



FITSI AUTHORIZED TRAINING CENTER AGREEMENT

This FITSI Certified Training Center Agreement (the “*Agreement*”) is made and entered into as of the date both parties have signed below (the “*Effective Date*”), by and between the Federal IT Security Institute (“*FITSI*”), and undersigned FITSI authorized training center (“*FATC*”).

RECITALS

A. FITSI is a certification body that certifies individuals serving in or supporting the federal workforce in applying appropriate federal information technology standards, and distributes licenses and promotes certification and training programs for such individuals.

B. FATC is an organization primarily dedicated to teaching and training individuals in the field of technology, and has its own faculty and facilities.

C. FATC and FITSI agree to enter into an independent contractor relationship, whereby FATC agrees to provide facilities and FITSI Certified Instructors to conduct FITSI authorized courses.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained as well as for other good and valuable consideration, the parties do hereby agree to the following:

1. FATC OBLIGATIONS

A. Use of FITSI Certified Instructors: Each FATC must leverage only FITSI Certified Instructors (FCIs). These can be either full time employees or contractors.

B. FITSI Training Administration: During the term of this Agreement, FATC shall be solely responsible for the marketing, delivery and managing FITSI courses at their respective authorized locations for their clients and for ensuring that the computer equipment, software, hardware and furniture that will be required for the completion of the training is in proper working condition and order.

C. FATC shall be responsible for ensuring that on the last day of training all students complete the course evaluation forms available at <http://www.fitsi.org/documents> and/or, FATC shall submit to FITSI all course evaluations for FITSI programs in a format acceptable to FITSI, failure which, may result in the termination of FATC from the FATC program.

2. FITSI COURSE DELIVERY AND COURSEWARE:

A. Training Requirements

1. Training on FITSI products will be based on either FITSI Official Courseware or on FITSI Endorsed Program. FATC shall conform to all FITSI requirements associated with the FITSI Official Courseware, which FITSI reserves the right to change, upon thirty (30) days' notice to FATC
2. FATC will deliver FITSI Official courses in a professional and competent manner at an approved FATC facility via FCI's who have passed the FITSI exam for the particular course to be delivered using only current and original FITSI course materials. Each student will be supplied with a new, unused, and unopened student kit. Each course will be run according to the current FITSI Official course delivery guidelines and the FATC shall ensure that all course objectives are met. In the event that any course is cancelled, the FATC will provide the students with reasonable advance notice of cancellation.
3. FATC may conduct Training at more than one location, but only at the locations identified herein, if accepted by FITSI. Each training location at which FATC intends to deliver Training must be sufficiently equipped to conduct the training as per the needs of the various programs of FITSI which will be specified in the FCI Portal from time to time.
4. FATC may use the name "FITSI Authorized Training Center" for the purposes of identifying itself as an FITSI Authorized Training Center. It shall not use it in any other ways nor incorporate the name "FITSI" as part of its own name or identification, or as part of a logo, mark, or stylized representation of its own name or identification.
5. Only FITSI Official Courseware is to be used or provided to a student. Replacement courseware or materials may not be substituted in any manner whatsoever, using any means for any of FITSI's offerings or classes. For any FITSI course, FATC shall issue an electronic certificate of attendance provided by FITSI when purchasing the official Courseware.
6. Training must be provided to the FATC customer in a manner consistent with FITSI's high quality standards. FITSI Courseware must be taught in its entirety in order to be considered as an authorized course.
7. During the term of this Agreement and for a period of 12 months after the termination or expiration hereof, FITSI shall have the right, at its expense and upon no less than 3 business days prior written notice, to audit FATC's records to determine compliance with the terms of this Agreement including, but not limited to, compliance with FITSI's guidelines. Such audit may be conducted by FITSI by its authorized representative(s), and shall not interfere unreasonably with FATC's business activities.

8. FITSI, its affiliates, representatives and/or distributors may enforce a minimum sales and/or delivery expectation and a minimum purchase requirement on a quarterly basis and FATC hereby agrees to meet such targets. FITSI reserves the right to terminate this Agreement if FATC fails to meet such targets after providing 30 days' written notice.

