

SALES AGREEMENT

STANDARD TERMS AND CONDITIONS (“The T & Cs”)

The Terms & Conditions (“The T & Cs”) form an integral part of The Sales Agreement.

1. DEFINITIONS

The “**Company**” refers to PTI Professional Development Limited, while The “**Business Partner(s)**” refers to Simplilearn and if any, other collaborating partners of The Company.

“**Licence**” refers to access to online courses under annual licence with 1 year access to the online video from date of receiving activation email from The Company &/or its collaborating partners, and if applicable, one-off live access to the Live Virtual Classes (LVC)

2. REPRESENTATIONS & WARRANTIES

The Party (i.e. The Company or The Customer) (the “**Representing Party**”) represents and warrants to the other Party that:

- a) The Company and The Customer (where it is also a company or organization) has been respectively duly incorporated and is validly existing under the applicable laws, and has the corporate power, authority, and all material permits, approvals, authorizations, registrations, and consents, to enter into this Agreement and perform its obligations under this Agreement; The Customer has the authority and is free to enter into this Agreement;
- b) The Representing Party has no obligations, legal or otherwise, inconsistent with the terms of this Agreement;
- c) The performance of the obligations under and in adherence to the terms and conditions of this Agreement by the Representing Party does not violate any applicable laws, or any proprietary or other right of any third-party and the Representing Party shall be responsible for ensuring continuous compliance with the applicable laws;
- d) The Representing Party will not use in the performance of its responsibilities under this Agreement, any confidential information or trade secrets of any other person or entity unless such use has been expressly permitted and authorised by such other person or entity;
- e) The Representing Party has not entered into and will not enter into any agreement (whether oral or written) in conflict with this Agreement; and
- f) No contractors &/or sub-contractors &/or customers of The Customer can make any claims to The Company &/or any of The Business Partner(s) under this Agreement.

3. UNDERTAKINGS

The Customer undertakes to pay the fees payable by the due date. For any payment unsettled beyond due date, we reserve the right to charge 10% additional fee. For each subsequent month, a further 10% is charged until full settlement

The Company undertakes that:

- a) It will NOT further on-sell to other customers or parties;
- b) For all courses of The Company &/or its collaborating partners, including but not limited to Online E-learning standard off-the-shelf courses (whether consisting solely of pro-recorded online videos only, or whether consisting of public classes only, or consisting of a combination of both online videos and public classes), private classes, Customised Live Virtual Classes (Customised LVCs), Expert Sharing Sessions, Product Masterclasses, & other courses etc. The Customer will undertake & will also ensure no sharing of the LMS with any other unauthorised person(s) nor broadcasting or recording by any means or in any form of any content of the courses by The Customer or any of its staff or anyone.
- c) It will **NOT** associate &/or appear &/or represent &/or mislead in any way to any party to associate itself with **NOR directly display in any website in any document the logo or any content** of The Company, any Accreditation Bodies, Industry Partners/Companies, Universities or any other collaborating parties of The Company &/or The Business Partner(s), **without** (i) having authorized by such Accreditation Body, Industry Body, or University, AND (ii) written consent of The Company, AND if relevant, also (iii) written consent of The Business Partner(s).
- d) Accreditation Bodies for the purpose of this undertaking shall include but not limited to PMI, Axelos, EC-council, OMCP, People CERT, EXIN, CompTIA, IASSC, Pearson (CISSP), Microsoft etc., as updated &/or revised by The Company &/or its collaborating partners, without notice to The Customer.

4. RIGHT OF USE AND RESTRICTIONS

Each licence is available for one user only, as per the email registered at activation of the course(s). No change, transfer or assignment to another user is allowed.

