

HDI CERTIFIED INSTRUCTOR AGREEMENT

This HDI Certified Instructor Agreement (the “Agreement”) is entered into to be effective the date of acceptance (the “Effective Date”) between HDI (“HDI”) a part of UBM Tech, a division of UBM LLC, a Delaware limited liability company with an address at 121 South Tejon Street, Suite 1100, Colorado Springs, Colorado 80903, USA, (“UBM”) and the certified instructor named in this submission (“HDI-CI”).

1. Click-Through Agreement. BY CLICKING ON THE "YES" BUTTON, HDI-CI CONSTITUTES ITS ACCEPTANCE OF THE AGREEMENT AND ALL TERMS, OBLIGATIONS, REPRESENTATIONS, WARRANTIES AND AGREEMENTS CONTAINED HEREIN. IF HDI-CI IS NOT WILLING TO ACCEPT THE AGREEMENT, OR IF THE INDIVIDUAL REVIEWING THE AGREEMENT DOES NOT HAVE THE AUTHORITY TO ACCEPT THE AGREEMENT, DO NOT CLICK ON THE “YES” BUTTON. NOTE THAT ONLY HDI CERTIFIED INSTRUCTORS ARE PERMITTED TO DELIVER HDI CERTIFICATION COURSES. AN HDI-CI MUST PASS THE CERTIFICATION EXAMINATION AT THE MASTERY LEVEL FOR EACH COURSE THEY DESIRE TO TEACH. FOR MORE INFORMATION ON HOW TO QUALIFY TO BECOME AN HDI-CI PLEASE GO TO [<http://www.thinkhdi.com/certification/certified-instructors.aspx>]

2. Definitions.

“HDI-CI” is an individual who has met all the requirements for individuals who teach the Courses, as those requirements are set by UBM.

“Class” or “Classes” means a session or sessions of an HDI-CI led course.

“Courses” means a training offering from HDI for which the HDI-CI desires to deliver a Class.

“Courseware” means published material for students and processes used for teaching the Courses or Classes.

“HDI Website” means the copy and graphics on the pages accessed through the website located at www.thinkhdi.com.

“Marks” means the registered and unregistered trademarks and service marks shown on **Exhibit A**, which UBM uses in connection with the Courses/Classes and training partner programs.

3. Grant of Rights and Rights Retained.

a. **Grant of Rights.** UBM hereby grants to HDI-CI the non-exclusive, non-transferable, limited right and license to teach the Classes of the courses that the HDI-CI has been authorized to deliver. (collectively, the “Granted Rights”).

b. **Grant of Rights to Marks.** UBM grants to HDI-CI the non-exclusive, non-transferable, limited right and license to use the Marks, exclusive as to and solely in connection with HDI-CI’s instruction of the courses. HDI-CI agrees that it will not use the Marks in any of the following ways: as part of the domain name for its website; or as part of its company name or trade name. At no time, during or after the term of this Agreement, will HDI-CI challenge or assist others to challenge UBM’s ownership or exclusive rights to the Marks or attempt to register any of the Marks or any other trademarks, service marks or trade names that are similar to the Marks. HDI-CI agrees that all uses of the Marks will include

the correct designation as either ® or TM or SM and any other guidelines relating to the Marks that UBM adopts and notifies HDI-CI about.

c. ***Rights Retained/Limited Right of Delivery.*** UBM expressly reserves all rights other than those being conveyed or granted in this Agreement. If HDI-CI entered into this Agreement on behalf of a client of HDI, the HDI may only teach Classes for the employees and contractors of such client. HDI-CI may not teach the Classes or use the Courseware for its commercial benefit which includes publicly held classes, other HDI clients or HDI partners.

d. ***Ownership.*** Notwithstanding anything contained herein to the contrary, HDI-CI acknowledges and agrees that UBM is, and shall remain, the sole and exclusive owner of the Marks, the Classes and the Courseware.

