

XPERT WORK ORDEREffective Date: 21st April 2021

XPERT INFORMATION	
Name:	<u>Saman Khan</u>
Permanent Address:	<u>H.NO-5, Pushpanjali Puram Phase-3, Taj Nagri</u> <u>Phase 2, Fatehabad Road, Agra-Uttar pradesh.</u>
PAN:	<u>BEZPK8095M</u>
XPERT SERVICES (DELIVERABLES) & PRICING	
Services	Price per Assignment/ Case Study
<p>Your services ("Services") shall involve grading responses ("Responses") of our students and providing personalised comments, suggestions, notings ("Feedback") for every Response by the student to the following:</p> <p>(i) assignments which contain a fixed set of questions provided by Upgrad ("Assignment"); and</p> <p>(ii) case studies which contain a case provided by Upgrad ("Case Study")</p>	<p>Rs. <u>15</u> /- per Assignment</p> <p>and</p> <p>Rs. <u>100</u> /- per Case Study</p>
<p>SPECIAL TERMS</p> <ol style="list-style-type: none"> 1. This Work Order shall be governed by the General Terms attached to this Work Order. 2. Prices mentioned are exclusive of applicable indirect taxes. As per the payment cycle informed to you or within forty-five (45) days from the month end in which Services are availed, You shall raise a valid tax invoice for the Fees payable. Upgrad shall not be liable to make payment for any invoice submitted beyond the timelines mentioned above. 3. Your term of engagement for the Services shall commence from the Effective Date and shall expire after a period of 6 (six) months from the last day on which you render any Services to Upgrad ("Term"), unless terminated in writing by Upgrad by providing you with 15 (fifteen) days written notice. 4. The Services shall be provided based on the rubrics, suggested answers and the grading course designed by Upgrad ("Guidelines"). You acknowledge that you shall undergo training in the Guidelines before performing the Services. 5. You hereby confirm that you shall be available for providing any clarifications / reviews / comments on the doubts raised by students on the Feedback provided by you, including for reevaluating the Assignment or Case Study, where requested. You shall not be entitled to any amounts in addition to what has expressly been set out in this Work Order for these services. Once the Assignments of the entire batch is graded, You shall provide a detailed feedback to Upgrad on the performance of the batch within 15 (fifteen) days of completion in the format as provided by Upgrad. 6. You acknowledge that time is of essence in providing the Services and you agree to provide the Services as per the timelines provided by Upgrad ("Timelines"). In the event you are unable to meet the Timelines, you shall intimate Upgrad at least 2 days prior to the last date for submission of the Feedback, in which case, Upgrad may extend the Timelines by 3 days or as may be mutually decided, at its sole discretion. Upgrad reserves the right to penalize or withhold payments for any late submissions if you have failed to intimate your inability to meet the Timelines or you have failed to submit the Feedback within the extended Timelines. 7. You shall carry out the Services as per the Guidelines. Upgrad reserves the right to withhold payments or ask to rework on all/some of the Assignments or Case Studies, in the following cases: <ol style="list-style-type: none"> a. If the Services are not as per the Guidelines; or b. If the Feedback is directly copied from the rubrics provided by Upgrad; or c. If the Feedback is copied across all Assignments/Case Studies and is deemed to be inaccurate for all/some Assignments/Case Studies. 8. This Work Order shall, with effect from the Effective Date, shall supersede and nullify all previous agreements and arrangements between the Parties in relation to services mentioned herein. 	
<p>FOR INTERNAL USE ONLY</p> <p>Program name: <u>Others</u></p> <p>In case of Others/Multiple Programs, mention below: <u>LIBA - HRM</u></p> <p>Upgrad SPOC: <u>Aafreen Shaikh</u></p>	
<p>For upGrad Education Pvt. Ltd.</p> <p>_____ Authorised Signatory</p> <p>I/We agree and accept the terms of this Work Order:</p> <p>DocuSigned by: <u>Saman Khan</u> Saman Khan</p>	

GENERAL TERMS OF BUSINESS

These General Terms of Business ("General Terms") apply to and form an integral part of the Work Order to which it is attached, are executed between the Xpert (as mentioned in the Work Order) and upGrad Education Private Limited, with its registered office at Ground Floor, Nishuvi, 75, Dr. Annie Besant Road, Worli, Mumbai – 400018 ("Upgrad").

