



Part 1- General Terms

This Agreement for Courses and Education Materials applies to 1) enrollment and attendance at a class room Course offered by IBM India Private Limited ("IBM"), 2) ordering and use of a self study Course provided via media such as CD-ROM and online, 3) the provision and use of an Education Material as part of a Course or independently, and 4) the provision of other education or training services by IBM, collectively the Services. Occasionally, offerings have additional or different terms (Other Terms). If so, IBM will provide those Other Terms to you. For example, conference terms and conditions are outlined in the conference brochure available for each event.

This Agreement for Courses and Education Materials, Other Terms (if any), any applicable license agreement and an enrolment confirmation letter are the complete agreement between us regarding the Services that IBM provides (the Agreement) and replace any prior oral or written communications between us.

You accept this Agreement for Courses and Education Materials by ordering or receiving a Service, including ordering a Course and or Education Material, attending a class, or using any IBM provided Education Material including accessing a Course online.

Course means an education service available from IBM. A course may be provided by instructors presenting Education Material in a class room (a class) and or by self study of Education Material on a CD-ROM, online via a website or via any other media.

Education Materials are literary works or other works of authorship including documentation, manuals, machine-readable instructions, components, data, audio-visual content (such as images, text, recordings, or pictures), and related licensed materials. Education Material is owned by International Business Machines Corporation or one of its subsidiaries or an IBM supplier, and is copyrighted and licensed, not sold. All whole or partial copies of Education Material shall be subject to the same terms as the original copy.

1.0 Courses and Education Material

Generally available (public) Courses and Education Materials are listed in various IBM Catalogs of Education (Catalog) which IBM publishes from time to time or makes available on IBM Education Services websites. IBM may add or withdraw Courses and Education Materials at any time without notice.

A private or one company Course is a Course provided by IBM to a single customer. For private Courses, IBM will agree with you in writing the dates, premises, and the number of students. It is your responsibility to secure at all times the storage of all IBM hardware and software whilst on your premises.

2.0 Scheduling of Classes

IBM specifies the dates of public classes. Private classes will be scheduled by mutual agreement. IBM may cancel or defer any scheduled class upon 3 days' notice. If IBM cancels a class for which you have prepaid, IBM will refund the price you paid to IBM. If you acquired the class via an IBM Business Partner then the Business Partner will refund the price you paid to it. IBM will not be responsible for any loss incurred by you, e.g. travel expenses, as a result of IBM's cancellation or deferral of a class.

3.0 Prerequisites and Assessments

IBM provides Course descriptions, which include course objectives and student prerequisites. It is the responsibility of the student who attends the IBM Course to ensure that he/she meets the stated prerequisites. IBM provides no written assessment of student performance on a Course and assumes no responsibility for any student performance after Course attendance.

4.0 Proof of Entitlement

An enrolment confirmation letter received from IBM is evidence of your Proof of Entitlement to a Course, your authorization to use IBM provided Education Material and of your eligibility for warranty services on Education Materials. For online Courses, the enrolment confirmation letter specifies any necessary user-ids and passwords and defines applicable period during which you are authorized to access the Course (period of activation).

REGISTRAR
University of Engineering & Management
Jaipur (Raj.)



5.0 Prices, Taxes and Payment

The IBM prices listed in the Catalog are subject to change. Any price increase will be announced at least three (3) months before its effective date.

Prices for self study courses will be those in effect on the date IBM receives your order. Prices include delivery and licensing of the Education Material. You are responsible for all costs related to accessing the Education Material either on your own machines or via connections to IBM's websites.

Prices for public classes will be those in effect on the date the class begins. Prices include the use of required Education Materials and machines at an IBM arranged location.

Prices for private classes will be established based on your requirements. Additional charges may apply, such as instructor travel, accommodation and living expenses, facilities, and remote laboratory support.

Prices do not include taxes nor student travel, accommodation and living expenses.

Payment

If you acquired the Service directly from IBM then amounts are due upon receipt of an IBM invoice and payable as IBM specifies in an enrolment confirmation letter or in the invoice. You agree to pay accordingly, including any late payment fee. IBM reserves the right to require payment in advance of a Course or any other Service.

If you acquired the Service from an IBM Business Partner then amounts due will be payable to, and in accordance with the agreement with, your IBM Business Partner.

