Last Updated: June 09, 2015

Education Program Guide

This Education Program Guide (the "**Guide**") is between BMC and Customer, and is effective upon execution of the SOW referencing this Guide. This Guide along with the terms and conditions of the applicable SOW and either (i) the BMC Master Services Agreement ("**MSA**") or (ii) the Additional Terms to: Services Order Form or Statement of Work (whichever may be the case) (the "**Additional Terms**") shall govern the purchase and use of Learning Pass Credits and Education Services. Capitalized terms are defined in Section 12 of this Guide or in either the MSA or Additional Terms (as set forth in the applicable SOW).

1. SCOPE.

1.1. SOWs. LPCs are obtained solely by execution of a SOW. In the event Customer proposes a SOW by submitting a purchase order, then regardless of whether BMC acknowledges, accepts or fully or partially performs under such purchase order, **BMC OBJECTS** to any additional or different terms in the purchase order, other than those that establish price in accordance with the Agreement.

1.2. Learning Pass Credits. Customer may use the LPCs to purchase Education Services and/or Education Materials offered by BMC or an authorized BMC education provider under the terms of the Agreement, this Guide and SOW (if applicable); provided, however, LPCs may not be redeemed for Education Subscriptions or an ESA tool license. To redeem LPCs for the purchase of Education Services, Customer, based on the particular Education Service being purchased, shall either: (a) complete and execute a SOW provided by BMC; or (b) utilize Customer's BMC issued Keycode via BMC Academy. To redeem LPCs for the purchase of Education Materials, Customer shall complete and execute the Education Materials SOW provided by BMC. BMC reserves the right to modify the list or pricing of available Education Services or the terms and conditions of this Guide at any time.

2. PRODUCT RESTRICTIONS. Any software products and related documentation and/or other confidential or proprietary information delivered to Customer in the course of providing Educational Services ("**Products**") will be deemed included in the product licensed under, and shall be subject to all the terms and conditions of, the software license agreement ("**SLA**") to which it relates, including without limitation the provisions concerning title and proprietary information. Neither the execution nor fulfillment of the applicable SOW will relieve or alter BMC's nor Customer's obligations and responsibilities with respect to the affected products under the license terms set forth in the SLA.

3. LEARNING PASS CREDIT CONSUMPTION. BMC provides certain Education Services throughout the year. Customer may contact BMC for a schedule of Education Services, and LPCs may be redeemed for Education Services as published on the then current available schedule. BMC is not responsible for any changes to the schedule that may otherwise delay consumption of LPCs. LPCs may not be held for redemption towards Education Services released after the LPC Expiration Date. For any Education Services, LPC usage is determined by dividing the undiscounted price per LPC into the list price of such Education Services. When redeeming LPCs, Customer will be required to either (i) execute a separate SOW for all Education Services, or (ii) utilize its assigned Keycode for use with BMC Academy. The number of LPCs consumed will be based on the LPC fee as determined by the applicable SOW or BMC Academy (as applicable). When using LPCs, no other Education Services discounts will apply. LPCs are to be used in the country of purchase. Use outside the country of purchase must be pre-approved by BMC. Should LPCs be approved for use outside the country of purchase, all pricing will be based on the country where the Education Services are purchased or attended. BMC will perform currency conversion where applicable based on the then current list price of the Education Services at time of either registration, order or invoicing depending upon the Education Service.

4. LEARNING PASS CREDIT AUTHORIZATION. (a) Authorization for Public Classes: BMC will issue a Keycode to the Customer Contact. Customer will use this Keycode to redeem LPCs when registering Customer's Users in a class via BMC Academy. Customer is responsible for authorizing individuals to use the Keycode and for ensuring proper usage of the Keycode. BMC is not responsible for unauthorized use of the Keycode. (b) Authorization for any non-Public Classes Education Services: Customer shall accept in writing via an SOW the redemption of LPCs for non-Public Classes Education Services. If the non-Public Classes Education Services are provided via BMC Academy, Customer shall redeem said LPCs by utilizing Customer's BMC issued Keycode. Customer's LPC balance will be adjusted accordingly after each LPC redemption authorization.

5. LPC EXPIRATION. Each SOW will state a "**LPC Expiration Date**", which is the date all LPCs purchased under the applicable SOW must be consumed. Any portion of the LPCs not consumed prior to such date will be forfeited by Customer with no refund. Any Education Service associated with these LPCs must be utilized prior to the LPC Expiration Date. Utilization of LPCs requires that the Education Service associated with said utilization must have begun on or been completed before the LPC Expiration Date.

6. EDUCATION SERVICES. When Customer either redeems LPCs for Education Services or purchases Education Services directly through the execution of a SOW or via BMC Academy, this Guide, and specifically this Section 6, and the Agreement shall govern the applicable Education Services. In the event of any conflict between the terms of the SOW, the Agreement, and this Guide, this Guide shall prevail, except for matters of service fees, payment and reimbursement of expense terms if further specified in the SOW.

