix A-1: Project Change Control Procedure, and may result in adjustments to the Project Scope, Estimated Schedule, Charges and other terms. These adjustments may include charges on a time-and-materials or fixed-fee basis using IBM's standard rates in effect from time to time for any resulting additional work or waiting time.

**4. Key Assumptions**

This SOW and IBM's estimates are based on the following key assumptions. Deviations that arise during the proposed project will be managed through the Project Change Control Procedure, and may result in adjustments to the Project Scope, Estimated Schedule, Charges, and other terms.

- a. Technical support for IBM Developer Skills Network Private Instance is included during the contract period. Technical support options are detailed in the IBM Responsibilities in Point 5e.
- b. Technical support does not cover issues arising out of Customer's use of IBM Developer Skills Network Private Instance in other than its specified operating environment, or assistance with Customer or third-party products and services, or issues arising out of the use of IBM Developer Skills Network Private Instance with Customer or third party products or services.
- c. Out of Scope activities include any activity which is not mentioned in this SOW.

**5. IBM Responsibilities**

Under this SOW, IBM will undertake the following activities:

- a. IBM will provide TEERTHANKER MAHAVEER UNIVERSITY with IBM Developer Skills Network Private Instance as agreed in page 9 of the contract.
- b. While this Statement of Work is active, IBM will provide you with IBM support for IBM Developer Skills Network Private Instance via IBM Standard electronic service request portal (ESR) support program.
- c. IBM will provide the following as part of the IBM Developer Skills Network Private Instance Service:
  - Course content from IBM Developer Skills Network Private Instance of courses from <https://tmu.skillsnetwork.site>.
  - For the avoidance of doubt, the course content is exclusively owned or licensed by IBM and the Customer shall in no event prepare any derivative works of the same. Further, upon expiry of the term of this SOW, the Customer shall promptly return or destroy such course content in their possession and submit a certification to IBM in this regard.
  - IBM Developer Skills Network Private Instance with customizable landing page and default initialized configuration
- d. Provide 3rd level support Services under this SOW during normal business hours, 9 AM to 5 PM, local India time, Monday through Friday, except holidays.
- e. IBM will conduct training for the modules as mentioned & agreed in the signed MoU, while other courses are to be executed on self learning mode by the student or to be taught by college faculty.
- f. The Mastery Badge / Practitioner Badge content will be accessible on a different portal and will not be available on this private instance.
- g. The latest course content can be referred on <https://tmu.skillsnetwork.site> link for the University and learners for reference.





- h. IBM reserves the right to update/edit/change/sunset/introduce any course not prescribed in joint program/learning path without any notice to the customer. This shall be done keeping in mind the latest trends and technology prevalent in the market

**i. Technical Support**

Customer will be responsible for providing the first level support to end users of the Services. This responsibility includes making a commercially reasonable effort to resolve any questions or problems regarding the Services whether discovered or reported by a Customer's employee or external parties. If and when support from IBM is warranted, the Customer's administrators for the Services can open an electronic support ticket. IBM will make commercially reasonable efforts to respond to tickets during normal business hours and resolve any questions or problems regarding the Services in a timely manner.

For the first level of support, the Services include a ticketing system that can be optionally enabled through the Services Administrative Console, using the "Support Tab" menu item. When enabled, a support tab appears on the portal, and when clicked, users can report the issue. This ticketing system will be monitored by the Customer's Services administrator.

For the next level of support, when a Services administrator needs help from IBM, they will use the support tab that is always available inside the Services Administrative Console. Clicking on this support tab will open a window where the Services administrator can report the problem to IBM. This ticketing system is monitored by IBM.

**6. Customer Responsibilities**

The completion of the proposed scope of work depends on the full commitment and participation of Customer management and personnel. Customer is required to perform Customer obligations in the Agreement and this SOW without exception. IBM's performance is predicated upon the following responsibilities being managed and fulfilled by Customer. Delays in performance of these responsibilities may result in additional cost and/or delay of the completion of the project and will be handled in accordance with Appendix A-1: Project Change Control Procedure.

**6.1 Customer Project Manager**

Prior to the start of this project, Customer will designate a person called Customer Project Manager who will be the focal point for IBM communications relative to this project and will have the authority to act on behalf of Customer in all matters regarding this project.