B. Piracy: FATC agrees not to engage in the manufacture, use, distribution, supply, marketing or promotion of any counterfeit, pirated, or illegal courseware, exam vouchers, student kits or other course materials, whether directly or indirectly, and shall assist FITSI or other relevant parties in the investigation and prosecution of any such activities if requested. Materials constituting FITSI Official Courseware may not be copied at any time whatsoever. FATC may not delete part(s) of the FITSI Official Courseware but may add materials to it.

C. Equipment Availability and Maintenance: FATC will at all times meet all the then current requirements for facilities and equipment (including audiovisual equipment) and maintain it so as to ensure its effective use at the authorized FATC site.

D. FATC agrees to place on FATC's homepage a prominent link to FITSI's website.

3. PRICING AND PAYMENT TERMS

A. Pricing: FITSI shall provide FATC with FITSI Official Courseware required for FITSI Courses at a discount determined by the publisher. FITSI and or the publisher reserves the right to amend the pricing from time to time.

B. Billing and Payment: FATC will be solely responsible for all billing and collections with respect to its clients and customers. FATC agrees that it shall be unconditionally liable to FITSI for the payment of all outstanding amounts due to FITSI and/or its representatives regardless of any customer's failure to pay FATC or delay in paying FATC of any amounts relating to the products or services provided by FATC.

C. Taxes: All prices are exclusive of all applicable taxes and customs duties unless otherwise stated. FATC agrees to pay and bear the liability of any taxes associated with the marketing, sublicensing, and delivery of the FITSI Materials, including but not limited to, sales, use, excise and value added taxes

4. INTELLECTUAL PROPERTY

A. Trademark License. FITSI hereby grants to FATC a non-exclusive, royalty-free, non-assignable, non-sublicenseable, license to use, subject to the terms and conditions set forth herein, FITSI's trademarks and trade names set forth on Schedule A hereof ("**Marks**") solely for the purpose of promoting and marketing the FITSI certification programs in accordance with this Agreement. FATC agrees to use no other trademarks or trade names in connection with the FITSI certification programs, except for its own trademark as approved in writing by FITSI, such approval not to be unreasonably withheld. FITSI agrees to provide FATC with such documentation and other assistance as may be reasonably necessary for FATC to exercise the above rights with regard to the Marks. The Marks are the only trademarks and trade names that

FATC is authorized by FITSI to employ in connection with the FITSI certification programs and FATC agrees that it has no rights therein other than those specifically granted herein. All benefit and goodwill arising from FATC's use of the Marks shall inure to the benefit of FITSI.

B. Trademark Use Restrictions.

1. To the extent that FATC creates any advertising materials, the Marks of FITSI used by FATC shall conform as to artwork, lettering, color and size to those used by FITSI and shall identify FITSI as the owner of such Marks. Each intended use of such Marks shall be approved in advance by FITSI.
2. FATC shall not use the Marks in such a manner that would cause a reasonable person to infer that FATC has any affiliation with FITSI or right in or to the certification programs, or Marks, other than as provided in this Agreement.
3. FATC affirms and agrees that FATC and his/her affiliates have not registered or applied to register and shall not register or apply to register in any jurisdiction any trademarks, trade names, service marks, symbols or logos that are the same as or similar to the Marks.
4. FATC agrees not to represent itself as a partner, joint-venturer, agent, employee or general representative of FITSI through the use of the Marks. FATC shall clearly identify itself as an independent contractor and FITSI certified instructor in any business dealings, advertising and promotional activities.
5. FATC shall not remove or obliterate any Mark appearing on any marketing materials prepared by FITSI.
6. Promptly following the termination or expiration of this Agreement, FATC shall discontinue all use of the Marks.

C. Copyright License Grant. FITSI hereby grants to FATC, and FATC hereby accepts, a limited, non-exclusive, royalty-free license to use any of FITSI's materials, written or otherwise, provided by FITSI to FATC hereunder, whether such materials have been registered or unregistered, solely in connection with FATC's satisfaction of its obligations hereunder. FATC shall not, without the prior written consent of FITSI, copy any materials, including, without limitation, training manuals, provided by FITSI to FATC. Promptly following the termination or expiration of this Agreement, FATC shall discontinue all use of the materials described in this Section 3(c).

