**International Function Point Users Group**

**- Instructor Agreement -**

THIS AGREEMENT (Hereinafter "Agreement"), made and entered into this \_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_ 2017, by and

(day) (month)

between the International Function Point Users Group (IFPUG), a software metrics organization, with an address at

191 Clarksville Road, Princeton Junction, NJ 08550 (hereinafter "Customer"), and \_\_\_\_ \_\_\_\_\_\_

 (instructor name)

with an address at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Instructor address – where instructor payments should be mailed. Include company name if applicable.)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Hereinafter "Instructor"):

WITNESSETH:

WHEREAS, Instructor represents that he/she has expertise in the area of Software Measurement and is ready, willing, and able to provide classes to the Customer on the terms and conditions set forth herein; and

WHEREAS, Customer, in reliance on Instructor's representations, is willing to engage Instructor as an independent contractor, and not as an employee, on the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the obligations herein made and undertaken, the parties, intending to be legally bound, covenant and agree as follows:

Section 1

**SCOPE OF SERVICES**

 1.1 Services. Instructor agrees to provide, and Customer agrees to accept the instructor services described

hereto (list course title/day/time) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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 1.2 Conduct of Services. All work shall be performed in a workmanlike and professional manner.

1.3 Method of Performing Services. Instructor shall have the right to determine the method, details, and

 means of performing the work to be performed for Customer. Function Point Training and Certified

 Function Point Examination Classes must conform to the current version of the IFPUG Counting

 Practices manual. Customer shall, however, be entitled to exercise general power of supervision and

 control over the results of work performed by Instructor to assure satisfactory performance, including

 the right to inspect, the right to stop work, the right to make suggestions or recommendations as to the

 details of the work, and the right to propose modifications to the work. Instructor shall not promote

 company services and products during class time.

1.4 Training materials. With exception of the IFPUG Counting Practices Manual, Customer does not own existing courses or provide course training materials to Instructor. When provided advance copies Customer will copy student manuals for workshop attendees. No copying will be done on-site.

 1.5 Reporting. Customer and Instructor shall develop appropriate administrative procedures for coordinating with each other. Customer shall periodically provide Instructor with evaluations of Instructor's performance.

 1.6 Place of Work. Instructor will perform its work for Customer at annual customer workshop sites.

 1.7 Assignment of Personnel. Customer may request qualifications of the personnel Instructor assigned to Customer's work. Customer shall have the right, at any time, to request the removal of any employee(s) of Instructor whom Customer deems to be unsatisfactory. Upon such request, Instructor shall use all reasonable efforts to promptly replace such employee(s) with substitute employee(s) having appropriate skills and training.

1.8 The parties agree that the services of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ or (Instructor name)

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ are essential to the satisfactory

 (Alternate Instructor name)

performance by Instructor of the scope of work called for in this Agreement. Except for bona fide emergencies, the parties further agree that if [either of] such individuals leaves the employ of Instructor during the term of this Agreement for any reason or are/is unavailable to continue the class called for herein, and if substitute individuals acceptable to Customer are not available to continue the work, Customer shall have the right to terminate this Agreement pursuant to Section 2.2 hereof.

Section 2

**TERM AND TERMINATION**

 2.1 Term. The term of this Agreement shall commence on the date set forth above and shall continue for

a minimum period of two [2] IFPUG workshop sessions for new class. The term for existing topics

and classes shall follow the education services selection criteria, and continue thereafter for so long

as Customer seeks or obtains services from Instructor.

2.2 Cancellation of Workshop Class. IFPUG may at their discretion cancel individual classes prior to a Workshop. Course Providers will not be compensated by IFPUG for any cancelled class (including new class offerings).

As an alternative to canceling a class, IFPUG and the Course Provider may agree to continue the class at a reduced compensation equal to 2/3 of the Standard Rates when there are less than five enrollees for a class session. When a new section of a class is scheduled due to enrollments exceeding 20 for a class, each Course Provider will be compensated at the full Standard Rate for the class regardless of the distribution of the enrollees. For new class offerings, the class may be held at the discretion of IFPUG with the Course Provider compensated at the full Standard Rate for the class.

 2.3 Termination. This Agreement may be terminated by either party upon written notice or if the other

party breaches any obligation provided hereunder. The Customer may terminate this agreement when

there has been a lack of interest by membership evidenced by poor attendance or low evaluation

scores or when the Instructor has seriously violated the IFPUG Code of Conduct.