6.1. Education Services Fees. The fees payable to BMC for Education Services shall either (i) be in the form of redeemable LPCs; and/or (ii) be paid in accordance with the Agreement.

6.2. Attendance. Credits used for class attendance are based on the published duration of the class, not the days an individual student attends such class. For example, if a student attends only three (3) days of a published five (5) day class, they will be charged for all five (5) days.

6.3. Cancellation Policy. BMC reserves the right to cancel any Education Services class up to **10 business days** prior to the start of the Education Services class. If this occurs, Customer will receive (i) the LPCs redeemed for the canceled Education Services class returned to Customer's account, and/or (ii) a full refund of any additional amounts paid to BMC for the specific Education Services class canceled, excluding any amounts paid for LPCs. To cancel or reschedule an Education Services class, BMC requires notice **at least 10 business days** prior to the Education Services class start date. If a cancellation or reschedule request is made less than 10 business days prior to the Education Services class start date, Customer will be subject to the full class fee. If Customer fails to attend an Education Services class it has registered for, Customer will be subject to the full class fee. If Customer registers for an Education Services class within the 10 business day period before the start of said Education Services class this cancellation policy will not apply and Customer will be subject to the full class fee regardless of attendance.

6.4. Education Services Restrictions. Except for the specific proprietary rights granted to Customer under the terms of the Agreement, Customer may not (i) modify, copy or create derivative works based on the Education Services or BMC Academy; (ii) create Internet "links" to or reproduce any content forming part of the Education Services; (iii) disassemble, reverse engineer, or decompile BMC Academy, the Education Services or part thereof, or access it in order to copy any ideas, features, content, functions or graphics of the Education Services or BMC Academy; (iv) distribute, rent, lease, sublicense or provide the Education Services or BMC Academy to any third party or use it in a service bureau, outsourcing environment, or for the processing of third party data; (v) interfere with or disrupt the integrity or performance of the Education Services or BMC Academy (e.g., load, performance, or stress testing); (vi) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortuous material, or send or store material in violation of any third party's privacy rights via the Education Services or BMC Academy; (vii) send or store viruses or malicious code via the Education Services or BMC Academy; (viii) attempt to gain unauthorized access to the Education Services or BMC Academy or its related software, systems, platforms or networks including any form of security and/or penetration testing; or (ix) use any components provided with Education Services separately from the Education Services.

6.5. Customer Responsibilities. (a) Customer will be responsible for use of the Education Services and BMC Academy by its Users in compliance with the Agreement,

this Guide and the applicable SOW. Customer will use reasonable efforts to prevent unauthorized access to, or use of, the Education Services and BMC Academy, and notify BMC promptly of any such unauthorized access or use. (b) Customer agrees to provide BMC with correct, truthful and complete contact information for all Users, including the legal name of each User, company name, street address, email address, and telephone number. BMC may share information including Customer name and email address and Users' names and email addresses with WebEx (BMC's web conferencing provider) and BMC's underlying service provider of BMC Academy in order to facilitate virtual training. If Customer or its Users provide false contact information, or otherwise breaches any part of the Agreement, this Guide, or the applicable SOW, BMC may suspend or terminate Customer and its Users' access to the Education Services and/or BMC Academy immediately and without prior written notice. (c) Customer may not transfer usage rights to BMC Academy, including Customer's User ID and Password, to another entity or individual. Customer will maintain the confidentiality of all authentications and passwords for BMC Academy and immediately notify BMC if it becomes aware that an unauthorized party has gained access to BMC Academy.

7. Third Party Content. Customer may be exposed to hyperlinks to Web sites controlled by parties other than BMC. BMC is not responsible for and does not endorse or accept any responsibility over the content or use of these Web sites. Customer should refer to the policies posted by other Web sites regarding privacy and other topics before using them.

8. Customer Content. Customer may upload content to areas of BMC Academy which are accessible to other subscribers (i.e. chat rooms, etc.) ("**Public Areas**"). If Customer uploads such content to a Public Area, in doing so Customer grants BMC a perpetual, royalty-free, irrevocable, nonexclusive license to use, copy, modify, publish, transmit and distribute said content, in whole or in part, in any form, media or technology. If Customer is not the owner of any such content uploaded, then Customer warrants that the owner expressly grants BMC all of those same rights. BMC retains the right (that it may or may not exercise, in its sole discretion) to (i) remove any Customer content or other information or material from BMC Academy, regardless of whether the content is in a Public Area or non-Public Areas of BMC Academy and (ii) make changes to or discontinue any and/or all parts of BMC Academy.

9. Limitation on Liability. For purposes of this Guide, the parties herby agree that Section 6.4 and Section 6.5 of the Guide are excluded from any limitations on liability set forth in the Agreement.