- a) **Right to Access and Use:** Subject to the terms of The T & Cs and payment by Customer, The Company &/or The Business Partner(s) grant(s) Customer a royalty-free, non-exclusive, non-transferable, limited term right to use the Courseware on a subscription license based model as described in the Sales Agreement &/or Receipt, for up to the number of “licenses” identified on the Sales Agreement &/or Receipt which must be assigned to particular Users, solely for Customer’s internal training of the Users during the Term. Where the Courseware is provided through a traditional subscription license (i.e. media or electronic download of content), Customer shall have a non-exclusive license to use the Courseware ordered, in object form only, on a single file server for use on a single local area network unless agreed in writing by The Company &/or The Business Partner(s), provided that the number of Users connected to The Company &/or The Business Partner(s) server does not exceed the permitted number of Users identified in the Sales Agreement, and subject to the use restrictions set forth in The T & Cs. Where the Courseware is provided through a CaaS model (“Content as a Service” or “CaaS”, i.e. accessing such Courseware via The Company &/or The Business Partner(s)’s LMS), Customer shall have a non-exclusive license to use the Courseware ordered by accessing the LMS, provided that the number of Users connected to the server does not exceed the permitted number of Users identified in the Sales Agreement, and subject to the use restrictions set forth in The T & Cs.
- b) **Restrictions:** Customer shall not misuse the Courseware. For example, Customer may not interfere with the Courseware or try to access them using a method other than the interface and the instructions that The Company &/or The Business Partner(s) provides. Except specifically for the limited right provided in Clause 4.a.), Customer **shall not** have any other right and/or will not commit / do any act not specifically and expressly permitted under The T & Cs, including but not limited to:
 - (i) license, sublicense, sell, resell (unless agreed in writing by The Company &/or The Business Partner(s)), transfer, assign, distribute, or otherwise commercially exploit or make the Courseware available to any third party;
 - (ii) modify, create derivative works, decompile, reverse engineer, attempt to gain access to the source code, or copy the Courseware, or any of its components;
 - (iii) use the Courseware to conduct fraudulent activities;
 - (iv) attempt to gain unauthorized access to the Courseware, engage in any denial of service attacks, or otherwise cause immediate, material or ongoing harm to The Company &/or The Business Partner(s), its provision of the Courseware, or others;
 - (v) impersonate or misrepresent an affiliation with a person or entity;

- (vi) use the Site to store or transmit Malware;
 - (vii) use the Courseware for any purpose that violates applicable law or regulation, infringes on the rights of any person or entity, or violates The T & Cs;
 - (viii) market, sell, license, sublicense, distribute, publish, display, reproduce, rent, lease, loan, assign, or otherwise transfer to a third party the Courseware or any copy thereof, in whole or in part;
 - (ix) use the Courseware for third-party training, commercial time-sharing, or service bureau use;
 - (x) capture, download, save, upload, print or otherwise retain information and content available through the Courseware other than what is expressly allowed by The T & Cs; or
 - (xi) remove or modify any copyright, trademark, legal notices, or other proprietary notations from the Courseware;
- (each of (i) to (xi), a "Prohibited Use"). All rights not expressly granted to Customer are reserved by The Company &/or The Business Partner(s) and its licensors.

5. TERM AND TERMINATION

The T & Cs shall be effective from the Effective Date and continue to be valid for the duration of the subscription plan mentioned in the Sales Agreement &/or Receipt, unless terminated earlier by The Company &/or The Business Partner(s) in accordance with The T & Cs. Any termination or expiry of The T & Cs, as the case may be, shall not affect the accrued rights and obligations of the Parties as on the date of termination or expiry of The T & Cs. On the termination of The T & Cs for any reason: (A) all rights granted to Customer under The T & Cs, including Customer's ability to access any data stored in The Company's &/or The Business Partner(s)' LMS &/or website, will immediately terminate; and (B) Customer must promptly discontinue all use of the Courseware and delete or destroy any Confidential Information of The Company &/or The Business Partner(s), including any Courseware in The Customer's control.

Termination of The T&Cs will not entitle The Customer to any refunds, credits, or exchanges unless specifically stated above in the Sales Agreement.

The Company &/or The Business Partner(s) may, at its sole discretion, suspend the subscription license or terminate The T & Cs: if The Company &/or The Business Partner(s) deems it necessary to prevent or terminate any Prohibited Use; or

- (i) upon written notice to Customer if The Customer commits a material breach of The T & Cs; or
- (ii) if The Company &/or The Business Partner(s) receives credible notice from a third party or agency that The Customer is in material breach of The T & Cs.

Suspension of subscription license and/or termination of The T & Cs shall be without prejudice to any other rights The Company &/or The Business Partner(s) may have under The T & Cs, in law, contract or in equity.

6. FITNESS FOR PURPOSES

Except as provided in this Section, The Company makes no warranty, promise or obligation with respect to the courses, their use, repair or performance. The Company disclaims any warranty, promise or obligation that the courses of The Company &/or The Business Partner(s) shall be fit for any particular use or purpose, &/or conform to any samples, trial courses, or models, regardless of whether such use or purpose is made known to The Company &/or The Business Partner(s) or not.

The Company &/or The Business Partner(s) hereby disclaim(s) all other warranties, promises and obligations, express, implied or statutory, including any warranties, promises and obligations arising from a course of dealing or usage of trade.

7. CONFIDENTIAL INFORMATION & NON-SOLICITATION

Any information, data, material shared or provided by The Company &/or The Business Partner(s) to the Customer for or under or pursuant to The T & Cs &/or Sales Agreement, including Courseware, proprietary material of The Company &/or The Business Partner(s) on its respective website ("Proprietary Material"), shall be and remain strictly confidential and the Customer and/or its Users shall not disclose to any third party and shall only use the confidential information / proprietary

information for the purposes expressly permitted under The T & Cs. No press releases or other communications regarding the relationship between the Parties shall be made without the written consent of The Company &/or The Business Partner(s).