1. Definitions

- 1.1. **"Agreement"** shall mean the Work Order, these General Terms of Business and all schedules, annexures and exhibits to the Work Order.
- 1.2. **"Applicable Law"** means all applicable statutes, enactments, acts of legislature or parliament, laws, ordinances, rules, bye-laws, regulations, notifications, guidelines, policies, directions, directives and orders of any Governmental Authority, statutory authority, tribunal, board, court or recognized stock exchange, as may be in force from time to time.
- 1.3. **"Content"** means any information, data, source code, case studies, works of authorship or other materials delivered as text, photographs, or in audio, visual or audiovisual format, including but not limited to power point presentations, excel, lectures and Program materials, assessments and syllabi.
- 1.4. **"Deliverables"** shall mean the deliverables specified in the Work Order and any Content created or reviewed by Xpert for the Programs under this Agreement, including, but not limited to case studies, modules, sales cases, projects, demonstrations, curriculum, assessments, scripts, any live sessions, mentoring calls, conducting doubt solving sessions, providing feedback for responses graded, mock interview calls, recordings of live sessions/webinars, transitions, Footage, Video Recordings or any other Services availed, as specified in the Work Order.
- 1.5. **"Footage"** shall mean all video footage or audio recording captured by Upgrad during Live Sessions/webinars, Mentoring Calls, Mock Interview Calls or the provision of any other Services by the Xpert, including but not limited to capturing Xpert's name, likeness, image, voice, appearance and/or performance and made part of the recording in which the Xpert appears.
- 1.6. **"Intellectual Property Rights"** means all rights worldwide in, to and under copyrights, copyright registrations and applications, trademarks (including trade dress, service marks and trade names), trademark registrations and applications, domain names, branding, logos, patent, patent applications (including the right to claim priority under applicable international conventions) and all patents issuing thereon, drawings, prototypes, algorithms, inventions, whether or not patentable, trade secrets, authors rights, moral rights, rights in goodwill, and other proprietary rights, as may exist now or hereafter come into existence, and all renewals and extensions thereof.
- 1.7. **"Live Session"** shall mean any offline session or online session/webinar organized by Upgrad on predetermined topic(s) at such place, date and time mutually decided by Upgrad and the Xpert, based on Upgrad's framework.
- 1.8. **"Platform"** means the platform developed and owned by Upgrad, access to which may be provided to the Xpert solely for the provision of Services under this Agreement, or as may be mutually agreed by Upgrad and the Xpert from time to time.
- 1.9. **"Program"** means any programs being developed, developed or owned by Upgrad (or its educational partners), whether offline or online, and shall include all modules thereof, in such form as may be created, made available on its website - 'www.upgrad.com', or on any other platform whatsoever.
- 1.10. **"Raw Data"** means any data developed independently by Xpert prior to the execution of the Agreement and includes without limitation, power point presentations, notes, assignments, assessments, case studies, research papers and studies as evidenced by written records.
- 1.11. **"Services"** shall mean the services to be performed by the Xpert, as more particularly detailed in the Work Order, including, but not limited to, the submission of the Deliverables.
- 1.12. **"Upgrad Xpert / Xpert"** means the subject matter expert as specified in the Work Order. In the case of non-individual Xperts, the Xpert shall specify the individual/s or employees designated to carry out the Services.
- 1.13. **"Upgrad Proprietary Content"** means the Program(s), Deliverables, Content and all components thereof and any pre-existing Content developed by Upgrad and shall include all Intellectual Property Rights thereto.
- 1.14. **"Video Recording"** means the final, edited video recording of the Xpert.