 2.4 Remaining Payments. Within 60 days of termination of this Agreement, Instructor shall submit to

Customer an itemized invoice for any applicable fees theretofore accrued under this Agreement.

Section 3

**FEES, EXPENSES, AND PAYMENT**

3.1 Fees. In consideration of the services to be performed by Instructor, Instructor shall be entitled to

 compensation as follows:

|  |  |
| --- | --- |
| **Standard Rates** |  |
| 1/2 Day Class | $600 per session |
| One Day Class | $1200 per Workshop day |
| Multiple Day Class | $1000 per Workshop day |

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|  |  |
| --- | --- |
| **Reduced (66% of Standard Compensation)** |  |
| 1/2 Day Class | $400 per session |
| One Day Class | $800 per Workshop day |
| Multiple Day Class | $660 per Workshop day |

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 All compensation shall be paid to Instructor within 45 days after completion of workshop.

3.2 When Instructor breaches this contract (e.g. unauthorized substitution or failure to notify), Instructor

 shall not receive fees as described above.

3.3 Expenses. All out-of-pocket expenses (with the exception of copies for attendees) incurred by Instructor are the responsibility of Instructor.

Section 4

**RESPONSIBILITIES OF INSTRUCTOR FOR TAXES AND OTHER MATTERS**

 4.1 Taxes. As an independent contractor, Instructor shall pay and report all federal and state income tax

withholding, social security taxes, and unemployment insurance applicable to Instructor. Instructor

shall not be entitled to participate in health or disability insurance, retirement benefits, or other

welfare or pension benefits (if any) to which employees of Customer may be entitled.

Section 5

**MISCELLANEOUS**

5.1 Definitions – **Workshop** refers to the multiple-day event of the International Function Point Users Group (IFPUG) offering training to the public. A **class** is an individual offering of course instruction within the framework of the Workshop. A **new class offering** is a class that has not been previously taught within the framework of the IFPUG Workshops and was solicited by IFPUG. **Course Provider** and Instructor are synonymous for the purposes of the contractual agreement and includes any legal entity or independent contractor providing courseware and/or instructional services during the IFPUG Workshops.

 5.2 Force Majeure. Instructor shall not be liable to Customer for any failure or delay caused by events

beyond Instructor's control, including, without limitation, Customer's failure to furnish necessary

information, sabotage, failure or delays in transportation or communication, failures or substitutions

of equipment, labor disputes, accidents, shortages of labor, fuel, raw materials or equipment, or

technical failures.

5.3 Governing Law. This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Ohio as they apply to a contract entered into and performed in that State.

 5.4 Independent Contractors. The parties are and shall be independent contractors to one another, and

nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint

venture between the parties. Nothing in this Agreement shall be interpreted or construed as creating

or establishing the relationship of employer and employee between Customer and either Instructor or

any employee or agent of Instructor.

 5.5 Notices. All notices required or permitted hereunder shall be in writing addressed to the respective

parties as set forth herein, unless another address shall have been designated, and shall be delivered by

hand or by registered or certified mail, postage prepaid.

 5.6 Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto and

supersedes all prior representations, proposals, discussions, and communications, whether oral or in

writing. This Agreement may be modified only in writing and shall be enforceable in accordance with

its terms when signed by the party sought to be bound.

 5.7 Indemnification. Customer shall defend, indemnify and hold harmless Instructor from and against all

 claims, liability, losses, damages and expenses (including attorneys' fees and court costs) arising from

 or in connection with the use or application of Instructor's work by Customer or any direct or indirect

 purchaser or licensee of Customer.

5.8 IFPUG workshop are for educational purposes and not sales opportunities for the Instructors. Instructors may not use this opportunity to solicit new business from workshop attendees. Failure to do will result in loss of Instructor fee.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, on the date and year first above written.

[Customer] [Instructor]

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_ Individual SS # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Federal Tax I.D. # \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**(SS # necessary to process payments for instructors who will be receiving their fees directly.**

**Federal Tax I.D. # required for payments made to the instructors company.)**

Address for correspondence: Address for correspondence: (all course materials will be sent to this address for your review)

IFPUG \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

191 Clarksville Road \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Princeton Junction, NJ 08550 USA \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: 609-799-4900 Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Fax: 609-799-7032 Fax: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

E-mail: ifpug@ifpug.org E-mail: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_