4. Ownership of Intellectual Property.

a. The Courses, the Courseware, and the trademarks and service marks used to promote and market the Courses and Courseware, together with the trademarks and service marks associated with the certifications awarded to third parties who have successfully completed the Courses are and will remain the sole and exclusive property of HDI. Except for the limited license granted to HDI-CI, HDI-CI will not acquire any right, title or interest in or to any of the HDI intellectual property discussed in this Section.

b. The HDI-CI may not make any material changes to the Courses, the Courseware or any other materials associated with Courses or the delivery of the Courses (“Material Changes”) without the prior written consent of an officer of HDI. In the event that the HDI-CI does make any Style Changes, then: (i) the HDI-CI warrants that all Style Changes were the result of his/her own efforts and are not the property of or subject to the rights of any third party; and (ii) HDI-CI has the legal ability to vest right, title, and interest in the Material Changes and/or Style Changes in HDI; and (iii) HDI-CI agrees to advise HDI of any Material Changes and/or Style Changes in writing. Instructors may augment the class as necessary to support a learning objective of the attendees. Any augmentation cannot violate copyright restrictions and should be submitted to HDI for consideration as inclusion in future courseware. HDI will have the unrestricted right to work shared with HDI by a HDI-CI. In the event that HDI-CI provides services as subject matter experts, then all of the original works of authorship, developments, concepts, improvements, or ideas conceived or developed by HDI-CI in connection with those services will be the sole and exclusive property of HDI. HDI-CI has the legal ability to vest right, title, and interest in the subject matter expert contributions in HDI.

c. UBM will defend, indemnify, and hold HDI-CI harmless from and against any and all claims, losses, actions, demands or damages (including reasonable attorney’s fees, court costs and costs of other professionals), arising out of or relating to: (i) HDI’s breach of its representations and warranties in this Agreement; (ii) a claim that the unmodified Courses, Courseware, documentation, or training infringes any patent or copyright, misappropriates any trade secret of any third party or violates any intellectual property rights of any third party.

d. HDI-CI will defend, indemnify, and hold HDI harmless from and against any and all claims, losses, actions, demands or damages (including reasonable attorney’s fees, court costs and costs of other professionals), arising out of or relating to: (i) HDI-CI’s breach of its representations and warranties in this Agreement; (ii) a claim that any Material Changes and/or Style Changes or subject matter contribution infringes any patent or copyright, misappropriates any trade secret of any third party or violates any intellectual property rights of any third party.

5. ***Representations of HDI-CI. HDI-CI represents and warrants as follows:***

(a) ***Duties and Responsibilities.***

- (i) HDI-CI will assure that all class participants are provided with new and current Courseware at the start of each Course or Class;
- (ii) HDI-CI shall teach each Course and Class to the best of his or her ability and behave appropriately and professionally at all Classes and venues;
- (iii) HDI shall not make any material changes or additions to the Courseware or the presentation slides without the written consent of UBM, and use the related instructor handbook and presentation slides to ensure the philosophy and delivery of the material remains consistent and intact. A HDI-CI may make minor stylistic changes to the presentation to match his or her style of delivery and to enhance the students' understanding of the content;
- (iv) HDI-CI shall represent him/herself as an employee of their company, which is client or partner of HDI, and not make any statements that would lead a student to believe that either company or the HDI-CI was an employee, agent, or other person with legal authority to bind UBM; and
- (v) To promote HDI courses and other products and services appropriately and will not promote the company's own or his or her own business or products in the context of teaching a class.

(b) ***Compliance with Laws.*** HDI-CI represents, warrants and covenants to UBM that it will comply with all applicable laws, standards, codes and regulations in connection with HDI-CI's performance under, or compliance with this Agreement.

(c) ***HDI-CI's Indemnity.*** HDI-CI agrees to defend, indemnify and hold harmless UBM and its parent(s), subsidiaries, and affiliates and each of their respective members, managers, shareholders, directors, officers, employees, and agents from and against any and all claims, losses, liabilities, damages, awards, fines, judgments, penalties and/or costs and expenses of any kind, including, without limitation, reasonable attorneys' fees and court costs, arising out of, resulting from, or caused by (i) HDI-CI's activities in connection with this Agreement; and/or (ii) HDI-CI's breach or other violation of the terms, obligations, representations and/or agreements contained herein.