- Customer Project Manager's responsibilities include the following:
- Manage Customer personnel and responsibilities for this project;
- Every user enrolled in IBM courses needs to be enrolled to IBM Developer Skills Network private instance platform.
- Serve as the interface between IBM and all Customer departments participating in the project;
- Administer the Project Change Control Procedure with the IBM Project Manager;
- Participate in project status meetings.
- Each user registering on IBM Developer Skills Network private instance should have their real email id.
- Total number of students will not exceed the count mentioned in Page 9 owing to students who have graduated from college, detainee students or students who are not part of academic studies for any other reason.
- Will delete those accounts of students who are not part of academic studies of the college for above reason.
- Will not enrol learners who are not part of academic studies of the college.





- Will ensure that instructors do not enrol learners on their own without prior knowledge of the Admin of the IBM Developer skills network private instance.
- Obtain and provide information, data, and decisions within three business days of IBM's request unless Customer and IBM agree in writing to a different response time.
- Resolve deviations from the estimated schedule, which may be caused by Customer.
- Help resolve project issues and escalate issues within Customer organization, as necessary.
- Review with the IBM Delivery Manager any of Customer invoice or billing requirements. Such requirements that deviate from IBM's standard invoice format or billing procedures may have an effect on price, and will be managed through the Project Change Control Procedure in Appendix A-1.
- Create with IBM's assistance, the project plan for the performance of this SOW which will include the activities, tasks, assignments, milestones and estimates.
- Student and faculty names and email ids in the prescribed format must be provided by the college. There must not be any changes in the students list once provided.
- Minimum requirements to access the courses on private instance requires a user to have decent internet speed over a standard browser with a minimum of 2GB RAM.
- A total of two attempts would be given to any student to clear the exam of a course.
- The Customer agrees not to use the trademarks, trade names, services marks or other proprietary marks of IBM in any advertising, press releases, publicity matters, or other promotional materials without prior written approval of IBM.
- Before publishing or marketing any Customer curriculum that incorporates IBM course content, the Customer agrees to have the naming, design and curriculum reviewed and approved by IBM
- The Customer agrees to provide electronically to IBM a quarterly report listing the number of Course enrolments, completions for all IBM course content and Customer curriculum that incorporates IBM course content.
- The Customer agrees that for every learner enrolled in the Customer's curriculum that incorporates IBM course content, the Customer will ensure that the learner is also enrolled in the corresponding IBM course on the IBM Skills Network Private Instance (i.e. not just on the Customer's LMS)
- The Customer agrees that every learner enrolled in Customer curriculum or program that incorporates IBM content, the Customer will ensure that the learner will create a no-charge IBM Cloud Lite account using the special link provided by IBM
- To provide the list and profile of the participants to IBM for certificate and record purposes and ensure that participants meet the pre-requisites for the course
- To help IBM to co-develop the curriculum of the program as required
- To Provide the required infrastructure and other support as prescribed by IBM to conduct the course
- To assign a single point of contact (SPOC) to co-ordinate with IBM for smooth delivery of courses & to follow Career Education Program guidelines as communicated from time to time
- To confirm the schedule at least 10 days in advance of course commencement
- Customer agrees to obtain any software or other licenses or approvals related to these resources that may be necessary for IBM to perform the Services. IBM will be relieved of its obligations that are adversely affected by Customer's failure to promptly obtain such licenses or approvals.





## 6.2 Customer Other Responsibilities

Customer will:

