



## CHARTER

This Charter ("Charter") is made as of the Effective Date of August 1, 2016, by and between the Defense Acquisition University ("DAU") and TwentyEighty Strategy Execution, Inc. ("StratEx"), jointly (the "Parties").

### RECITALS

WHEREAS, DAU and ESI International, Inc. entered into a Letter of Intent on September 5, 2000, and executed a predecessor Charter dated January 16, 2001, to create a strategic partnership; and

WHEREAS, ESI International, Inc. has changed its name to TwentyEighty Strategy Execution, Inc.; and

WHEREAS, this Charter continues the agreement under which DAU students take professional-level classroom-based training that StratEx, in association with The George Washington University ("GW"), delivers to the general public ("Training") along with the courses DAU independently delivers in order for DAU's students to receive a Master's Certificate from DAU, GW and StratEx (a "Joint Master's Certificate").

NOW, THEREFORE, this Charter updates and replaces the previous agreement of the Parties to conduct the Joint Master's Certificate Program.

#### 1. StratEx

1.1 **Training.** StratEx will deliver Training from time to time at the sole discretion of StratEx in facilities paid for by StratEx. All Training will be delivered and all Course Materials (defined in Section 4) will be written in the English language. StratEx will provide the Course Materials and Instructors for all Training.

1.2 **Administrative Support Services.** For the Training, StratEx will perform all administrative support services such as shipping Course Materials to the course site; preparing, distributing, and collecting course evaluation forms; and collecting post-course reports. StratEx will also be responsible for maintaining records of student participation for all Training and awarding student course completion certificates (for all students who successfully complete a course) and Master's Certificates to those who meet the requirements set forth by StratEx.

Successful completion of Training requires attendance at all morning and afternoon sessions and a passing score on the final exam, if a final exam is required. Students who miss a course session or fail the final exam may make up the time or take a re-test at another Training course free of charge.

1.3 **Qualified and Experienced Personnel.** StratEx warrants that its personnel are sufficiently qualified and experienced to perform the Training hereunder and that such personnel shall diligently apply themselves to perform the Training in a professional fashion.

1.4 **Marketing.** StratEx will market its programs to DAU students through the normal marketing mechanisms available to all private instructional organizations.

#### 2. DAU

- 2.1 **Work with Program Manager.** DAU will work directly with the StratEx program manager at StratEx (or his or her replacement) -- and not StratEx instructors – to discuss Training.
- 2.2 **Communications.** DAU will publish the availability of the Joint Master's Certificate Program through its normal communications channels.
- 2.3 **DAU Students.** The term "DAU students" as used in this agreement should mean any person, government or non-government, who completes a DAU certified course.

### 3. TUITION AND PAYMENT

- 3.1 **Tuition.** Tuition for DAU students to attend StratEx Training courses is specified in the Federal Supply Schedule Contract (FFS contract). Any student not fully satisfied with a Training course will be afforded a full refund of any tuition paid or will be offered another comparable Training course without charge to the student.
- 3.2 **Payment and Cancellation.** To attend StratEx Training, DAU's students shall pay for the Training they wish to attend with either a government training form or a credit card at the time of registering for the Training. Payment and cancellation shall be governed by the terms of the applicable federal supply schedule contract. Any dispute shall be resolved pursuant to the applicable terms of the FSS contract. This Charter shall create no right of action against DAU.