6. ***Responsibilities of HDI-I. HDI-CI agrees as follows:***

- (a) Promptly after the conclusion of each Class, HDI-CI shall provide the following to HDI:
 - (i) A completed roster for the Class, unless restricted by the client or partner sponsoring the class;
 - (ii) Completed student evaluation forms; and
 - (iii) Completed the Instructor Feedback Survey.

(b) HDI-CI will ensure that secure portions of the Certified Instructor Resources are kept Confidential and HDI-CI will not distribute instructor materials to anyone not authorized as a HDI-CI.

(c) HDI-CI shall ensure that he/she is updated on all changes to the Courses and the Courseware and will take whatever steps are needed to attend live and teleconference training events as needed.

(d) HDI-CI shall take the steps necessary to continue to meet the requirements of being a HDI-CI

(e) HDI-CI shall promptly notify HDI of any changes to their contact information

(f) HDI-CI shall notify HDI of employment changes that could impact their status as a HDI-CI

(g) HDI-CI shall abide by the privacy policy and not to distribute the course roster or participants contact information beyond HDI and the client or partner sponsoring the Class.

(h) HDI-CI shall make sure that is familiar with and abides by the Certified Instructor Document of Understanding.

(i) HDI-CI shall deliver classes for only those courses for which the HDI-CI has met the prerequisites, and has been granted authorization by HDI.

7. Term and Termination. This Agreement shall be for a term of one year and is effective as of the date of receipt of payment by UBM of the annual HDI-CI fee (the "Effective Date"). Either party may terminate this Agreement for any reason or no reason with 30 days written notice to the other party and UBM may terminate this Agreement immediately upon a breach of any of the material terms of this Agreement by HDI-CI. Upon termination, all licenses granted from one party to the other will cease immediately. On termination, HDI-CI will immediately cease using the Marks and Courseware and shall and cease holding themselves out as an HDI-CI.

78. Disclaimer. UBM hereby disclaims all warranties, express or implied with respect to the Courseware and any and all other materials, records and/or information provided or supplied or to be provided or supplied by UBM hereunder, except as specifically set forth herein, including but not limited to the implied warranties of merchantability, fitness for a particular purpose and any implied warranties arising out of a course of performance, dealing or trade usage.

89. Limitations of Liability. Consequential Damages. Neither UBM or its affiliates shall be liable or responsible to HDI-CI for, and HDI-CI hereby waives and releases UBM and its affiliates from any claim for, any indirect, incidental, special, punitive, or consequential damages (including, without limitation, lost profits, lost business, lost revenues, and any cost of replacement services), regardless of whether such party is informed of the possibility the same may exist. The total aggregate liability of UBM and its affiliates shall be limited to the amount of money which was collected as part of the Course for the claim at issue.

10. Confidential Information.

a. In the course of performing this Agreement, UBM and HDI-CI may make available to the other sensitive business information, including, without limitation, business, financial, and/or accounting plans, records and/or information; customer records and/or information, including, without limitation, customer lists; any materials, records and/or information concerning any patents, copyrights, trademarks, service marks, trade secrets, proprietary rights, and/or any other intellectual property, whether now existing or subsequently developed; the terms of the Agreement; and/or any non-public materials, records, and/or information on any products and/or services (“Confidential Information”).

b. Each party agrees that, except as authorized in writing by the other party, each will: (i) preserve and protect the confidentiality of all Confidential Information; (ii) not disclose to any third party the existence, source, content or substance of the Confidential Information or make copies of Confidential Information; (iii) not deliver Confidential Information to any third party, or permit the Confidential Information to be removed from its business premises; (iv) not use Confidential Information in any way other than to fulfill its obligations under this Agreement; (v) not disclose, use or copy any third party information or materials received in confidence for purposes of work performed under this Agreement; and (vi) require each of its employees who works on or has access to the Confidential Information to sign a suitable confidentiality agreement and be advised of the confidentiality and other applicable provisions of this Agreement.

c. Information will not be considered to be Confidential Information if either party can demonstrate that such information (i) is already or otherwise becomes publicly known through no act of such party; (ii) is lawfully received from third parties subject to no restriction of confidentiality; (iii) can be shown to have been independently developed by such party without use of the Confidential Information; or (iv) is authorized in writing by the owner to be disclosed, copied or used.