- a. provide IBM and its personnel with suitable office space, and other accommodations and facilities that IBM may reasonably require to perform the Services, in particular secretarial support, supplies, furniture, computer facilities, telephone/fax communications, high speed internet connectivity and other facilities for IBM personnel while working on this project. The IBM project team will be located in an area adjacent to Customer subject matter experts and technical personnel, and all necessary security badges and clearance will be provided for access to this area. A lockable four or five drawer cabinet will be provided to IBM personnel in accordance with Customer security procedures. Customer will be responsible for ensuring that Customer have appropriate backup, security and virus-checking procedures in place for any computer facilities Customer provide or which may be affected by the Services;
- b. be responsible for providing all necessary (including statutory) security to the IBM personnel working on the Customer's premises. A minimum standard for such security will be what IBM provides its employees working on IBM premises.
- c. supply all prerequisite hardware and software to be used during the performance of this SOW. This does not include any hardware or software normally used by IBM consultants in the performance of their day-to-day responsibilities with IBM;
- d. ensure that Customer staff is available to provide such assistance as IBM reasonably requires and that IBM is given reasonable access to Customer senior management, as well as any members of Customer staff to enable IBM to provide the Services. Customer will ensure that Customer staff has the appropriate skills and experience. If any of Customer staff fails to perform as required, Customer will make suitable additional or alternative staff available;
- e. if making available any facilities, software, hardware or other resources, obtain any licenses or approvals related to these resources that may be necessary for IBM and its subcontractors to perform the Services. IBM will be relieved of its obligations that are adversely affected by Customer failure to promptly obtain such licenses or approvals. Customer agree to reimburse IBM for any costs and other amounts, including costs of litigation, damages, fines, penalties and settlements of any nature, that IBM may incur from Customer's failure to obtain these licenses or approvals;
- f. provide all information and materials reasonably required to enable IBM to provide the Services. Customer agrees that all information disclosed or to be disclosed to IBM is and will be true, complete, accurate and not misleading in any material respect. IBM will not be responsible for any loss, damage, delay, or deficiency arising from inaccurate, incomplete, or otherwise defective information or materials supplied by Customer or Customer representative;
- g. if Customer is employing other suppliers whose work may affect IBM's ability to provide the Services, unless specifically agreed to otherwise in writing, Customer will be responsible for the management of the third parties and the quality of their input and work. Except to the extent IBM specifically agrees otherwise in this SOW, Customer are solely responsible for any third party hardware, software or communications equipment used in connection with the Services;
- h. make final selection of solution and technical architectures;
- i. be responsible for the identification of, interpretation of, and compliance with, any applicable laws, regulations, and statutes that affect Customer existing systems, applications, programs, or data to which IBM will have access during the Services, including applicable data privacy, export, import laws and regulations, and product safety and regulatory compliance for non-IBM products including those recommended by IBM. Customer is solely responsible for obtaining advice of competent legal counsel as to the identification and interpretation of any relevant laws, rules and regulations that may affect Customer business and any actions Customer may need to take to comply with such laws. IBM makes no representations or warranties with respect to product safety or regulatory compliance of non-IBM products;





- j. allow IBM to cite Customer company's name and the general nature of the Services that IBM performed for Customer to IBM's other customers and prospective customers as an indication of IBM's experience, unless both the Customer and IBM specifically agree otherwise in writing;
- k. Customer agrees that IBM may process the business contact information of Customer employees and contractors and information about Customer as a legal entity (contact information) in connection with IBM Products and Services or in furtherance of IBM's business relationship with Customer. This contact information can be stored, disclosed internally and processed by International Business Machines Corporation and its subsidiaries, Business Partners and subcontractors wherever they do business, solely for the purpose described above provided that these companies comply with applicable data privacy laws related to this processing. Where required by applicable law, Customer has notified and obtained the consent of the individuals whose contact information may be stored, disclosed internally and processed and will forward their requests to access, update, correct or delete their contact information to IBM who will then comply with those requests;
- l. Customer is responsible for i) any data and the content of any database Customer make available to IBM in connection with a Service, ii) the selection and implementation of procedures and controls regarding access, security, encryption, use, and transmission of data, and iii) backup and recovery and integrity of the database and any stored data. This security will also include any procedures necessary to safeguard the integrity and security of software and data used in the Services from access by unauthorized personnel. IBM's responsibilities regarding such data or database, including any confidentiality and security obligations, are governed by the terms of this SOW (which prevails over the terms of any separate confidentiality agreements) and are subject to the Limitation of Liability and other terms in this SOW;
- m. if IBM requires access to Customer production systems, provide the required hardware (either an assigned desktop or laptop system) for such access. Any hardware provided for this access will be secured at Customer location when not in use by IBM; and
- n. Any and all intellectual property belonging to IBM used and exchanged pursuant to this SOW shall remain the property of IBM. Nothing in this SOW shall be construed as expressly or impliedly granting the Customer any Intellectual Property right in respect of any items such as, without limitation, drawings and models, inventions, patents, trademarks, software or ideas in relation to such intellectual property.

**7. Deliverable Materials**

IBM will provide Customer with the tangible items listed in Appendix C if any, which will be provided as Type II Materials.

**8. Completion Criteria**

IBM will have fulfilled its obligations under this SOW when any one of the following first occurs:

- a) IBM accomplishes the activities set forth in the "IBM Responsibilities" section and delivers to Customer the Materials listed, if any; or
- b) Customer or IBM terminates the project in accordance with the provisions of this SOW.