D. Ownership. FITSI does and shall continue to own all right, title and interest in and to all of its training materials, instructional manuals, catalogues, promotional literature, patents, Marks, copyrighted works and trade secrets and any other intellectual property ("**Intellectual Property**") that may be provided by FITSI to FATC hereunder, including any modifications or derivative works thereof, whether created by FITSI or FATC.

E. Further assurances. FATC agrees that it shall execute all instruments and documents and all things that may be reasonably necessary to protect the rights of FITSI and vest in FITSI ownership of the Intellectual Property; and to the extent, by operation of this Agreement or otherwise, any Intellectual Property rights of FITSI shall become vested in FATC, FATC agrees that, at the request and expense of FITSI, FATC shall execute all instruments and documents and do all things that may be reasonably necessary to protect the rights of FITSI and vest or re-vest in FITSI and its assigns all Intellectual Property rights therein. In the event that FITSI is unable, after reasonable effort, to secure the signature of FATC on any document or documents needed to apply for or prosecute any patent, copyright, or other right or protection relating to the Intellectual Property, for any reason whatsoever, FATC hereby designates and appoints FITSI and its duly authorized officers and agents as FATC's agent and attorney-in-fact to act for and on FATC's behalf to execute and file any such application or applications and to do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights, or similar protections thereon with the same legal force and effect as if executed by FATC.

F. Infringement. FATC shall promptly notify FITSI in the event that it discovers actual, suspected or threatened infringement of the Intellectual Property, and FATC shall cooperate, at FITSI's expense, in the conduct of any law suits concerning the same.

5. TERM AND RENEWAL

The initial term of his Agreement is one (1) year, commencing on the Effective Date. Thereafter, this Agreement will automatically renew for successive one (1) year terms, unless one party gives at least 30 days notice to the other party that it does not desire that the term be renewed or the Agreement is terminated in accordance with Section 6 below.

6. TERMINATION OF AGREEMENT

Termination by FITSI: Without prejudice to any rights FITSI may have under this Agreement or in law, equity or otherwise, FITSI may terminate this Agreement immediately, including termination of FATC certification, if FATC fails to comply with any of the terms of this Agreement ("**Default**"). Defaults shall include, without limitation, the following events:

- a. FATC fails to perform any of FATC's obligations under this Agreement or breaches any term of this Agreement.
- b. FATC offers training or certification programs without complying with the testing or certification requirements of the Agreement or as published from time to time by FITSI on its web site, or FATC discontinues offering the Training Services.
- c. FITSI determines that Training Services provided by FATC are defective or improper in any way, manner or form, subject to the cure provisions set forth in this Agreement.
- d. FATC receives any actual or potential adverse publicity or other public reprimand or sanction that reflects poorly on FITSI's reputation, as determined in FITSI's sole discretion.

- e. FITSI determines in its sole discretion that FATC's continued provision of Training Services or FATC use of the Marks causes or may cause damage of any kind to FITSI whatsoever.
- f. FATC utilizes any materials that are not certified or produced by FITSI.
- g. FATC fails to utilize at least one FCI at each training center to conduct FITSI certified courses.
- h. FATC engages in misappropriation or unauthorized disclosure of any trade secret or confidential information of FITSI or pirates any FITSI product or course, or otherwise infringes any other Intellectual Property rights of FITSI, or engages in any activities prohibited by law.
- i. FATC misrepresents its status or relationship with FITSI.
- j. FATC offers Training Services below the standard of quality and integrity determined by FITSI.
- k. FATC provides or offers to provide training or certification of any competitor of FITSI in violation of this Agreement.

In the event that a Default occurs, FITSI will use reasonable efforts to provide FATC with written notice of such Default.

Termination by Either Party: Each party may terminate this Agreement at any time, with or without cause, on thirty (30) calendar days' prior notice to the other party.

Upon termination of this Agreement for any reason, FATC must immediately cease all display, advertising, and other use of the Marks and will return all badges, training materials and collateral to FITSI. Upon termination, all right granted under the Agreement will immediately and automatically revert to FITSI. Further, any unpaid fees shall be immediately due and payable and any fees paid in advance shall be non-refundable.

7. CONFIDENTIALITY

FITSI may, from time to time, provide information to FATC which FITSI considers to be confidential. Such information shall, if tangible, be marked as "***Confidential***" or if communicated orally, designated as "Confidential" at the time and promptly confirmed in writing as such. Information that is so marked or designated and confirmed, and all instructor training materials regardless of form or designation, always shall be considered "***Confidential Information***" under this Agreement.

