

CBT NUGGETS TRAINING SUBSCRIPTION AGREEMENT

This CBT Nuggets Training Subscription Agreement (this “Agreement”), dated as of Customer’s subscription start date (the “Effective Date”), is between **CBT Nuggets, LLC**, a Delaware limited liability company, (“CBT Nuggets”), with its principal office located at 2850 Crescent Avenue, Eugene, OR 97408, United States, and **Cayuga Onondaga BOCES** with the mailing address of 1879 W Genesee Street Rd., Auburn, NY 13021-9430 (the “Customer”) (collectively the “Parties”).

RECITALS:

A. CBT Nuggets is engaged in the business of creating and selling information technology training solutions, the “CBT Nuggets Content,” “CBT Content” or “Content”, including but not limited to the CBT Nuggets Learner-facing applications and course delivery platforms, individual videos within a series, entire series, series packages, supplemental materials, Learner resources, quiz questions, proprietary instances of the virtual lab and/or streaming subscription access to any portions thereof.

B. Specific to this Agreement, CBT Nuggets offers single or multi-year streaming subscriptions to access the CBT Nuggets Content offered by CBT Nuggets through its website or its partner’s website (the “Website”) or its applications (“Apps”) (collectively the “Services”).

C. Customer desires to access the CBT Nuggets Content and, as applicable, to make the CBT Nuggets Content available to Customer’s employees (individually “Learner” and collectively the “Learners”), and CBT Nuggets desires to provide the same pursuant to the terms and subject to the conditions of this Agreement.

AGREEMENT:

The Parties agree as follows:

1. Grant of License.

1.1 During the Term of this Agreement (defined in Section 2), CBT Nuggets grants Customer 9 revocable, non-royalty bearing, non-assignable (except as explicitly permitted herein), non-exclusive, non-sublicensable licenses to access, view and to use the CBT Nuggets Content. The licenses are solely for use by Customer and its Learners.

1.2 Customer and its Learners may not copy, reproduce, reverse engineer, translate, port, modify or make derivative works of the CBT Nuggets Content in whole or in part. Customer and its Learners may not rent, sell, assign, lease, sublicense, market, publish, display, distribute or transfer the CBT Nuggets Content in any manner not expressly authorized by this Agreement without the prior written consent of CBT Nuggets. Customer shall communicate to all Learners the restrictions and limitations of the license as set forth in this Section 1.

1.3 Each license is a single user license and the single user license must be connected to a named user (Learner). The email address attached to each license must be specifically associated solely with that individual Learner. Customer may reassign to a new Learner any single user license that has been held by another Learner for at least thirty (30) days prior to any such assignment. Each Learner, and each Account Administrator, is expressly governed by the applicable terms of this Agreement.

1.4 Upon Customer’s discovery and/or the request of CBT Nuggets, the Customer agrees to promptly remedy any violation of this Section 1 and to provide CBT Nuggets with sufficient evidence that Customer is in compliance with this Section 1. Failure to reasonably cooperate with such requests shall be deemed a violation of this Section 1.

1.5 CBT Nuggets reserves the right to suspend or terminate any Learner’s access to the CBT Nuggets Content if, at its sole discretion, CBT Nuggets believes the Learner or Customer is in violation of this Agreement. Upon the occurrence of any suspension or termination event, no refund will be made to Customer of any amounts previously paid to CBT Nuggets.

1.6 CBT Nuggets reserves the right to alter its Services and Content, including but not limited to making changes to Content, Content types, delivery systems, applications, platforms, modalities, interfaces, tools, features, functionality, access methods, websites, and support.

2. Cost and Term of the Agreement.

2.1 Customer shall pay CBT Nuggets the total sum of **USD \$5,391.00** for the licenses,

for the duration of the Term of this Agreement, unless the Parties otherwise agree by written amendment or by updating the billing cycle.

2.2 The Term of this Agreement commences as of the Effective Date, and shall continue for one year, on which date this Agreement shall terminate unless the Parties otherwise agree in writing.

2.3 Prices described in this Section 2 might not include all taxes that may apply. As applicable, Customer shall pay any sales tax, use tax, excise, duty or any other form of tax relating to Customer's receipt of access to the CBT Nuggets Content.

3. Billing Terms and Conditions. The billing terms and conditions for this Agreement are as follows:

3.1 On or before the Effective Date, CBT Nuggets shall provide Customer with an invoice representing the total amount owed by Customer, as provided in Section 2.

3.2 Customer shall pay each invoice, in full, on Net 30 payment terms from the Effective Date.

3.3 This Agreement is not an invoice.

3.4 Customer may not terminate this Agreement prior to the expiration of the Term of this Agreement, and shall be responsible for promptly paying the full amount of each invoice for the full Term of this Agreement, unless the Parties otherwise agree in writing.