2. Taxes and Reimbursements

- 2.1. If any party is entitled to any fees as expressly agreed and provided for under the Work Order ("**Fees**"), such Party should raise a valid tax invoice under Applicable Law, and regulations within the prescribed time limit in order to receive such Fees. All undisputed invoices shall be payable by Upgrad within 30 days from receipt of the invoice. Unless otherwise specified in the Work Order, the Fees payable under the Work Order will be exclusive of applicable indirect taxes ("**Taxes**") that such party is legally obligated to pay under Applicable Law. Any payment of Fees shall be less all taxes required to be deducted at source under Applicable Law.
- 2.2. As and when the payment is due or within forty-five (45) days of acceptance of Services, the Xpert shall raise a valid tax invoice for the Fees payable. Upgrad shall not be liable to make payment for any invoice submitted beyond the timelines mentioned above.
- 2.3. In the event the payment is made to any third party other than Xpert upon the instructions of the Xpert, the Xpert confirms that the Fees paid to such third party shall be full and sufficient consideration for the Services rendered by the Xpert and Upgrad shall not have any obligation towards the Xpert to that extent.

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- 2.4. In the case of one-time Services, if only a part of the Services is availed of or completed, Upgrad shall not be liable to make any payments. Upgrad may however choose to make a part payment on a pro-rata basis at its sole discretion.
- 2.5. In case of ongoing Services, Upgrad shall only pay for the Services successfully completed to the complete satisfaction of Upgrad.
- 2.6. Xpert shall be entitled to reimbursement of expenses incurred in the course of performing the Services, hereunder for which prior approval of Upgrad has been obtained. Any travel / stay required specifically for any interactions, discussions, recordings etc. as a part of providing the Services during the subsistence of this Agreement shall be provided separately by Upgrad. Reimbursements shall be subject to submission of original receipts, within 15 days of incurring such pre-approved expense, failing which, Upgrad shall not be required to reimburse the expenses.
- 2.7. Xpert shall ensure compliance with all applicable tax or fiscal laws and rules and regulations including, without limitation, issuing invoice with all necessary details as mandated by the relevant statute in force, payment of taxes and filing related compliances. Under G.S.T., if applicable, the Xpert shall ensure that all the invoices specify all the details relevant under G.S.T. including the relevant details of Upgrad and its GSTIN.
- 2.8. In the case of ongoing work, as set out in the Work Order, an invoice shall be raised on a monthly basis, for the Services successfully completed and accepted to Upgrad's satisfaction. Upgrad may, at its discretion, change the payment cycle, which may be communicated to the Xpert through email.
- 2.9. In the case of one-time work, as set out in the Work Order, a single invoice shall be raised upon the completion of all the Services to Upgrad's satisfaction and the acceptance of the Deliverables (or milestones) by Upgrad.
- 2.10. Xpert shall submit original physical copies of the invoices within 15 (fifteen) days from completion of the Services to Upgrad's satisfaction or Upgrad's acceptance of the milestone/Deliverable as the case may be, to the person authorized by Upgrad and shall get a proper acknowledgment for such submission of invoices, failing which Upgrad shall not be liable to pay Xpert any cess or taxes. If any tax or cess has already been paid by Upgrad to the Xpert, the same shall be repaid to Upgrad with the interest and penalty. Any litigation costs incurred by Upgrad in this regard too shall be borne by the Xpert.
- 2.11. In an event Upgrad is unable to claim credits for the applicable taxes mentioned above, arising due to such a delay or deficiency by the Xpert, the Xpert agrees to indemnify and pay Upgrad for any loss, claim or liability of tax including but not limited to any G.S.T, interest, penalty, and/or any cost of litigation. In the event the Xpert does not pay or contributes with its delay and/or deficiency and/or default, then Upgrad, at its sole discretion, shall have the right to deduct the aforesaid amount from the next immediate instalment due and payable to the Xpert.
- 2.12. The Xpert shall further ensure compliance with all applicable rules and regulations relating to G.S.T. (if applicable) including, without limitation, registration requirements with all necessary details as mandated by the relevant statute in force, payment of taxes and filing related compliances.
- 2.13. Any over budget due to Xpert's inability to claim GST credits available under GST Act, if applicable, will not be borne by Upgrad, and will have to be paid by the Xpert at its sole cost, without any recourse to Upgrad.
- 2.14. Notwithstanding anything contained in this Agreement, Upgrad shall (without prejudice to any of its rights and remedies) be entitled to withhold and/or set off the amount payable to Xpert under any invoice in case of any of the following causes:
- (a) Any claim from a third party (including but not limited to Xpert's personnel/contractors) arising out of any of the Xpert's obligations and/or any act or omission on the part of the Xpert; or
 - (b) Any breach of this Agreement by the Xpert.
- 3. Data Protection**
- 3.1. In the event that the Services and/or Deliverables involve the collection of individual's names and/or other personal data for the purpose of controlling or processing such data, the Xpert shall obtain the necessary consent from the relevant individuals or ensure that it otherwise has the right under the relevant applicable data protection laws and regulations to receive such data.
- 3.2. With respect to any personal data provided by Upgrad or otherwise received by the Xpert for processing under this Agreement, the Xpert shall: (a) process such data only for the purposes of providing the Services; (b) take such technical and organisational security measures against unauthorised and unlawful processing of, accidental loss of, destruction of or damage to personal data as may be required, having regard to the state of technological development and the cost of any measures, to ensure the highest level of security appropriate to the harm that might result from such processing, loss, destruction or damage and the nature of the data to be protected; (c) answer Upgrad's reasonable enquires to enable Upgrad to monitor the Xpert's compliance with this Clause; and (d) provide such reports or permit Upgrad to audit the Xpert, in order to confirm that such measure are in place. The Xpert undertakes to comply with the relevant applicable data protection laws and regulations and keep personal data secure and only use such data in accordance with such applicable data protection laws and regulations.
- 4. Upgrad Contribution**
- 4.1. The parties agree that Upgrad has undertaken comprehensive market research and engaged several experts (including the Xpert) to advise on the subject matter of the Program, the relevance of the Program and such other issues relating to the Program.
- 4.2. Xpert agrees and acknowledges that Upgrad will be providing significant know-how and will expend significant time, efforts and capital towards the creation and development of the Program.
- 4.3. Xpert agrees and acknowledges that Upgrad's contribution to the development of the Program is significant, and the Program would never have been developed in its current form without Upgrad's contributions. Upgrad's contributions to the