If any authority imposes a duty, tax, levy, or fee, excluding those based on IBM's net income, upon any transaction under this Agreement then you agree to pay that amount as specified in an invoice or supply exemption documentation.

Taxes

Rates, charges or fees specified in this Agreement are exclusive of all taxes. If any authority imposes upon any transaction under this Agreement, a duty, tax, levy or fee, excluding those based on IBM's net income, then You agree to pay that amount as specified in an invoice. IBM shall pay all collected taxes to the appropriate taxing authority. If You supply the exemption documentation, acceptable to the taxing authorities, then IBM shall not charge the aforementioned duty, tax, levy or fee. If the taxing authorities subsequently opine that IBM should have charged such duties, taxes, levies or fees, You shall pay the same (including any interests, levies and penalties) as required by the taxing authorities. Except as provided above, the party that is liable for payment of any tax upon which interest and penalties are imposed, shall bear such interest and penalties.

You are responsible for any personal property taxes for each product from the date IBM ships it to You. Additional taxes and tax related charges may apply if IBM personnel are required to perform services outside their normal tax jurisdiction. As practical, IBM will work to mitigate such additional tax and tax related charges and will inform You in advance if these additional charges apply and are payable by You.

You shall deduct applicable taxes under the provisions of the Income Tax Act, 1961 ("the Act") in respect of the payments due to IBM and remit such Taxes Deducted at Source ("TDS") to the credit of the Government Account, file quarterly TDS returns under the provisions of the Act or such other law in force, furnish TDS certificates and comply with any other requirement connected thereto as required under the provisions of the Act. Further, You shall ensure that the Permanent Account Number ("PAN") of IBM is quoted rightly in such 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 You not mentioning the correct PAN of IBM, You 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 You, You shall compensate IBM to the extent to which credit is not provided to IBM.

6.0 Cancellation by You

You cannot cancel self study Courses once IBM has sent you confirmation of enrolment.

You may cancel or postpone a private class or your enrolment in a public class not less than 10 full working days prior to the scheduled start date of the class by notifying IBM in writing or by e-mail. If you fail to cancel or postpone



prior to this notification period, or the student fails to attend or withdraws from the Course, you will be responsible for the full price of the class and any associated additional costs incurred by IBM.

You may send a substitute from the same company for a student who has a confirmed enrolment on a class provided they meet the prerequisites for the Course.

IBM may charge actual costs incurred, including travel and living expenses, if you cancel a private class less than four weeks before its scheduled start date.

7.0 License

IBM grants the student a nonexclusive non-transferable license to use the provided Education Material.

The student may make one printed copy of the Education Material for his own use to support the level of use authorized, providing the copyright notice and any other legends of ownership are reproduced on each copy of the Education Material.

The student, and you, may not 1) use, copy, modify, create derivative works or distribute the Education Material except as provided herein; 2) reverse assemble, reverse compile, or otherwise translate the Education Material except as specifically permitted by law without the possibility of contractual waiver, or 3) sublicense, rent, or lease the Education Material.

License agreements provided with Education Material, or separately notified by IBM, will take precedence over the license terms in this section 7.0. [additional paragraphs to be included]

8.0 Warranty

IBM warrants that it performs Service using reasonable care and skill.

If IBM Education Material does not function as warranted during its warranty period and IBM is unable to either 1) make it do so, or 2) replace it with one that is at least functionally equivalent, then you may return it to IBM and your money will be refunded by the party who you paid. The warranty period for Education Material expires upon completion of the Course or upon expiry of the period of activation or 30 days after receipt of the Education Material if no period of activation is defined.

The warranties stated above will not apply to the extent that there has been misuse, accident, modification, unsuitable physical or operating environment, operation in other than the specified operating environment, improper maintenance by you, or failure caused by a product for which IBM is not responsible.

THESE WARRANTIES ARE YOUR EXCLUSIVE WARRANTIES AND REPLACE ALL OTHER EXPRESS WARRANTIES OR CONDITIONS EXCEPT AS EXPRESSLY REQUIRED BY LAW WITHOUT THE POSSIBILITY OF CONTRACTUAL WAIVER OR LIMITATION. IBM DISCLAIMS ALL IMPLIED WARRANTIES OR CONDITIONS, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OR CONDITIONS OF SATISFACTORY QUALITY, NONINFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

IBM does not warrant uninterrupted or error-free operation of Services, Courses or Education Material or that IBM will correct all defects.