3.5 During the Term of this Agreement, Customer may purchase additional licenses for additional Learners. The terms of each additional license and the corresponding usage by each additional Learner shall be expressly governed by the terms of this Agreement. In the event Customer purchases additional licenses, unless the Parties otherwise agree in writing, the payment amount due described in Section 2 shall be increased proportionately.

3.6 To the extent permitted under law, Customer agrees to pay the reasonable fees of any collection agency, and all costs and expenses, including reasonable attorney's fees, which may be incurred in a collection effort to recover past due amounts under this Agreement.

4. Disclaimer of Warranties. The CBT Nuggets Content is provided to Customer on an "AS IS" and "WITH ALL FAULTS" basis. The CBT Nuggets Content is complex and may contain nonconformities, defects or errors. CBT Nuggets does not warrant that the CBT Nuggets Content will be error free. **CBT Nuggets does not make any warranty, express or implied, and hereby disclaims any and all warranties, including but not limited to, warranties of merchantability and fitness for a particular purpose.**

5. Intellectual Property. All right, title and interest in and to the CBT Nuggets Content, and the content, materials and data contained therein, and any derivative works thereof is expressly reserved by CBT Nuggets. No portion of the CBT Nuggets Content may be copied, reproduced, distributed, displayed, transferred or assigned without the express prior written consent of CBT Nuggets.

6. Limitation on Damages. UNDER NO CIRCUMSTANCES WILL CBT NUGGETS BE LIABLE FOR ANY INDIRECT, INCIDENTAL, COMPENSATORY, CONSEQUENTIAL, SPECIAL OR EXEMPLARY DAMAGES (EVEN IF EITHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES), ARISING FROM ANY PROVISION OF THIS AGREEMENT, SUCH AS, BUT NOT LIMITED TO, LOSS OF REVENUE OR ANTICIPATED PROFITS OR LOST BUSINESS. THIS LIMITATION APPLIES TO ALL CAUSES OF ACTION IN THE AGGREGATE INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATION, AND/OR OTHER TORTS.

7. Limitation of Liability and Remedies. NOTWITHSTANDING ANY DAMAGES THAT THE CUSTOMER MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED IN SECTION 6 AND ALL DIRECT OR GENERAL DAMAGES), THE ENTIRE AGGREGATE LIABILITY OF CBT NUGGETS AND AFFILIATES OF CBT NUGGETS UNDER ANY PROVISION OF THIS AGREEMENT SHALL BE LIMITED TO THE ACTUAL AMOUNT PAID BY THE CUSTOMER UNDER THIS AGREEMENT. THE FOREGOING LIMITATIONS, EXCLUSIONS AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

8. Electronic Signature. A party's electronic signature shall be construed to be an original signature, and the document transmitted shall be considered to have the same binding legal effect as an original signature on an original document.

9. Amendments. This Agreement may be amended only by an instrument in writing executed by the Parties.

10. Governing Law and Venue. The Parties acknowledge that this Agreement shall be governed by and construed in accordance with the laws of the state of Oregon, United States, and any action brought under this Agreement shall occur in Lane County, Oregon, United States.

11. Attorney Fees. If any arbitration, suit, or action is instituted to interpret or enforce the provisions of this Agreement, to rescind this Agreement, or otherwise with respect to the subject matter of this Agreement, the party prevailing on an issue will be entitled to recover with respect to such issue, in addition to costs, reasonable attorney fees incurred in the preparation, prosecution, or defense of such arbitration, suit, or action as determined by the arbitrator or trial court, and, if any appeal is taken from such decision, reasonable attorney fees as determined on appeal.

12. Warranty of Authority. Each signatory executing this Agreement expressly represents and warrants that the signatory is duly authorized to do so and that the execution and delivery of this Agreement is the lawful and voluntary act of the Parties. Each signatory shall indemnify the other Parties to this Agreement from any loss or damage resulting from a breach of this Warranty of Authority.

13. Entire Agreement. This Agreement, together with the Privacy Policy (available at www.cbttuggets.com/privacy), sets forth the entire understanding of the Parties with respect to the subject matter hereof, and supersedes any and all prior negotiations, discussions, agreements, and understandings between the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the Effective Date.

CBT NUGGETS, LLC

CAYUGA ONODAGA BOCES

DATED: Mar 20, 2024

DATED: Mar 20, 2024

By: 

By:  Pam Horton (Mar 20, 2024 07:56 EDT)

Print Name: Matthew Bromley

Print Name: Pamela Horton

Email: mbromley@cbttuggets.com

Email: Phorton@caybooces.org

Title: General Counsel

Title: Director of ISS






00009370 Subscription Agreement 2024.07.31

Final Audit Report

2024-03-20

Created:	2024-03-19
By:	Taylor Albring (talbring@caybores.org)
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Final Audit Report

2024-03-20

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