development of the Program cannot be severed from, and are not distinguishable from the Program. Upgrad shall also incur significant cost and expense to engage various service providers to contribute towards the creation and development of the Program(s).

5. Ownership of Content, Rights of Use & Confidentiality

- 5.1. Upgrad shall own and retain in perpetuity all the Intellectual Property Rights to the Upgrad Proprietary Content owing to Upgrad's contribution in the creation and development of such Upgrad Proprietary Content, except insofar as any portion of such Content constitutes third-party materials or is a derivative work of third-party Content, in which case, such portion shall be owned by the applicable third party or its licensors.
- 5.2. Xpert shall own and retain all the Intellectual Property Rights, title and ownership in relation to the Raw Data and shall provide Upgrad an irrevocable, royalty free, non-exclusive license to use, reproduce and distribute the Raw Data as required for the purposes of this Agreement. Xpert hereby grants a right to Upgrad to share Raw Data with its users/ students, when required to do so.
- 5.3. In consideration of the covenants in this Agreement, Xpert assigns any rights it has in the Deliverables (created under this Agreement by itself or any person designated by it for this purpose) to Upgrad and shall carry out all acts and execute all documents to ensure the same. Upgrad shall own and retain in perpetuity all the Intellectual Property Rights to the Deliverables.
- 5.4. Upgrad shall exclusively have all rights to use, reproduce, perform, publish, display, distribute, modify, re-format or use in any other manner the Deliverables and create and exploit derivative works of such Deliverables.
- 5.5. Xpert will not disclose, use, copy, reproduce, perform, publish, display, distribute, modify, re-format or use in any other manner the Upgrad Proprietary Content or Deliverables during the Term or any time thereafter in perpetuity.
- 5.6. Upgrad shall give Xpert (or its designated persons) credit for contributing to the Program and for that purpose Xpert gives Upgrad permission to use the Xpert's (or its designated persons) name, voice, photo or video on the Upgrad educational platform or website or on any marketing material in perpetuity.
- 5.7. The Xpert shall obtain from its organization(s), permission to use the Xpert's association with the organization, and its past organisations via its name/logo on the Platform, Upgrad's website and in all marketing material in perpetuity.
- 5.8. Xpert agrees to maintain confidentiality with regards to the terms of this engagement, the Services as may be delivered by Xpert and any information that may be received or gathered by Xpert whether oral, written or in digital format, during the course of its association with Upgrad, provided, however, that the Xpert may be permitted to disclose the terms of this Agreement to the limited extent it is required to do so to receive internal approvals from its organization and with its professional advisors for taxation or legal purposes.