### 4. OWNERSHIP AND USE OF MATERIALS NAMES

- 4.1 **StratEx Exclusive Ownership of Course Materials.** StratEx shall retain the exclusive right, title, and interest in and to the entirety of the courses, student course manuals, tests, study and instructor guides, methodologies, processes, multimedia, communication transcripts and libraries, technologies, and systems used in the classroom and online that StratEx may develop and/or employ in performing this Charter – and any translations or derivatives thereof – including any pre-existing StratEx material and any new material that StratEx creates for DAU, whether the new material is incorporated into StratEx's existing courses or created as a stand-alone product ("Course Materials"). StratEx's copyright of the Course Materials will be noted on the bottom of all of the pages of the Course Materials.
- 4.2 **Grant of License.** StratEx grants a perpetual, royalty-free license to DAU to use the Course Materials subject to the following conditions:
  - DAU will not sublicense or sell the Course Materials as a whole (and/or any portion of it that belongs to StratEx) in any form for any purpose.
  - DAU will not reproduce, distribute, disclose, alter, develop derivative products, or otherwise use the Course Materials as a whole (and/or any portion of it that belongs to StratEx) in any form for any purpose except "Internal Business Purposes," without StratEx's prior written authorization. "Internal Business Purposes" are defined as: keeping materials for internal library and reference materials; providing copies to clients or potential clients for their evaluation of the organization's capabilities, methods, and techniques; preparing project management checklists; and creating working tools to be utilized by DAU's students in the conduct of their job responsibilities to the extent appropriate for their duties. "Internal Business Purposes" does not include training other than the Training provided by StratEx under this Charter.
  - StratEx will not provide DAU with instructor guides. If DAU acquires access to a StratEx instructor guide for any reason, DAU will notify and return it to StratEx immediately. If DAU would like to view a StratEx instructor guide, DAU may do so in StratEx's corporate offices upon request.
  - DAU will not remove StratEx's copyright and trademark from the Course Materials.
- 4.3 **Ownership of StratEx's and GW's Name and Marks.** StratEx's name and service marks are owned exclusively by StratEx. GW owns the GW name and mark and has granted StratEx the right to sublicense the GW name and mark for the purposes of this Charter.

- 4.4 **Grant of License to Use Names.** StratEx hereby grants DAU a non-exclusive license to use StratEx's and GW's names and marks pursuant to the terms and conditions specified in this Charter, including the following:
- i. StratEx's name and logo may appear on the cover of all Joint Master's Certificate literature ("Literature").
  - ii. The George Washington University's name and logo may also appear on all Literature distributed by DAU, and if used, must be used in exactly the same form and format that StratEx uses such logo, which states under it: "School of Business and Public Management."
  - iii. The following phrase shall be used on promotional literature to describe the relationship between the Parties: "This Training is provided by TwentyEighty Strategy Execution in association with The George Washington University School of Business and Public Management and is offered in conjunction with the Defense Acquisition University."
  - iv. The Training is never identified as being associated with any training provider other than StratEx and DAU or with any institution of higher education other than GW, without StratEx's prior authorization.
  - v. DAU shall never use the StratEx or GW name or logo except in connection with the Training, without StratEx's prior written authorization.
  - vi. DAU will send the StratEx Legal Department a copy of any materials using the GW name or logo that are made available to DAU's students. The material should be sent to TwentyEighty Strategy Execution, Legal Department, 4301 N. Fairfax Drive, Suite 700, Arlington, VA 22203.
  - vii. DAU will immediately stop the distribution of any Literature using the StratEx or GW name of logo if StratEx or GW object to the manner in which DAU uses the names and marks.
- 4.5 **StratEx Use of DAU's Name and Marks.** StratEx may place DAU's name and marks on the Joint Master's Certificates and other appropriate Literature.

## 5. JOINT MASTER'S CERTIFICATE

- 5.1 **Joint Master's Certificate.** The Parties will offer Joint Master's Certificates to DAU students in the program areas identified on the StratEx website ([www.strategyex.com/dau](http://www.strategyex.com/dau)) under "DAU Certifications" and as agreed upon by the parties. This website will also indicate the specific required courses that DAU students must successfully complete to obtain Joint Master's Certificates in each of the program areas.

## 6. STRATEX PROPRIETARY AND BUSINESS SENSITIVE INFORMATION

- 6.1 **Confidentiality.** The Parties recognize that it is necessary for StratEx to protect for its exclusive use and benefit and to withhold from its competitors and the public in general information including, but not limited to, Course Materials developed at StratEx's sole expense (including instructor guides), and various trade, business, and technical secrets. StratEx will clearly mark and identify any printed or electronic material furnished to DAU that contains Proprietary or Business Sensitive Information. Any material furnished to DAU is subject to the laws and regulations governing all public records which may be subject to possible disclosure under applicable provisions of the Freedom of Information Act, and other public laws.