Confidential Information shall be held in trust by FATC and used only as necessary for the performance of this Agreement. FATC shall treat all Confidential Information with the same degree of care FATC uses to avoid the disclosure to third parties as is used with respect to FATC's own confidential information, but not less than a reasonable degree of care.

Confidential Information shall be disclosed only to those students or agents of a party who have a need to know such information and are under binding obligations of confidentiality with respect to any such information received. Confidential information shall not be disclosed by FATC to any other third party without the prior written consent of FITSI. FATC agrees to

defend, indemnify and save FITSI harmless from and against any and all damages, loss or liability, including reasonable attorney fees and costs, sustained or arising as a result of the unauthorized use or disclosure of FITSI's Confidential Information.

8. HOLD HARMLESS PROVISION

FATC agrees to indemnify and hold FITSI harmless against any loss, damage, liability, cost or expense (including reasonable legal fees and costs) arising from or out of any claims or suits made against FITSI in connection with the Training Services being rendered by FATC or any of its instructors. In no event will FATC be liable to FITSI for any special, indirect, consequential, punitive, exemplary or any similar type of damages arising out of or in any way related to this Agreement.

9. REPRESENTATIONS AND WARRANTIES

A. Each party represents and warrants that:

- i. it has the right, power and authority to enter into this Agreement and to fully perform its obligations hereunder;
- ii. there are no actions, proceedings or investigations, pending or, to the best of each party's knowledge, threatened against such party which may in any manner whatsoever materially affect the enforceability of this Agreement;
- iii. the execution, delivery and performance of this Agreement will not constitute a breach or default under any Agreement, law or court order under which such party may be bound or affected; and
- iv. FATC represents and warrants, and FITSI acknowledges that FATC maintains and will maintain significant business operations relating to product lines and services other than the sale of FITSI training.

B. The FITSI Training Programs are provided "as is" and with all faults, and FITSI disclaims all warranties, whether express, implied, statutory or otherwise, including without limitation, implied warranties of merchantability and fitness for a particular purpose. In addition, there is no warranty of accuracy of information, functionality, services and/or availability or lack thereof for the testing services and/or any FITSI website referred to or utilized pursuant to this agreement.

C. FATC shall indemnify, defend and hold FITSI, its directors, officers, agents and employees harmless from and against any and all losses, damages, liabilities, costs and expenses (including reasonable attorneys' fees) resulting from any pending or potential lawsuit against FITSI except to the extent that such losses, damages, liabilities, costs and expenses are directly attributable to the gross negligence, reckless conduct or intentional wrongdoing of FITSI, its directors, officers, agents and employees.

10. DISCLAIMER

THERE IS NO WARRANTY OF MERCHANTABILITY, NO WARRANTY OF FITNESS FOR A PARTICULAR USE OR PURPOSE, AND NO WARRANTY OF NON-INFRINGEMENT. THERE IS NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED PROVIDED BY FITSI.

11. HANDLING OF DISPUTES

Except for any breach or threatened breach of Section 2b, 4, or 7, both parties agree that irreconcilable disputes will go to mediation, and, if that fails, by binding arbitration, costs shared equally, with such arbitration being held in Fairfax County, Virginia, pursuant to the rules of the American Arbitration Association. Any decision or award by an arbitrator shall be final and binding on the parties, and judgment upon such decision or award may be entered in any competent court or application may be made to any competent court for judicial acceptance of such decision or award and an order of enforcement. In the event of any procedural matter not covered by the aforesaid rules, the procedural law of Virginia shall govern.

FATC hereby expressly acknowledges that any breach or threatened breach of any of the terms and/or conditions set forth in Section 2b, 4, or 7 of this Agreement shall result in substantial, continuing and irreparable injury to FITSI. Therefore, in addition to any other remedy that may be available to FITSI, FITSI shall be entitled to injunctive or other equitable relief by a court of appropriate jurisdiction in the event of any breach or threatened breach of the terms of Section 2b, 4, or 7 of this Agreement. Any period during which any covenants contained in those sections shall apply shall be extended by any periods during which FATC is found by a court to have been in violation of such covenants.