5.9. Xpert acknowledges that any violation of this clause will cause irreparable harm and injury to Upgrad and Upgrad shall be entitled, in addition to any other rights and remedies it may have at law or in equity, to seek an injunction restraining Xpert from doing or continuing to do any such act and any other violations or threatened violations of this Agreement.

- 5.10. In the event Xpert has access to the Platform, Xpert agrees not to use any device, software that interferes or attempt to interfere with the proper working of the Platform or with any activity being conducted on the Platform. Xpert further agrees, not to use or attempt to use any engine, software, tool, agent or other device or mechanism (including without limitation browsers, spiders, robots, avatars or intelligent agents) to navigate or search the Platform other than the search engine and search agents available on the Platform and other than generally available third-party web browsers (e.g., Google Chrome or Microsoft Explorer). In such case, the terms and conditions of the Platform shall be applicable to the Xpert and Xpert shall abide by the same.

6. Terms of Service

- 6.1. Xpert hereby confirms that any Service provided, or obligation discharged to Upgrad in terms of the Agreement, shall:
 - (a) be in accordance with applicable laws;
 - (b) shall not infringe upon or misappropriate Intellectual Property Rights of any third party. To the extent any Content created by Xpert for a Program is not original work, Xpert shall make appropriate disclosures to Upgrad and appropriately reference the source of any such Content.
- 6.2. Xpert shall indemnify, defend and hold harmless Upgrad and its respective affiliates, officers, directors, employees, agents, successors, assigns and representatives, from and against any costs, losses, damages, liabilities, judgments and expenses (including reasonable fees of attorneys and other professionals), arising out of or in connection with any (including third party) claim, action or proceeding which in any way may result and/or results from or arises out of or in connection with any breach of Xpert's representations or obligations under this Agreement and any other reasons in connection therewith.
- 6.3. Xpert hereby agrees and confirms that all the views and opinions expressed by the Xpert during Services, are Xpert's personal views and opinions and Upgrad shall not be responsible for the same in any event whatsoever. During the Services, if Xpert is required to disclose any confidential data/information of its own, then the same shall be disclosed at Xpert's sole discretion.

7. Validity of the Agreement

Xpert represents and warrants to Upgrad that:

- a) In case of an:
 - i. **Individual:** Xpert is a natural person having a valid identity, is solvent, and the information and/or documents provided by the Xpert to Upgrad are true, valid and correct and no other written or oral obligations or commitment of any kind

or nature would in any way interfere with performance of his/her obligations under this Agreement.

- ii. **Entity other than an individual:** It validly exists under the laws of its country, is solvent, and has all necessary approvals, permits, licenses and registrations, if any, required for it to carry out its general business operations and fulfil its obligations under this Agreement.
- b) it has full legal right, power and authority to enter into the Agreement and perform all of the obligations, terms and conditions thereunder;
- c) It has the requisite knowledge, experience, expertise and know-how to carry out its obligations under this Agreement;
- d) It has not, and shall not plagiarize any content, or any part thereof created for Upgrad under this, or any other Work Order;
- e) This Agreement creates a legal, valid and binding obligation enforceable against it in accordance with the terms hereof; and
- f) neither the execution nor delivery of the Agreement, nor the fulfillment nor compliance with the terms and provisions thereof, will conflict with, or result in a breach of terms, conditions or provisions of, or constitute a default under, or result in any violation of any agreement, restrictions, instrument, order, judgment, decree, statute, law, rule or regulation to which Xpert is subject, or require any consent, approval or other action by any court, tribunal, administrative or governmental or private body (including any employer).