Unless IBM specifies otherwise, and to the maximum extent permissible under applicable law, IBM provides non-IBM Education Materials and and non-IBM Services **WITHOUT WARRANTIES OF ANY KIND**.

You are responsible for the results obtained from the use of any Service, Course or Education Material.

9.0 Patents and Copyrights

If a third party claims that the Service, Course or Education Material IBM provides to you infringe that party's patent or copyright, IBM will defend you against that claim at its expense and pay all costs, damages, and attorney's fees that a court finally awards or that are included in a settlement approved by IBM, provided that you;

1. promptly notify IBM in writing of the claim; and
2. allow IBM to control, and cooperate with IBM in, the defense and any related settlement negotiations.

If such a claim is made or appears likely to be made, you agree to permit IBM to enable you to continue to use the Education Materials, or to modify or replace them. If IBM determines that none of these alternatives is reasonably available, you agree to return the Education Materials to IBM on IBM's written request. IBM will then give you an appropriate credit for the returned materials.



This is IBM's entire obligation to you regarding any claim of infringement.
IBM has no obligation regarding any claim based on your modification of Education Materials.

10.0 Limitation of Liability

Circumstances may arise where, because of a default on IBM's part or other liability, you are entitled to recover damages from IBM. In each such instance, regardless of the basis on which you are entitled to claim damages from IBM (including fundamental breach, negligence, misrepresentation, or other contract or tort claim), except as expressly required by law without the possibility of contractual waiver or limitation, IBM is liable for no more than:

- a. payments referred to in the Patents and Copyrights section above;
- b. liability for bodily injury (including death) and damage to real property and tangible personal property limited to that caused by IBM's negligence; and
- c. as to any other actual damage arising in any situation involving nonperformance by IBM pursuant to, or in any way related to, the subject of this Agreement, the charge paid by you for the individual Course or Education Material that is the subject of the claim.

This limit also applies to any of IBM's subcontractors, suppliers, resellers and program developers. It is the maximum for which IBM and its subcontractors, suppliers, resellers and program developers are collectively responsible.

Items for Which We are Not Liable

Except as expressly required by law without the possibility of contractual waiver or limitation, under no circumstances is IBM, its subcontractors, suppliers, resellers or program developers liable for any of the following even if informed of their possibility:

- a. loss of, or damage to, data;
- b. special, incidental, or indirect damages or for any economic consequential damages; or
- c. lost profits, business, revenue, goodwill, or anticipated savings.

11.0 Changes to this Agreement

IBM may modify these terms on written notice. The modified terms will apply to your enrollment or order unless you cancel such enrollment or order prior to the effective date of the modified terms. Otherwise, for a change to be valid, both of us must sign it. Additional or different terms in any order or communication from you are void.

12.0 IBM Business Partners

IBM has signed agreements with certain organizations (called "IBM Business Partners") to promote, market, and support certain products and services. When you order IBM Services (marketed to you by IBM Business Partners) under this Agreement, IBM confirms that it is responsible for providing the Services to you under the warranties and other terms of this Agreement. IBM is not responsible for 1) the actions of IBM Business Partners, 2) any additional obligations they have to you, or 3) any products or services that they supply to you under their agreements.

13.0 Compliance with Laws

IBM will comply with laws applicable to IBM generally as a provider of information technology Products and Services. IBM is not responsible for determining the requirements of laws applicable to your business, including those relating to Products and Services that you acquire under this Agreement, or that IBM's provision of or your receipt of particular Products or Services under this Agreement meets the requirements of such laws. Notwithstanding anything in this Agreement to the contrary, neither party is obligated to take any action that would violate law applicable to that party.

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.

14.0 Governing Law

Both you and IBM consent to the application of the laws of India to govern, interpret, and enforce all of your and IBM's rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

Nothing in this Agreement affects any statutory rights of consumers that cannot be waived or limited by contract.



If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement remain in full force and effect.

15.0 Jurisdiction

All of your rights and all IBM's obligations are valid only in India.

16.0 Dispute Resolution

Each party will allow the other reasonable opportunity to comply before it claims that the other has not met its obligations under this Agreement. The parties will attempt in good faith to resolve all disputes, disagreements, or claims between the parties relating to this Agreement. Unless otherwise required by applicable law without the possibility of contractual waiver or limitation, i) neither party will bring a legal action, regardless of form, arising out of or related to this Agreement or any transaction under it more than three years after the cause of action arose; and ii) after such time limit, any legal action arising out of this Agreement or any transaction under it and all respective rights related to any such action lapse.