d. The parties acknowledge and agree that the receiving party is not granted and shall not receive any right, title, and interest in and/or to any of the disclosing party’s Confidential Information and no such right, title or interest shall be inferred or implied.

e. Upon termination or expiration of this Agreement, and upon request from the disclosing party, the receiving party shall (i) return all of the disclosing party’s Confidential Information, including but not limited to originals, copies and/or derivative works created there from, in hardcopy form or format, and/or (ii) delete and erase all of the disclosing party’s Confidential Information, including but not limited to all originals, copies and/or derivative works created there from, in electronic or any other non-hardcopy form, format or media. The receiving party shall cause a duly authorized officer to certify in writing to the disclosing party that all of the disclosing party’s Confidential Information has been returned and/or deleted and destroyed, as the case may be, and no copies retained. Notwithstanding anything contained herein to the contrary, the disclosing party acknowledges and agrees that the receiving party will use commercially reasonable efforts to delete and erase the disclosing party’s Confidential Information contained within, or located in, electronic back-up, archival or other similar types of data storage devices or systems; provided, however, that in the event such deletion and erasure is not possible, all such Confidential Information of the disclosing party shall be kept and maintained as Confidential Information in accordance with this Section 6.

f. The parties acknowledge and agree that in the event of a breach or an anticipated breach of this Section, the non-breaching party will suffer irreparable injury and damage, without an adequate remedy at law. Accordingly, the parties agree that in the event of a breach or an anticipated breach of this Section, the non-breaching party shall be entitled, in addition to any and all other rights and remedies at law and/or in equity, to specific performance and injunctive relief (both temporary and permanent) without the posting of a bond and without objection from the party in breach of this Section.

10. Miscellaneous.

a. **Governing Law.** This Agreement will be governed by and construed under the laws of the state of Colorado without regard to Colorado's choice of law requirements. The exclusive jurisdiction and venue for any action or proceeding brought by either party and relating to this Agreement will be the state courts located in New York, New York. Both parties agree to the personal jurisdiction of those courts.

b. **Waiver.** The failure of a party to insist upon strict adherence to any term of this Agreement on any occasion will not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

c. **Assignment.** Neither party may assign its rights under this Agreement without the written consent of the other party, which consent will not be unreasonably withheld. Notwithstanding the foregoing, UBM may assign this Agreement to any entity controlling, controlled by, or under common control with it.

d. **Contractor Relationship.** HDI-CI relationship with HDI will be that of a contractor and nothing in this Agreement should be construed to create a partnership, joint venture, or employer-employee relationship. HDI-CI is not the agent of HDI and is not authorized to make any representation, contract, or commitment on behalf of HDI. HIS is not the agent of HDI-CI and is not authorized to make any representation, contract, or commitment on behalf of HDI-CI.

e. **Entire Agreement; Amendment.** This Agreement constitutes the full and entire understanding and agreement between the parties relating to all of the matters included in this Agreement. All amendments to this Agreement must be in writing signed by both parties.

f. **Counterparts.** This Agreement may be executed in counterparts, each of which will be enforceable against the party actually executing the counterpart, and all of which together will constitute one instrument.

g. **Titles and Subtitles.** The titles and subtitles used in this Agreement are used for convenience only and are not considered in construing or interpreting this Agreement.

h. **Notices.** All notices required to be sent by this Agreement will be to the addresses below and will be deemed delivered: (i) two days after being sent by two-day overnight delivery by any internationally recognized delivery service; (ii) upon receipt of a return receipt when sent by email with return receipt requested:

If to UBM:

Christy Werth
121 South Tejon Street, Suite 1100
Colorado Springs, CO 80903
E-mail: cwerth@thinkhdi.com

If to COMPANY:

To the address and email address in the HDI-CI profile.

Exhibit A

Marks



HDI® Customer Service Representative
HDI® Support Center Analyst
HDI® Desktop Support Technician
HDI® Support Center Team Lead
HDI® Support Center Manager
HDI® Desktop Support Manager
HDI® Support Center Director
Knowledge Management Foundations: KCS Principles