12. APPLICABLE LAW/LEGAL FEES

The laws of the Commonwealth of Virginia shall govern this Agreement. If any legal action, arbitration, or other proceeding is brought under this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees and expenses and other costs incurred in which action, arbitration or proceeding, in addition to any other relief to which it may be entitled.

13. ASSIGNMENT

FATC shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of FITSI, which consent may be withheld in its sole and absolute discretion. Any prohibited assignment or delegation shall be null and void. FITSI may assign its rights and obligations to any third party under its control or under common control with FITSI.

14. NOTICES

All notices and other communications required by permitted hereunder to FITSI shall be deemed duly given only when in writing, signed by or on behalf of the person giving the same, and either

(i) personally delivered (with receipt acknowledged), (ii) sent by registered or certified mail, return receipt requested, postage prepaid, or (iii) sent by overnight next business day courier, to the following address or such other address as shall be provided by FITSI on its web site:

FITSI
3213 Duke Street, #190
Alexandria, Virginia 22314

Any notice to be given to FATC shall be sent to the address shown on the signature page hereof. All such notices and communications shall be effective (i) when received or receipt refused if delivered by personal delivery or overnight courier or (ii) upon three days following deposit in the mail if given by certified or registered mail, when delivered to the address specified above.

15. WAIVER

Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing signed by the waiving party to be effective. Failure, neglect or delay by a party to enforce the provisions of this Agreement or its rights or remedies at any time will not be construed and will not be deemed to be a waiver of such party's rights under this Agreement and will not in any way affect the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action.

16. SEVERABILITY

If any term, condition or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties shall endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

17. ENTIRE AGREEMENT

This Agreement contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, where oral or written, between the parties with respect to the subject matter hereof. This Agreement may be amended only with the written consent of both parties.

18. NO THIRD PARTY BENEFICIARIES

Nothing herein expressed or implied is intended or should be construed to confer upon or give to any Person other than the parties hereto and their successors and assigns any rights or remedies under or by reason of this Agreement.

19. FORCE MAJEURE

Neither FATC nor FITSI shall be responsible for any delay in performance or failure to perform if caused by fire, flood, explosion, war, strike, embargo, government requirement, civil or military authority, act of God or other similar causes beyond the parties' control and occurring without the fault or negligence of the delayed or non-performing party.

20. DISPARAGING REMARKS

Both parties agree that they will not make any disparaging remarks, whether orally or in writing, about FITSI or FATC, their subsidiaries and/or related entities, their products, services, officers, board of directors, managers, supervisors, and employees, to any persons whatsoever during or after the term of this Agreement. The obligation under this paragraph includes, but is not limited to, refraining from making any disparaging, degrading or demeaning remarks or casting any aspersions on FITSI or FATC which might have a harmful effect on their respective reputations.

21. MATERIALS

FATC shall utilize all FITSI prescribed materials and texts and shall verify and use only current versions of materials and texts and courses prior to the first schedule of the course.

22. INDEPENDENT CONTRACTOR

FITSI and FATC agree that the relationship of the FATC to FITSI is at all times that of an independent contractor and not that of an employee, partner or joint-venturer of or with FITSI. FATC hereby acknowledges that he/she is not, and shall not be, entitled to any benefits that may be afforded to employees of FITSI from time to time, including, without limitation, any insurance, employee benefit plans or FITSI policies that may be in effect from time to time.

[signatures follow]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of last date signed below:

For FITSI:

Name:

Title:

Date:

For FATC (please sign next to your name):

Name:

Title:

Date:

SCHEDULE A: LIST OF FITSI MARKS

FITSI
FITSP
FITSP-Manager
FITSP-Designer
FITSP-Operator
FITSP-Auditor

SCHEDULE B: LIST OF COURSES TO BE TAUGHT BY FATC

Authorized FITSP-Manager Instructor Led Training
Authorized FITSP-Designer Instructor Led Training
Authorized FITSP-Operator Instructor Led Training
Authorized FITSP-Auditor Instructor Led Training

SCHEDULE C: COST OF COURSE MATERIALS

Authorized FITSP-Manager Instructor Led Training – set by publisher
Authorized FITSP-Designer Instructor Led Training – set by publisher
Authorized FITSP-Operator Instructor Led Training – set by publisher
Authorized FITSP-Auditor Instructor Led Training – set by publisher