Disputes arising out of or in connection with this Agreement shall be finally settled by arbitration which shall be held in Bangalore, India in accordance with the laws of India then in effect. The arbitration award shall be final and binding for the parties without appeal and shall be in writing and set forth the findings of fact and the conclusions of law.

The number of arbitrators shall be three, with each side to the dispute being entitled to appoint one arbitrator. The two arbitrators appointed by the parties shall appoint a third arbitrator who shall act as chairman of the proceedings. Vacancies in the post of chairman shall be filled by the president of the Bar Council of India. Other vacancies shall be filled by the respective nominating party. Proceedings shall continue from the stage they were at when the vacancy occurred.

If one of the parties refuses or otherwise fails to appoint an arbitrator within 30 days of the date the other party appoints its, the first appointed arbitrator shall be the sole arbitrator, provided that the arbitrator was validly and properly appointed.

All proceedings shall be conducted, including all documents presented in such proceedings, in the English language. The English language version of this Agreement prevails over any other language version.

17.0 General

- a. You agree not to copy IBM copyrighted material without IBM's prior written consent.
- b. You agree not to use recording equipment in IBM classes without IBM's prior written consent.
- c. You agree not to use IBM trademarks, trade names, or other designations in any promotion or publication without IBM's prior written consent.
- d. The exchange of any confidential information will be made under a separate, signed confidentiality agreement. However, to the extent confidential information is exchanged in connection with any Product or Service under this Agreement, the applicable confidentiality agreement is incorporated into, and subject to, this Agreement.
- e. You agree not to assign, or otherwise transfer your rights under this Agreement without IBM's prior written consent. Any attempt to do so is void. IBM is permitted to assign its rights to payments under this Agreement without obtaining your consent. It is not considered an assignment for IBM to divest a portion of its business in a manner that similarly affects all of its customers.
- f. Neither of us is responsible for failure to fulfill any obligations due to causes beyond its control.
- g. If no suit or other legal action is brought, within three years after the cause of action arose, in respect of any claim that either of us may have against the other, the rights of the concerned party in respect of such claim will be forfeited and the other party will stand released from its obligations in respect of such claim.
- h. You agree that this Agreement will not create any right or cause of action for any third party, nor will IBM be responsible for any third party claims against you except as described in the Patents and Copyrights section above or as permitted by the Limitation of Liability section above for bodily injury (including death) or damage to real or tangible personal property for which IBM is legally liable to that third party.
- i. Any terms of this Agreement, which by their nature extend beyond its termination, remain in effect until fulfilled, and apply to respective successors and assignees.
- j. Services, Courses and Education Material will be delivered in India.
- k. You agree to allow International Business Machines Corporation and its subsidiaries to store and use your business contact information, including names, business phone numbers, and business e-mail addresses, anywhere they do business. Such information will be processed and used in connection with our business



relationship, and may be provided to contractors acting on IBM's behalf, Business Partners who promote, market, and support certain IBM products and services, and assignees of International Business Machines Corporation and its subsidiaries for uses consistent with our business relationship.

By signing below for our respective Enterprises, both of us agree to the terms of this Agreement without modification. Once signed, 1) any reproduction of this Agreement, Other Terms (if any), any applicable license agreement and an enrolment confirmation letter made by reliable means (for example, photocopy or facsimile) is considered an original and 2) all Education Materials and Courses ordered under this Agreement are subject to it.

You accept this Agreement for Courses and Education Materials by signing it, ordering or receiving a Service, including ordering a Course and or Education Material, attending a class, or using any IBM provided Education Material including accessing a Course online.

Agreed to:

Customer Company name:

REGISTRAR

University of Engineering & Management

By

Authorized signature

Agreed to:

IBM India Private Limited

By

Authorized signature

Name (type or print): PROF(DR) PRADEEP K. SHARMA

Name (type or print):

Date: 26/05/2022

Date:

Customer Identification number:

Agreement number:

Customer address: GURUKUL, SIKAR ROAD,
UDAIपुरIA MOD, JAIPUR,
RAJASTHAN.

IBM address:
No. 12, Subramanya Arcade, Bannerghatta Main Road,
Bangalore 560029

After signing, please return a copy of this Agreement to the "IBM address" shown above.