8. **Term and Termination**

- 8.1. **Term:** This Agreement shall commence from the Effective Date and shall expire after a period of 6 (six) months from the last day on which the Xpert renders any Services to Upgrad, or on the End Date specified in the Work Order ("**Term**") unless terminated by either Party in accordance with the termination clause below.
- 8.2. **Termination:** Xpert and/or Upgrad shall be entitled to terminate the Agreement at any time by providing the other party with prior notice of 15 (fifteen) days. Upon termination, all sums advanced shall be immediately refunded. In the event the Xpert is in breach of the Agreement, Upgrad shall have a right to terminate the Agreement immediately without any notice.
- 8.3. **Survival:** Clauses 2, 3, 5, 6.2, 6.3 7, 8 and 9 shall survive the termination of the Agreement. If any clause under this Agreement requires survival by its very nature, the same shall survive termination or expiration of this Agreement.

9. **Miscellaneous**

- 9.1. **Governing Law:** The Agreement shall be governed, construed and interpreted according to the laws of India, without giving effect to any conflict of law provision, and the courts at Mumbai shall have sole and exclusive jurisdiction in relation to matters and/or disputes arising out of the Agreement.

9.2. **Independent Contractors:** Xpert and Upgrad are independent contractors. Nothing in the Agreement will be construed as creating any relationship such as joint venture, partnership, association of persons, employer-employee, principal-agent or franchisor-franchisee. Save as otherwise expressly provided under the Agreement, the Agreement is not intended to be for the benefit of any third party, and is not enforceable by any third person, and shall not confer upon any third party any right, privilege, remedy, claim or other right.

9.3. **Anti-Bribery Provisions:** Neither the Xpert, nor any of its subsidiaries or affiliates, nor any director, officer, agent, employee or other person associated with or acting on behalf of the Xpert, as the case may be, has: (i) used any funds received under this Agreement for any unlawful payment to any foreign or domestic political parties or other; (ii) violated or is in violation of any applicable anti-corruption or anti-bribery laws in India; (iii) violated or is in violation of any applicable law or regulation implementing the OECD Convention of Combating Bribery of Foreign Public Officials in International Business transactions, or any applicable provision of the U.S. Foreign Corrupt Practices Act of 1977 as amended, or the U.K. Bribery Act, 2010, or any other similar law in any other jurisdiction; (iv) taken or is receiving any offer, payment, gift or anything else of value knowing that all or some portion of what is taken will be used in violation of the provisions of the enactments specified above.

9.4. **Assignment:** The Xpert shall not assign any part or all of the Agreement. Any attempt to assign in violation of this Clause is void in each instance.

9.5. **Notices:** Notices under the Agreement are sufficient if given by nationally recognized overnight courier service, speed post with acknowledgement receipt, electronic mail ("**e-mail**"), or personal delivery to the other Party at the address of the Party mentioned in the Agreement. Notice is effective: (a) when delivered personally – at the time of delivery, (b) three business days after sending by speedpost, (c) on the business day after sending by a nationally recognized courier service, (d) on confirmation of the e-mail being sent. A Party may change its notice address by giving notice in writing in accordance with this Clause.

9.6. **Entire Agreement:** The Agreement constitutes the complete and final understanding of the Parties pertaining to the subject matter under the Agreement and supersedes the Parties' prior agreements, understandings and discussions relating to the contents of the Agreement. No modification of the Agreement is binding unless it is in writing and signed by the Parties.

9.7. **Conflict:** If there is any conflict between the Work Order and the General Terms, then the Work Order will prevail (only to the extent the Work Order modifies a specific provision of the General Terms).

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