## 7. LIMITS ON LIABILITY

- 7.1 **Limits on Liability.** The Parties are not liable for any indirect, incidental or consequential damages, or for loss of profits, revenue, or data, whether in an action in contract, tort, product liability, statute or otherwise, even if advised of the possibility of those damages.

7.2 **Force Majeure.** Neither Party will be responsible for delays nor failure of performance resulting from acts beyond the reasonable control of such Party. Such acts include, but are not limited to, acts of God, strikes, walkouts, riots, acts of war, epidemics, government regulations, power failures, earthquakes, or other disaster.

7.3 **No Claim.** Nothing in this agreement should give either Party any right of action or claim against the other Party.

## 8. **TERM AND TERMINATION**

Either Party may terminate this Charter at any time for any reason upon written notice to the other Party. Unless terminated earlier in accordance with the terms set forth herein, the term of this Agreement is one year from the Effective Date. Thereafter, it will automatically renew for successive one-year terms.

## 9. **MISCELLANEOUS**

9.1 **Scope of Agreement.** This Charter shall relate only to the Joint Master's Certificate Program specified herein and nothing herein shall be deemed to:

- Confer any right or impose any obligation or restriction on either Party with respect to any other effort or marketing activity at any time undertaken by either Party, jointly or separately; or
- Preclude either Party from soliciting or accepting any contract or subcontract from any third party under this or any other effort after termination of this Charter; or
- Limit the rights of either Party to promote, market, sell, lease, license, or otherwise dispose of its standard products or services.

9.2 **Costs.** Any and all costs, expenses, or liability to either Party caused by or arising out of this Charter, its implementation, amendment, or expansion shall be borne by each Party separately and individually, and neither Party shall be liable or obligated to the other for any such cost, expense of liability.

9.3 **Entire Charter.** This Charter represents the entire agreement between the Parties as to the subject matter hereof and supersedes all other agreements, express or implied, written or oral. No modification of, or amendment to, this Charter shall be binding unless such modification or amendment makes specific reference to this Charter and is in writing and signed by both Parties.

9.4 **No Waiver.** Neither failure nor delay on the part of the Party to exercise any right, remedy, power, or privilege hereunder nor course of dealing between the Parties shall operate as a waiver thereof, or of the exercise of any other right, remedy, power, or privilege.

9.5 **Severability.** Invalidity or unenforceability of one or more provisions of this Charter shall not affect any other provision of this Charter.

9.6 **No Assignment.** Neither Party may assign this Charter without the prior written consent of the other Party.

9.7 **Relationship.** Nothing contained in this Charter is to be construed to constitute DAU and StratEx as partners or joint ventures of each other or to constitute the employees, agents or representatives of either Party as the employees, agents, or representatives of the other Party. It is the intention of both Parties that the relationship between DAU and StratEx shall at all times be that of independent entities. Neither Party shall have any express or implied right or authority to assume or create any obligations on behalf of or in the name of the other Party or to bind the other Party to any contract, Charter or undertaking with any third party.

9.8 **Notice.** Any notices required or authorized to be given hereunder shall be deemed to be given when mailed by certified or registered mail, postage prepaid, as follows:

To StratEx: Bill Damaré  
TwentyEighty Strategy Execution  
4301 N. Fairfax Drive, Suite 700  
Arlington, VA 22203

To DAU: Wayne Glass  
Professor  
and Director for Strategic  
Partnerships  
Defense Acquisition University  
9820 Belvoir Road  
Fort Belvoir, VA 22060

Either Party may, from time to time, change its notice address by giving written notice to the other Party.

9.9 **Headings.** The headings used herein are included solely for the purposes of convenience and shall not be used in any way to construe, modify, explain, enlarge or restrict any of the provisions hereof.

9.10 **Governing Law.** The laws of the United States of America shall govern this Charter.

IN WITNESS WHEREOF, the Parties have caused this Charter to be executed by their respective duly authorized representatives.

For Defense Acquisition University


For TwentyEighty Strategy Execution, Inc.

Signature: 

Name: Joseph E. Johnson

Title: Chief of Staff, DAU

Date: 9/20/2016

Signature: 

Name: Bill Damaré

Title: VP

Date: 9.26.16