9. **Estimated Schedule**

The Services will be provided from a start date and an end date, which to be determined by both parties and currently estimated as follows.

Estimated Subscription start date: 2 Nov 2020

Estimated Subscription End Date: 31 Mar 2021

Customer shall make the payment for the next semester in advance to IBM for continuity of services. IBM reserves the right to suspend the provision of Services if the payment if the order is not loaded on or before the due date as agreed in the MoU.

10. **Charges**

The total charges under this SoW for this service are **INR 25,80,000/- (Rupees Twenty Five Lakhs & Eighty Thousand Only)** plus applicable taxes.

No of Participants	Course Code #	Course Name / Description	No. of Hours	Total (INR)
40	JTMUBESEM3	IBM CE - TMU - 2019 Batch Btech Sem3	32	6,60,000
40	JTMUBESEM5	IBM CE - TMU - 2018 Batch Btech Sem5	32	9,20,000
40	JTMUBESEM7	IBM CE - TMU - 2017 Batch Btech Sem7	32	10,00,000

11. **Schedule**

The training for the courses agreed will be conducted based on the dates finalized mutually.

12. **Payment**

- The prices shall be exclusive of all applicable taxes, duties and levies and shall be charged as per actuals.
- 100% Payment in Advance

Customer shall make the payment in advance based on Proforma Invoice submitted by IBM as per the payment schedule plus applicable taxes and services/provision to course will be provided only on receipt of payment as per the payment schedule. Payment is due in advance upon receipt of proforma invoice. Payment may be made electronically to an account specified by IBM or by other means agreed to by the parties. IBM reserves the right to suspend the provision of Services if the payment on Proforma Invoice is not made as per the below payment schedule.

Prices and charges are exclusive of applicable taxes like Goods and Services Tax or any other similar taxes and cesses. Customer shall bear all taxes viz., Goods and Services Tax applicable on the supply of goods (or services) in terms of this Agreement. IBM shall state the applicable taxes in its tax invoice and pay all taxes collected from Customer to the appropriate tax authority. IBM shall be solely responsible for charging appropriate Indirect Taxes and timely depositing the same with the relevant authorities to the extent IBM is statutorily liable.

IBM shall be solely responsible for: a) Issuing and making available to Customer all requisite documents in the manner prescribed under the GST Laws including but not limited to invoices, advance receipt vouchers, credit notes, debit notes, e- way bills, which are in compliant with the relevant provisions of GST laws.





Customer shall separately state the invoicing location and beneficiary location for any supply of goods/services provided under this Statement of Work (SOW) or any other document issued pursuant to the terms of this Agreement.

IBM shall ensure that the information it submits to the GSTN portal matches with the information contained in the tax invoices issued to the Customer. Customer acknowledges and agrees that the tax invoices issued by IBM contains information and data which was mutually accepted and agreed by the Customer and IBM, after approvals and confirmations from the respective personnel belonging to the Customer and IBM.

In the event of any mismatch of the details of the outward supplies uploaded by IBM and auto-populated as inward supplies for the Customer on the GSTN portal, the details of such mismatch shall be made available to both the Customer and IBM electronically by the GSTN portal on or before the last date of the month in which the matching has been carried out by the GSTN portal. IBM shall make suitable rectifications in the respective tax invoices identified by the Customer and upload the same as part of the statement of outward supplies to be furnished for the month in which the discrepancy is made available to IBM by the GSTN portal. To facilitate this rectification, Customer shall promptly provide the necessary information and data to enable IBM to promptly rectify and upload the rectified information as part of its outward supplies for that month. Customer shall promptly accept such rectified details and make suitable rectifications in the statement of inward supplies to be furnished for the month in which the discrepancy was communicated by the GSTN portal.

Notwithstanding the above, if there is any mismatch of input tax credit resulting in consequences for both the Customer and IBM, both the parties shall adhere to the remedial provisions of section 42 of CGST Act, 2017 read with Rule 71 of CGST Rules, 2017. Any consequential costs and expenses impacting both the parties and treatment of the financial impact thereof, shall be mutually agreed to be resolved in good faith.