During the term, and upon expiry, of this Agreement, unless with written expression by The Company's affairs, The Customer will not divulge to or communicate with any person, firm, association, partnership, corporation, organization, or other entity any trade secrets or confidential information of The Company &/or The Business Partner(s) &/ or of The customers of The Company &/or The Business Partner(s), including, without limiting the generality of the foregoing, the identity of The Company's &/or The Business Partner(s)' customers, terms of any agreement between the Company &/or The Business Partner(s) and between its respective customers, or information which may in any way result in the identification of The Company's &/or The Business Partner(s)' customers.

8. SECURITY & PRIVACY

The Customer hereby grants The Company &/or The Business Partner(s) a limited, non-exclusive, royalty-free, license to access the customer data to provide services. The Company &/or The Business Partner(s) reserve(s) the right to use and store Customer's traffic and user log data to maintain or improve the CaaS. Some such information may be shared with third parties (for example, statistics that indicate amount of traffic, success rates, and size of The Company's &/or The Business Partner(s) subscribers), provided Customer's name, Users' names, and any other identifying information are kept confidential. The Company &/or The Business Partner(s) may use cookies to store user session information, access codes and application settings to ease site navigation processes for the purposes of providing the CaaS hereunder. The collection of this data may be necessary to provide Customer with the relevant CaaS as ordered or improve overall security for The Customer and Users of the CaaS. No data transmission over the Internet can be guaranteed to be secure. The Company &/or The Business Partner(s) is/are not responsible for any interception or interruption of any communications through the internet or networks or systems outside The Company &/or The Business Partner(s)'s control. The Customer is responsible for maintaining the security of The Customer's networks, servers, applications, and access codes.

By entering into The T & Cs, or using the Subscription License, The Customer agree to The Company's Privacy Policy at www.the-pti.com/privacy-policy &/or The Business Partner(s)' Privacy Policy of The Business Partner(s), including but not limited to at <http://www.simplilearn.com/terms-and-conditions#/privacy-policy> for Simplilearn, as may be updated from time to time without notice to The Customer The Customer is solely responsible for securing any privacy-related rights and permissions from The Customer's Users as may be required by applicable law.

9. INTELLECTUAL PROPERTY

The Customer acknowledges The Company &/or The Business Partner(s) retain ownership of all the intellectual property rights of their respective online, customised and other courses and the proprietary software and software technologies, including but not limited to study manuals, suggested reading lists, test preparation manuals, sample questions, practice exam simulators, course videos, test preparation videos, authoring tools, delivery softwares, administration services or techniques, logos, all related manuals and instructions for all courses and any other material that is intellectual property of The Company &/or The Business Partner(s)

The Customer &/or its users is/are not permitted to make any alteration, changes, or enhancements of any kind to the courses or the intellectual property of The Company &/or The Business Partner(s).

The Customer agrees that it will not claim any ownership of the intellectual property rights in any of the courses.

The Company &/or The Business Partner(s) is/are the sole and exclusive owner of and reserves all intellectual property rights to the Proprietary Material. No posting, copying, transmission, distribution, publication, decompilation, disassembling, reverse engineering, or otherwise reproducing, storing, modifying, or commercially exploiting any Proprietary Material in any form or by any means, for any purpose, is permitted under or pursuant to The T & Cs.

The Company &/or The Customer is not performing any “work for hire” under The T&Cs, or any Sales Agreement, and The Company &/or The Business Partner(s) shall continue to own all rights, title and interest worldwide in any work product, which shall be and hereby is the sole property of The Company &/or The Business Partner(s) applicable, whether or not patentable, to the fullest extent possible by law.

10. WARRANTY, REMEDIES AND DISCLAIMER:

- a) Each party represents that it has validly entered into The T & Cs and has the legal power to do so.
- b) **WARRANTY:** The Company &/or The Business Partner(s) warrant(s) that The T & Cs, the order form, the Sales Agreement and additional technical documentation (if applicable) provided by The Company &/or The Business Partner(s) describe reasonably the applicable administrative, physical, and technical specifications of the Courseware and terms and conditions of its usage as on the Effective Date.
- c) **LIMITATION OF REMEDY:** In the event The Company's &/or The Business Partner(s)' LMS &/or website is/are not available online at an unscheduled time, then The Customer's sole and exclusive remedy and The Company &/or The Business Partner(s)' sole and exclusive obligation shall be to use commercially reasonable efforts to restore the availability of LMS &/or website of The Company &/or The Business Partner(s).