10. Personal Data. BMC may collect and process personal data related to Customer in order to provide the Education Services to Customer under this Agreement. BMC undertakes to comply with all the relevant data protection legislation and/or regulations where the Customer Personal Data is to be processed. BMC shall in particular: (a) allow Customer to access, modify, correct or erase Customer Personal Data when necessary; (b) take reasonable technical and organizational security measures to maintain the confidentiality and integrity of Customer Personal Data and to prevent its unauthorized access, use, or disclosure; (c) refrain from transferring any Customer Personal Data to any third party without obtaining the express consent of the person to whom Customer Personal Data relates to unless such transfer is required for the purpose of the Education Services under this Agreement; and (d) from using Customer Personal Data for any other purpose than performing its obligations under this Agreement. BMC has self-certified with the U.S./EU Safe Harbor Privacy Principles published by the U.S. Department of Commerce ("**Safe Harbor Principles**") to protect Personal Data about individuals in the European Union. In order to fulfill the obligations under the Safe Harbor Principles, a party shall disclose Personal Data to the other party only as necessary for the Recipient to perform its obligations under this Agreement. Further information with regard to BMC's processing of data is published at www.bmc.com/legal/privacy.

11. Updates to Guide. BMC may modify this Guide from time to time by posting a revised version at http://media.cms.bmc.com/documents/education-program-guide.pdf. The modified terms will become effective upon posting. By Customer's purchase of LPCs after the effective date of any modifications to this Guide, Customer agrees to be bound by the current terms then in effect. It is Customer's responsibility to check the URL stated above regularly for modifications to this Guide. BMC last modified this Guide on the date listed at the beginning of the document.

12. DEFINITIONS.

"**BMC Academy**" is BMC's learning management system. By utilizing BMC Academy, customers can: (i) purchase and launch WBT and ODL courses; (ii) view Customer's transactions and/or purchases; and (iii) review Customer's LPCs activity and balance.

"**Customer Contact**" means the individual authorized by the Customer to have access to the Customer account Keycode and authorize redemption of the LPCs.

"**Education Solution Accelerator**" or "**ESA**" is a licensed tool that allows customers to create original content as well as revise, edit and add Education Services content. BMC content offerings that can be edited by ESA are considered Education Materials. Customer may acquire a license for the ESA tool separately via a BMC license order.

"**Education Materials**" means materials created for educational purposes by BMC covering BMC products and offerings. Customer's license of Education Materials from BMC shall be governed by the terms attached to the Education Materials SOW executed by the parties.

"**Education Services**" (or "**Services**" for purposes of the Agreement) are delivered in various formats, including but not limited to: (i) "**Public Classes**" where a customer receives instructor led training onsite at a BMC facility ("**ILT**") or virtually where a customer receives instructor led training via a WebEx environment ("**VILT**"); (ii) "**Private Classes**" (or "**Private ILT**") where a customer receives instructor led training onsite at a customer's facility; (iii) Web Based Training which is online Education Services that are self-paced ("**WBT**"); (iv) On Demand Learning ("**ODL**") where the customer is given access to online/web-based course content, and is given access to a remote lab environment where the customer can practice concepts taught in the course; (v) "**Education Consulting**" where BMC Education Services representatives provide guidance and recommendations on customized learning paths, alignment of education events to your project, skills assessments, and project follow-ups, and BMC architects apply best-practice knowledge and field experience to customize education rollout at a customer's site; and (vi) "**Education Development**" where a customer requests BMC to assist them in creating or modifying education content for their own internal use. The WBT and ODL (collectively, "**Online Classes**") are self-paced activities. The time required to complete a WBT or ODL class is based on the pace the customer sets and the time that the customer has available. BMC will provide each WBT or ODL class for a specified period of time during which a customer may take the WBT or ODL class as many times as the Customer likes. At the end of the designated period of availability, Customer will no longer have access to WBT or ODL classes unless the Customer purchases the class again. This designated period of time may vary based on the type of online class selected.

"**Education Subscription**" is an unlimited pass available for purchase by customers, which grants customers access to BMC's catalogue of WBTs posted on BMC Academy for a specified period of time.

"**Keycode**" is an alphanumeric code used by Customer's Customer Contact to authorize redemption of LPCs through BMC Academy for certain Education Services, as further described in Section 4 above.

"**Learning Pass Credits**" (or "**LPCs**") are prepaid credits that may be redeemed for Education Services for one (1) or multiple attendees.

"**Personal Data**" means any personally identifiable information received by BMC from Customer, relating to a person, which is sufficient to cause such person to be identified, directly or indirectly and shall not include sensitive personal data, i.e. data where processing or transfer of the data is prohibited according to applicable privacy laws or other data requiring the written consent of the data subject prior to processing in accordance with applicable law.

"**Training Units**" has the same meaning as LPCs.

"**Users**" shall include Customer's employees, consultants, contractors, agents, and affiliates.