If Customer is required to withhold tax from its payments to IBM in accordance with effective legislation, Customer may withhold income tax and/or other taxes from amounts due to IBM. In this case, Customer shall provide IBM the relevant certificate of withholding as per the Income Tax Laws of India. IBM is required to quote the PAN number on each Invoice along with copy of PAN card. Non-submission of PAN number can lead to higher deduction of Withholding Tax Rate/rejection of Invoice for which Customer shall not held responsible and shall not be in any manner liable to repay to IBM. If IBM does not provide the PAN Number and due to which additional tax liability arises then such incremental tax liability shall be to IBM's account and shall be deducted from the payments due to the SUPPLIER. [ IBM confirms that any wrong/excess deduction of tax on account of non-compliance with relevant laws/Income Tax Act, 1961, shall be on account of IBM.]

Customer shall ensure that the Permanent Account Number ("PAN") of IBM is quoted rightly in quarterly TDS returns or any other document where the PAN of IBM is required to be mentioned.

Furthermore, in the event of credit not being provided to IBM in respect of such TDS on account of the Customer not mentioning the correct PAN of IBM, the Customer shall file revised quarterly TDS returns so as to facilitate credit of such TDS to IBM and in the eventuality of credit not being provided to IBM in respect of such TDS on account of default/ non-compliance by the Customer, the Customer shall compensate IBM to the extent to which credit is not provided to IBM.

If Customer requires a Purchase Order (PO) for payment purposes, the Services under this SOW will not be provided until a PO or a PO waiver for the charges specified in the Charges section, including travel and living expenses, is received. A PO waiver may be sent in hard copy or e-mail, but must come from an authorized officer or Customer purchasing agent. Any different or added terms contained in any PO or other ordering documents that might be exchanged in relation to activities under this SOW will not be applicable or of any effect. At its sole discretion, IBM may elect to begin





delivery of Services after SOW signing, but prior to receipt of PO or PO waiver, on a limited, case-by-case basis.

### **13. Additional Terms and Conditions**

#### **13.1 Termination**

Either party may not terminate this SOW for convenience. However, either Party may terminate this SOW for cause in the event the breaching Party is unable to cure the breach within 30 days of written notice by the non-breaching Party. It is clarified that nonpayment of charges shall be considered as a breach under this SOW.

#### **13.2 Each party will comply with all applicable export and import laws, regulations, and associated embargo and sanction regulations, including prohibitions on export for certain end uses or to certain end users. Data Processing Protection**

IBM's Data Processing Addendum (DPA) at <http://ibm.com/dpa> and the attached DPA Exhibit apply and supplement the Agreement, if and to the extent the European General Data Protection Regulation (EU/2016/679) (GDPR) applies to Processing of Personal Data provided by the Customer.

#### **13.3 COVID Clause**

The parties acknowledge and agree that COVID-19 is an event beyond the parties' reasonable control, and it is not possible to foresee (or advisable to try and foresee) its duration, impact or extent (including measures and recommendations that may be put in place by regulators). As such, where a party's non-monetary obligations are not performed, affected, and/or delayed and that is attributable to COVID-19 or its related impacts, notwithstanding any other provision in the agreement, the affected party will not be responsible for such non-performance, affected performance or delay. The parties will act responsibly to discuss the affected obligations, potential work-arounds and related issues in good faith and will document any agreed changes to the agreement

#### **13.4 Other Terms and Conditions**

Purchase Order should be in favour of "IBM India Pvt. Ltd." and to be released 30 days prior to commencement of the program. Any Purchase Order issued under this SOW shall be for administrative purposes only and any additional or conflicting terms in the same shall be void.

Any change in the pace or content of the course will be effected subject to authorization by Customer and the approval of IBM.

#### **13.5 Offer Expiration Date**

This offer will expire on 31 Oct 2020 unless extended by IBM in writing.

This SOW and its Appendices identified below, are the complete agreement regarding Services, and replace any prior oral or written communications, representations, undertakings, warranties, promises, covenants, and commitments between Customer and IBM regarding the Services. In entering into this SOW, neither party is relying upon any representation that is not specified in this SOW. Additional or different terms in any written communication from Customer (such as a purchase order) are void. Each party agrees that no modifications have been made to this SOW.

Each party accepts the terms of this SOW by signing this SOW (or another document that incorporates it by reference) by hand or, where recognized by law, electronically. Once signed, please return a copy of this document to the IBM address shown below. Any reproduction of this SOW made by reliable means (for example, electronic image, photocopy, or facsimile) is considered an original and all Services ordered under this SOW are subject to it.