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- d) **DISCLAIMER:** With the exception of the limited warranty in Clause 12, any use by The Customer and The Customer's users of the courseware is at their own risk. The courseware are provided "as is" to the fullest extent permitted by laws. The Company and The Business Partner(s) and its/their licensors expressly disclaim all other warranties, express or implied, including warranties of quality, performance, merchantability, fitness for any particular purpose, non-infringement, title, and ownership, the entire risk as to the quality, accuracy, adequacy, completeness, currency, correctness, or validity of any information, material or content provided by or through the courseware rests with the user. The Company &/or The Business Partner(s) and its licensors do not warrant that the courseware or website: (1) are error-free;&/or (2) will perform uninterrupted; &/or (3) will meet customer's requirements.

11. EXCLUSION OF CONSEQUENTIAL AND RELATED DAMAGES

Any of The Company, The Business Partner(s), or The Customer shall not be liable to the other or any third party for any indirect, consequential, exemplary, special, punitive, or incidental damages, including, lost profits, revenues, goodwill, data, opportunity cost, arising out of or related to The T & Cs regardless of whether such liability is based on a breach of contract, tort, strict liability, warranties, failure of essential purpose, or otherwise, even if a party has been advised of the possibility of such damages.

12. LIMITATION OF LIABILITY

In no case shall The Company &/or The Business Partner(s)'s aggregate liability for any matters arising out of the subject matter of The T & Cs, whether in contract, tort or otherwise, including but not limited to negligence claims and any of The Company &/or The Business Partner(s)' indemnification obligations, exceed the amounts actually received by The Company &/or The Business Partner(s) under the applicable Sales Agreement for the prior six (6) months immediately preceding the event giving rise to such liability.

13. INDEMNIFICATION

The Customer agrees to indemnify, defend, and hold The Company &/or The Business Partner(s) harmless from all claims, liabilities, damages, fines, penalties, costs and expenses (including reasonable attorneys' fees) arising out of, or relating to any of below:

- a) The Customer's or User's engagement in a Prohibited Use;
- b) failure by Customer to obtain all necessary consents related to data which it provides to The Company &/or The Business Partner(s);
- c) claims by third parties arising from Customer's Prohibited Use of the Courseware;
- d) taxes arising from the Courseware whether now in effect or imposed in the future (excluding taxes based on The Company &/or The Business Partner(s)'s income);
- e) breach of Customer's representations, warranties or responsibilities contained in The T&Cs; and
- f) any reasonable costs and attorneys' fees required for The Company &/or The Business Partner(s) to respond to a subpoena, court order or other official government inquiry regarding Customer's data or Customer's use of the Courseware.

Subject to Clause 12 Limitation of Liability and Clause 13 Indemnification of The T&Cs, The Company agrees to indemnify The Customer from all direct claims, liabilities, damages, fines, penalties, costs and expenses (including reasonably attorneys' fees) actually suffered / incurred by the Customer arising out of or relating to any breach of The Company's representations, warranties, or responsibilities contained under The T&Cs

14. JURISDICTION / GOVERNING LAW

The T&Cs will be governed by and construed in accordance with the substantive laws in force in Hong Kong Special Administrative Region (HKSAR). This Agreement will not be governed by the conflict of laws or rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded. The courts at HKSAR shall have the exclusive jurisdiction over all disputes arising under or relating to this Sales Agreement.

15. SURVIVAL

Rights and obligations in this Contract survive the termination or expiration of The T & Cs. Similarly, any clauses that survive the termination of The T & Cs by their nature shall survive expiration or termination of The T & Cs.

16. ENTIRE T&Cs AND SEVERABILITY

The T&Cs represent the entire agreement between the parties and expressly supersedes and cancels any other communication, representation or advertising whether oral or written, on the subjects herein. The T&Cs supersede and control over any conflicting terms contained in any Customer purchase order or Sales Order, even if executed after the Effective Date of The T&Cs. Failure of The Company to object to any other terms and conditions in relation to the subject matter hereof, whether oral or contained in any other document, including any online terms and conditions, shall not be construed as a waiver of The T & Cs or any provision hereof, nor as acceptance thereof. If any provision of The T & Cs is declared invalid or unenforceable by a court or administrative agency of competent jurisdiction, the remaining provisions hereof shall remain in full force and effect and The T&Cs shall be construed and performed as if it did not contain the invalid or unenforceable provisions.



17. WAIVER

The failure of either party to this Agreement to insist upon the performance of any of the terms and conditions of this Sales Agreement, or the waiver of any breach of any of the terms and conditions of this Agreement, shall not be construed as thereafter waiving any such terms and conditions, but the same shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

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